

## 2008 Regular Session

---

# Summary of Legislation Passed



*Compiled and Edited by  
Office of the Senate Secretary*

*This document can be accessed on the Senate's Web page (<http://www.flsenate.gov>), and copies are available in the Senate Document Center, 304 Capitol, (850) 487-5915*

---

The 2008 Regular Session *Summary of Legislation Passed* is a collection of reports submitted by Senate Committees to the Secretary of the Senate. These reports have been compiled and edited for standardization. This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

---

# *Table of Contents*

## **Committee Summaries**

---

<b>Agriculture</b> .....	<b>1</b>
<b>Banking and Insurance</b> .....	<b>3</b>
Health Insurance .....	3
Property Insurance .....	13
Other Insurance .....	21
Financial Matters .....	30
Miscellaneous .....	36
<b>Children, Families, and Elder Affairs</b> .....	<b>41</b>
<b>Commerce</b> .....	<b>57</b>
<b>Communications and Public Utilities</b> .....	<b>69</b>
<b>Community Affairs</b> .....	<b>71</b>
<b>Criminal and Civil Justice Appropriations</b> .....	<b>83</b>
<b>Criminal Justice</b> .....	<b>87</b>
Controlled Substances.....	87
Corrections.....	88
Criminal Offenses and Penalties.....	90
Law Enforcement.....	96
Public Safety .....	98
Public Records .....	102
Pretrial Release .....	104
Victim Protection .....	104
<b>Education Pre-K – 12</b> .....	<b>107</b>
Ethics in Education .....	107
School Standards, Accountability, and Grading .....	108
School Safety and Wellness.....	110
School and Program Choice.....	112
Exceptional Student Awareness.....	119

---

Early Learning .....	120
Educational Facilities Construction .....	120
<b>Education Pre-K – 12 Appropriations .....</b>	<b>123</b>
<b>Environmental Preservation and Conservation.....</b>	<b>127</b>
<b>Ethics and Elections.....</b>	<b>147</b>
<b>Finance and Tax.....</b>	<b>153</b>
<b>Fiscal Policy and Calendar Committee.....</b>	<b>159</b>
<b>General Government Appropriations.....</b>	<b>185</b>
Trust Fund Bills .....	185
Other Bills.....	186
<b>Governmental Operations.....</b>	<b>193</b>
Cultural and Historic Resources .....	193
Infrastructure Operations .....	196
Personnel and Benefit Systems.....	197
<b>Health and Human Services Appropriations .....</b>	<b>201</b>
Trust Fund Bills .....	201
Other Bills.....	205
<b>Health Policy.....</b>	<b>209</b>
<b>Health Regulation .....</b>	<b>213</b>
Health Care Practitioners .....	213
Health Care Facilities and Services .....	220
Public Health.....	224
<b>Higher Education .....</b>	<b>231</b>
State College System .....	231
Textbook Affordability .....	233
State Universities .....	234
Community Colleges .....	235

---

<b>Higher Education Appropriations .....</b>	<b>237</b>
<b>Judiciary .....</b>	<b>241</b>
Wrongful Incarceration.....	241
Family Law .....	244
Real Property, Probate, and Trust Law .....	245
Judicial Sales.....	246
Public Records .....	247
<b>Military Affairs and Domestic Security.....</b>	<b>249</b>
Military Affairs .....	249
Veterans' Affairs .....	250
<b>Regulated Industries.....</b>	<b>257</b>
Hotels and Restaurants.....	257
Alcoholic Beverages and Tobacco.....	258
Professions .....	260
Residential Tenancies .....	262
Community Associations and Professional Regulation.....	262
<b>Transportation .....</b>	<b>271</b>
Transportation Administration.....	271
Highway Safety and Motor Vehicles.....	279
<b>Transportation and Economic Development Appropriations .....</b>	<b>293</b>

## **Other Summaries**

---

<b>Senate Memorials and Concurrent Resolutions.....</b>	<b>297</b>
Memorials .....	297
Concurrent Resolutions.....	297
<b>Senate Special Master.....</b>	<b>299</b>
Claim Bills .....	299

## **Index**

---

<b>Index.....</b>	<b>301</b>
-------------------	------------



**SB 230 — State Symbols/ Florida Cracker Horse**

by Senator Baker

This bill designates the Florida Cracker Horse (Marshstackie) as the official state horse. In addition, it designates the Loggerhead Turtle as the official Florida state salt water reptile. The bill provides for future legislative review and repeal.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-1; House 116-1*

**SB 1630 — OGSR/Department of Agriculture and Consumer Services**

by Agriculture Committee

This bill reenacts the public records exemption that allows the Department of Agriculture and Consumer Services (department) to keep confidential any federal records which are provided to the department during a joint food safety or food-borne illness investigation. Before the exemption, federal agencies would not allow the department to fully participate in these investigations because the state's Open Government laws require any data given to the department to be made public. The goal of this exemption is to allow federal and state agencies to share information and fully participate together to achieve timely resolutions of causal or contributing factors to outbreaks. The result of this exemption has been a safer and more secure food supply for the consuming public.

Senate staff was required to review the exemption in s. 500.148, F.S., pursuant to the Open Government Sunset Review Act, and found that the exemption from the public records law meets the statutory criteria for reenactment.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 119-0*

**CS/HB 219 — Gertrude Maxwell Save a Pet Act**

by Environment and Natural Resources Council and Rep. Domino and others (CS/CS/SB 1994 by Governmental Operations Committee; Agriculture Committee; and Senator Atwater)

This bill, known as the "Gertrude Maxwell Save a Pet Act," creates the Gertrude Maxwell Save a Pet Direct-Support Organization within the Department of Agriculture and Consumer Services. This direct-support organization (DSO) is created for the purposes of providing grants to animal shelters for spaying and neutering, for sheltering and providing services during times of

emergencies, and for developing and disseminating educational materials concerning the care of pets. The DSO will be governed by a board of directors made up of eight members and three honorary members.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 114-0*

## **CS/SB 2222 — Citrus**

by Agriculture Committee

This bill provides for the use of *Casuarina cunninghamiana* (specific variety of Australian Pine) as a windbreak for commercial citrus groves. The bill creates a five year pilot program for use of *Casuarina cunninghamiana* as a windbreak to protect fresh fruit groves in Indian River, St. Lucie, and Martin Counties where citrus canker is determined by the Department of Agriculture and Consumer Services (department) to be widespread. This pilot program must be reevaluated annually, and a comprehensive review is required in 2013.

Property owners who participate in the program are required to obtain a special permit from the department. The department is authorized to charge a fee for the special permit, not to exceed \$500. The *Casuarina cunninghamiana* must be produced in an authorized registered nursery and certified by the department as being vegetatively propagated from male plants. Nurseries which are authorized to produce the plants must obtain a special permit from the department certifying that the plants have been vegetatively propagated from sexually mature male source trees currently grown in the state. The bill authorizes the department to charge a special permit fee, not to exceed \$200. The department is authorized to charge an annual fee, not to exceed \$50 for each tree registered as a source tree.

All *Casuarina cunninghamiana* must be destroyed by the property owner within six months if the site is no longer used for commercial citrus production, has not been used for commercial citrus production for a period of five years, or if the department determines that the trees have become invasive. If the owner neglects to comply the department may proceed to destroy the plants. The cost of the destruction by the department will be assessed, collected, and enforced against the owner. Upon failure to pay the assessed cost, the department is authorized to record a lien against the property. The bill authorizes the department to require a permit holder to provide verified statements of the planted acreage subject to the special permit. It also authorizes the department to review the permit holder's business or planting records at his or her place of business during normal business hours. Failure to produce such information is cause for suspension or revocation of the special permit.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*



## **HEALTH INSURANCE**

### **CS/CS/SB 2534 — Health Insurance**

by Health and Human Services Appropriations Committee; Banking and Insurance Committee; and Senators Peadar and Gaetz

The bill provides for two significant new programs designed to provide more affordable access to coverage for health care, primarily for individuals who are uninsured and small employers.

#### ***Cover Florida Health Access Program***

Creates the "Cover Florida Health Access Program Act," which is designed to provide affordable health care options for uninsured residents. The program will allow insurers, HMOs, health-care-sponsored-organizations, or health care districts to offer consumers a choice of benefit plans at affordable prices. A Cover Florida plan entity must provide non-catastrophic coverage and may provide catastrophic coverage, supplemental insurance, and discount medical plan product options to enrollees.

#### ***Enrollment Eligibility Requirements:***

- Resident of Florida;
- Ages 19 to 64;
- Not covered by private insurance or eligible for public insurance; and
- Uninsured for at least the prior 6 months, with exceptions for persons who lost coverage within the past 6 months under certain conditions.

#### ***Administration of the Cover Florida Health Access Program:***

The Agency for Health Care Administration and the Office of Insurance Regulation are jointly responsible for establishing and administering the program. The agency and the office are required to issue an invitation to negotiate no later than July 1, 2008, to health insurers, health maintenance organizations, health care provider-sponsored organizations, and health care districts ("Cover Florida plan entities"). The agency and the office are required to approve at least one Cover Florida plan entity having an existing statewide provider network, and may approve at least one regional network plan in each Medicaid area.

Changes in plan benefits, premiums, and forms are subject to regulatory oversight by the agency and the office. The agency is required to ensure that the plans follow standardized grievance procedures. The office and the agency are required to submit an annual report to the Governor,

the President of the Senate, and the Speaker of the House of Representatives on the status of the program.

### ***Health Flex Plan Program***

The Health Flex Plan Program was established to offer basic affordable health care services to low income, uninsured residents. The amendment provides the following changes to the program:

- Expands the population eligible to purchase health flex plans by raising the family income limit from 200 to 300 percent of the federal poverty level (FPL).
- Allows a person who is covered under subsidized Medicaid or KidCare coverage and who lost eligibility due to the income limits to apply for coverage without a lapse in coverage if all other requirements are met. Under current law, these persons would be required to be uninsured for the prior 6 months prior to enrolling in a health flex plan.
- Expands the population eligible for health flex plans by allowing individuals who are covered under an individual contract issued by an HMO that has an approved health flex plan, as of October 1, 2008, to enroll in the HMO's health flex plan. These individuals would not be subject to the current requirement of being uninsured for the prior 6 months.
- Allows a person who is part of an employer group with at least 75 percent of the employees having income equal to or less than 300 percent of the FPL and not covered by private insurance during the last 6 months to be eligible for coverage. If the health flex plan is an insurer, only 50 percent of the employees must meet the income test.
- Extends the expiration date of the program from July 1, 2008 to July 1, 2013.

### ***Florida Health Choices Program***

The bill creates the Florida Health Choices Program ("program"). The program is designed to be a single, centralized market for the sale and purchase of health care products including, but not limited to: health insurance plans, HMO plans, prepaid services, service contracts, and flexible spending accounts. Products sold as part of the program would be exempt from regulation under the Insurance Code and laws governing health maintenance organizations.

### ***Authorized Vendors***

The following entities are authorized to be eligible vendors of these products and plans: (1) insurers authorized under ch. 624, F.S., (2) HMOs authorized under ch. 641, F.S., (3) prepaid health clinics licensed under ch. 641, part II, F.S., (4) health care providers, including hospitals and other licensed health facilities, health care clinics, pharmacies, and other licensed health care providers, (5) provider organizations, including services networks, group practices, and professional associations, and (6) corporate entities providing specific health services. Vendors may not sell products that provide "risk-bearing coverage" unless those vendors are authorized

under a certification of authority issued by the Office of Insurance Regulation under the Florida Insurance Code. Vendors are required to make all risk-bearing products offered through the program guaranteed-issue policies, subject to preexisting condition exclusions established by the corporation.

#### *Administration of the Program*

The bill creates Florida Health Choice, Inc., as a not-for-profit corporation under ch. 617, F.S. The corporation will administer the program and function like a third-party administrator (TPA) for employers participating in the program. The corporation is responsible for certifying vendors and ensuring the validity of their offerings.

The corporation is governed by a fifteen member board, four members appointed by the Governor, four members appointed by the Senate President, four members appointed by the Speaker of the House of Representatives, and three ex-officio, non-voting members from the following agencies: Agency for Health Care Administration, Department of Management Services, and the Office of Insurance Regulation. The board members may not include insurers, health insurance agents, health care providers, HMOs, prepaid service providers, or any other entity or affiliate of eligible vendors.

The corporation is subject to the ethics (conflict of interest) requirements of part III of ch. 112, F.S., as well as the public records and public meetings requirements of chs. 119 and 287, F.S.

Board members are entitled to per diem and travel expenses but no other compensation is allowed. The board may secure staff and consultant services necessary to the operation of the program. A total of \$1.5 million (the sum of 3 separate appropriation categories) in non-recurring funds is appropriated from the General Revenue Fund to fund the program.

#### *Eligibility and Enrollment*

The bill provides that small employers (1-50 employees), certain eligible individuals, cities (population less than 50,000), fiscally constrained counties, municipalities having a population of fewer than 50,000 residents, school districts in fiscally constrained counties, and statutory rural hospitals are eligible to enroll. Eligible individuals include individual employees of enrolled employers, state employees ineligible for the state group insurance plan, state retirees, and Medicaid reform participants who opt-out.

#### *Pricing; Risk Pooling*

Prices for products sold through the program must be based on age, gender, and location of participants. The corporation must develop a methodology for evaluating the actuarial soundness of the product, which methodology must be reviewed by the OIR. The corporation must use the methodology to compare the expected costs and benefits of the products, which must be reported to individuals participating in the program. Prices must remain in force for at least one year. The corporation must add a surcharge not to exceed 2.5 percent to generate funding for

administrative services provided by the corporation and payments to buyer's representatives (including insurance agents).

The program must utilize methods for pooling the risk of individual participants and preventing selection bias, including a postenrollment risk adjustment of the premium payments to the vendors. Monthly distributions of payments to the vendors must be adjusted based on the assessed relative risk profile of the enrollees in each risk-bearing product for the most recent period for which data is available.

*OIR Recommendation on Risk-Bearing Products*

Prior to making a risk-bearing product available through the program, the corporation must provide information on the product to the OIR. The OIR has 30 days to review the product and make a recommendation that it should, or should not, be made available through the program. If the OIR recommends that a risk-bearing product should not be made available, the product may be offered only if a majority of the board vote to include the product.

***Florida KidCare Program***

The Florida KidCare program is primarily targeted to uninsured children under age 19 whose family income is at or below 200 percent of the federal poverty level. The bill makes the following changes to the program:

- Expands eligibility and enrollment for the KidCare program by eliminating the 10 percent cap on enrollment for MediKids (ages 1-5) and Healthy Kids (ages 6-19) enrollees who have a family income of greater than 200 percent of the federal poverty level and pay full premiums. These enrollees must pay the full cost of the premium (unsubsidized).
- Requires Healthy Kids Corp. to submit a report to the Legislature and Governor, by February 1, 2009, on the premium impact to the subsidized portion of KidCare from the inclusion of the full pay program, and recommendations on how to eliminate or mitigate possible impacts to the subsidized premiums.

***Dependent Coverage***

The bill requires individual and group health insurers and HMOs to offer policyholders and certificate holders (parents) the option to continue coverage of their children on their family policy until age 30, if the child is: (1) unmarried with no dependents; (2) a resident of Florida or a full-time or part-time student; and (3) does not have insurance coverage under any private or public plan.

The bill maintains the current law that requires dependents to be covered until age 25 if the child is dependent upon the parent for support and who either lives in the household of the parent or is a full-time or part-time student. However, this requirement currently applies only to group health

insurance policies, which the bill applies to individual health insurance policies and to all HMO contracts.

### ***Insurance Code Exemption for Certain Religious Organizations***

The bill creates an exemption from the Florida Insurance Code for nonprofit religious organizations that qualify under Title 26, sec. 501 of the IRS Code. In order to meet this exemption, the nonprofit religious organization must:

- Limit its membership to members of the same religion;
- Act as an organizational clearinghouse for information between participants who have financial, physical, or medical needs and those with the ability to pay for the benefit of those members in need;
- Provide for medical or financial needs of participants through payments directly from one participant to another;
- Suggest amounts that participants may voluntarily give with no assumption of risk or promise to pay either among the participants or between the participants.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 118-1*

### **CS/CS/CS/SB 2654 — Children with Disabilities**

by Health and Human Services Appropriations Committee; Health Policy Committee; Banking and Insurance Committee; and Senators Geller, Ring, Bennett, Deutch, Villalobos, Rich, Fasano, Garcia, Wise, Atwater, Margolis, Crist, Joyner, Justice, Dockery, Dean, Dawson, Saunders, Pruitt, Webster, Alexander, Aronberg, Baker, Bullard, Carlton, Constantine, Diaz de la Portilla, Gaetz, Haridopolos, Hill, Jones, King, Lawson, Lynn, Oelrich, Peaden, Posey, Siplin, Storms, and Wilson

This bill authorizes the Agency for Health Care Administration (AHCA or Agency) to seek federal approval through a Medicaid waiver or state plan amendment for the provision of occupational therapy, speech therapy, physical therapy, behavior analysis, and behavior assistant services to individuals who are 5 years old and younger and have a diagnosed developmental disability, an autism spectrum disorder, or Down syndrome. Coverage for such services must be limited to \$36,000 annually and \$108,000 in total lifetime benefits. The agency must submit an annual report beginning on January 1, 2009 to the Legislature regarding progress on obtaining federal approval and recommendations for the implementation of services. The agency may not implement the provision of these services without prior legislative approval.

The bill creates the "Window of Opportunity Act" which requires the Office of Insurance Regulation (OIR or Office) to convene a workgroup by August 31, 2008, to negotiate a binding

compact agreement among participants relating to insurance and access to services for persons with developmental disabilities. The working group must include representatives from all licensed health insurers, all licensed health maintenance organizations, and employers with self-insured health benefit plans. No party must agree to the compact, but a party that does agree to the compact is bound to its terms and conditions. The compact agreement must include:

- A requirement to increase coverage for behavior analysis and behavior assistant services, speech therapy, physical therapy, and occupational therapy due to the presence of a developmental disability.
- Procedures for clear and specific notice to policyholders identifying the amount, scope, and conditions under which coverage is provided for such services.
- Penalties for documented cases of denial of claims for medically necessary services due to the presence of a developmental disability.
- Proposals for new product lines to be offered in conjunction with health insurance.

Once the compact agreement negotiations are completed, the OIR must report the results to the Governor, President of the Senate, and Speaker of the House of Representatives. Beginning February 15, 2009, the OIR must submit an annual report regarding the implementation of the compact agreement.

The bill also creates the "Steven A. Geller Autism Coverage Act" which requires insurer large group health insurance plans and HMO large group health maintenance contracts to provide coverage for diagnostic screening, intervention, and treatment of autism spectrum disorder in children through speech therapy, occupational therapy, physical therapy, and applied behavior analysis that is prescribed by the insured's treating physician in accordance with a treatment plan. All large group health insurance policies and HMO contracts issued or renewed on or after April 1, 2009, must provide the mandated autism spectrum coverage, except that the mandate is not enforceable against an insurer or HMO that is a signatory of the developmental disabilities compact for developmental disabilities, described above, as of April 1, 2009. However, the autism spectrum mandate is enforceable against a signatory of the developmental disabilities compact if the insurer or HMO has not complied with the terms of the compact by April 1, 2010.

The mandatory coverage for autism spectrum disorder is subject to a maximum benefit of \$36,000 per year not to exceed \$200,000 in total lifetime benefits. Beginning January 1, 2011, the maximum benefit is to be adjusted annually on that date to reflect annual changes in the medical inflation component of the Consumer Price Index. To be eligible for benefits and coverage, an individual must be diagnosed with an autism spectrum disorder at 8 years of age or younger. Benefits and coverage must be provided to eligible persons who are under 18 years of age or who are in high school. Coverage may not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable than those applied to covered physical illnesses under the health plan or contract, except as allowed by the act. The coverage for autism may be

subject to other general exclusions and limitations of the insurer's or HMO's policy or plan. Benefits may not be denied on the basis that provided services are habilitative in nature.

Health insurance plans and HMOs may not deny, refuse to issue or reissue coverage, terminate, or restrict coverage because an individual is diagnosed with autism spectrum disorder.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 40-0; House 117-0*

### **CS/CS/SB 1012 — Health Insurance Claims Payments**

by General Government Appropriations Committee; Banking and Insurance Committee; and Senators Gaetz, Baker, Fasano, Posey, Oelrich, Bennett, Ring, Lynn, and Storms

Senate Bill 1012 makes a number of changes to current law regarding assignment of benefits by policyholders or subscribers, third party access to provider networks, and recouping of certain overpayments to providers.

#### ***Assignment of Benefits***

Committee Substitute for Senate Bill 1012 requires any insurer that contracts with a preferred provider to make payments directly to the preferred provider for such services to its insureds. The bill allows a health insurance policy insuring against loss or expense due to hospital confinement or medical and related services to provide direct payment to licensed ambulance providers, in addition to recognized hospitals and physicians to whom current law authorizes direct payment. Additionally, an insurance contract may not prohibit the direct payment of a licensed ambulance provider for emergency services provided pursuant to s. 395.1041, F.S., or medical transportation services provided pursuant to part III of chapter 401, F.S. Payment to the medical provider may not be greater than the payment the insurer would have paid without an assignment of benefits by the policyholder.

Health maintenance organizations (HMOs) are required to directly pay contracted hospitals, ambulance providers, physicians, and dentists for covered services if their subscribers make an assignment of benefits. An HMO contract may not prohibit the direct payment of benefits to a licensed hospital, ambulance provider, physician or dentist for covered services, for emergency services provided pursuant to s. 395.1041, F.S., or for ambulance transport and treatment provided pursuant to part III of chapter 401. Payment to the medical provider may not be more than the payment due in the absence of an assignment of benefits. These requirements do not affect the prohibition against balanced billing and other requirements in s. 641.3154, F.S., or the requirements for payment of emergency services in s. 641.31, F.S.

### ***Third Party Access to Provider Networks***

The bill establishes requirements for a contracting entity to lease, rent, or grant access to the health care services of a preferred provider or exclusive provider to a third party (sometimes referred to as a "silent Preferred Provider Organization") not involved in the original contract. The requirements apply if the participating provider is licensed under ch. 458, F.S., (physicians), ch. 459, F.S., (osteopaths), ch. 460, F.S., (chiropractors), ch. 461, F.S., (podiatrists), or ch. 466, F.S., (dentists). The bill also applies these requirements to group, blanket, and franchise health insurance. The requirements are that:

- The health care contract between the contracting entity and participating provider must expressly authorize granting access to provider's services to third parties. When the contract is entered into, the contracting entity must identify any third party it has granted access to the health care services of the participating provider.
- The contracting entity may sell, lease, rent or otherwise grant access to the participating provider's services only to the following third parties:
  - A payer or third-party administrator or other entity responsible for administering claims on the payer's behalf.
  - A preferred provider organization or network that is required to comply with all of the terms to which the originally contracted primary participating provider network is bound.
  - An entity that is engaged in the business of providing electronic claims transport.
- Upon request by a participating provider, a contracting entity must provide the identity of any third party that has been granted access. A contracting entity must also maintain an Internet website or a toll-free telephone number through which the provider may obtain a listing of the third parties that have been granted access.
- A contracting entity must ensure that an explanation is furnished to the participating provider that identifies the contractual source of any applicable discount.
- A contracting entity must ensure that all third parties given access comply with the physician contract, unless otherwise agreed by a participating provider.
- The right of a third party to exercise the rights and responsibilities of a contracting entity terminates on the day following the termination of the contract with the contracting entity, subject to applicable continuity-of-care laws.
- A health care contract may provide for arbitration of disputes under the section.

A contracting entity is deemed in compliance when the insured's identification card provides information, written or electronically, which identifies the preferred provider network(s) to be used to reimburse the provider for covered services.



The provisions regarding third party access to provider networks do not apply if the third party granted access is:

- An employer or other entity providing coverage and the employer or entity has a contract with the contracting entity for the administration or processing of claims for payment or services provided under the health care contract;
- An entity providing administrative services to, or receiving administrative services from, the contracting entity; or
- An affiliate or a subsidiary of a contracting entity, or other entity if operating under the same brand licensee program as the contracting entity (Blue Cross Blue Shield operates under a brand licensee program).

### ***Claims for Overpayment and Underpayment***

Reduces the maximum time period from 30 months to 12 months after payment is made to a provider for an insurer or HMO to make a claim for overpayment, or a provider to make a claim for underpayment if the provider is licensed under ch. 458, F.S., (physicians), ch. 459, F.S., (osteopaths), ch. 460, F.S., (chiropractors), ch. 461, F.S., (podiatrists), or ch. 466, F.S., (dentists). However, a 30-month period is available if the provider is convicted of fraud pursuant to s. 817.234, F.S.

### ***Other Provisions:***

- Revises the definition of small employer for group health insurance coverage to provide that companies that are affiliated groups as defined in s. 1504(a) of the Internal Revenue Code are considered one employer, for purposes of calculating the number of employees. Certain companies currently considered small employers will no longer be entitled to guarantee issue and modified community ratings since they will no longer be deemed small employers. The bill also exempts from the definition small employers formed primarily for the purpose of providing health insurance. This conforms Florida law to the current National Association of Insurance Commissioners Model Act.
- Allows the Office of Insurance Regulation to waive the requirement that a multiple employer welfare arrangement must have its principal place of business in Florida and maintain complete records of its assets, transactions and affairs at that locale if an arrangement has been operating in another state for at least 25 years, has been licensed in that state for at least 10 years, and has a minimum fund balance of at least \$25 million at the time of licensure.

If approved by the Governor, these provisions take effect November 1, 2008, and will apply to contracts entered into, issued, or renewed on or after that date. The amendments made to ss. 627.6131 and 641.3155, F.S., (overpayment or underpayment of claims) apply to claims payments made on or after November 1, 2008.

*Vote: Senate 38-0; House 119-0*

### **HB 461 — Health Flex Plans**

by Rep. Patronis and others (SB 1022 by Senators Peaden, Gaetz, and Lynn)

The Health Flex Plan Program was established to offer basic affordable health care services to low-income, uninsured residents. The bill expands the population eligible to purchase health flex plans by raising the income limit from 200 to 300 percent of the federal poverty level. The bill also extends the expiration date of the program from July 1, 2008 to July 1, 2013.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 107-2*

### **CS/HB 535 — Health Insurance**

by Policy and Budget Council and Rep. Cretul and others (CS/SB 1968 by General Government Appropriations Committee and Senators Posey and Storms)

The bill requires health insurance companies and health maintenance organizations to provide policyholders and subscribers with identification cards that contain specified information that can be used to estimate the financial responsibility of the covered person, in compliance with the federal Health Insurance Portability and Accountability Act of 1996, and contact information for the insurer or health maintenance organization. This information will assist hospitals and other providers to determine coverage and the financial responsibility of the covered person.

This bill also expands the definition of bone marrow transplant for purposes of required health insurance coverage to include nonablative therapy and authorizes coverage for bone marrow transplants for life-prolonging intent, not just for curative purposes. These changes in the law would update coverage requirements to reflect current practice and advancements in the area of bone marrow transplants.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 39-0; House 111-0*

## PROPERTY INSURANCE

### **CS/CS/SB 2860 and 1196 — Insurance**

by General Government Appropriations Committee; Banking and Insurance Committee; and Senators Atwater, Geller, Fasano, Garcia, Jones, Gaetz, and Wilson

Senate Bill 2860 is entitled the Homeowners Bill of Rights Act.

#### ***Rating Law for Property and Casualty Insurance (s. 627.062, F.S.)***

*Repeal of Arbitration* - Repeals the option for an insurer, for any property and casualty insurance rate filing (or any other filing), to appeal a rate filing disapproved by the Office of Insurance Regulation (OIR) to an arbitration panel in lieu of an administrative hearing. Current law prohibits use of arbitration until January 1, 2009.

*Extension of Prohibition on "Use and File"* - Extends for one additional year, until December 31, 2009, the current prohibition on insurers using the "use and file" option for property insurance rate increases. This would continue to require that an insurer make a "file and use" filing that prohibits an insurer from increasing its rates prior to approval by the OIR, unless deemed approved by failure of the OIR to issue a notice of intent to disapprove within 90 days. Current law prohibits "use and file" rate increases until December 31, 2008.

*Use of Approved Hurricane Loss Models* - Requires that projected hurricane losses must be estimated using a model or method found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology.

*Profit Factor* - Deletes the requirement that the OIR approve a profit factor in a rate filing for an insurer that is commensurate with the risk, for that portion of the rate covering hurricane losses for which the insurer has not purchased reinsurance. By striking this language, the law requires the OIR to consider "a reasonable margin for profit and contingencies."

*Expedited Hearings on Rate Filings* - Provides for an expedited hearing process for rate filings by:

- Requiring Division of Administrative Hearings to hold the hearing within 30 days after the request for the hearing.
- Requiring the hearing officer to issue the recommended order within 30 days after the hearing (or after receipt of the transcripts).
- Requiring parties to submit written exceptions within 10 days.
- Requiring the OIR to enter a final order within 30 days after the entry of the recommended order.

- Allowing timeframes to be waived upon agreement of all parties.
- Allowing an insurer to request an expedited appellate review of a final OIR rate order and providing legislative intent that the 1st DCA grant the insurer's request.

***Transparency in Rate Regulation (creating s. 627.0621, F.S.)***

For residential property insurance rate filings the OIR must provide information on an Internet website of all assumptions made by any OIR actuary; the overall rate change requested by the insurer; a statement describing any assumptions that deviate for actuarial standards of the Casualty Actuarial Society; and a certification by the office's actuary that based on the actuary's knowledge, that his or her recommendations are consistent with accepted actuarial principles.

In any administrative or judicial proceeding, the work-product and attorney-client privilege exemptions from public disclosure do not apply to communications with office attorneys or records prepared by or at the direction of an OIR attorney except when the communication or record reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the OIR that was prepared exclusively for civil or criminal litigation or adversarial administrative proceedings *and* the communication occurred or the record was prepared after the initiation of a court action, after issuance of a notice of intent to deny a rate, or after the filing by an insurer of a request for a hearing.

***Administrative Proceedings in Rate Determinations***

The bill allows an administrative law judge (ALJ) to make the certain findings of fact in an administrative hearing on a property insurance rate filing. The ALJ may find whether the factors used in a rate filing or applied by the office are consistent with standard actuarial techniques or practices or are otherwise based on reasonable actuarial judgment, whether a factor for underwriting profit and contingencies is reasonable or excessive, or whether the cost of reinsurance is reasonable or excessive. The administrative law judge may enter a recommended order that approves, modifies or rejects the requested change, as supported by the record.

***Requirements for Trade Secret Documents (s. 624.4213, F.S.)***

The bill specifies requirements for submission of a document to the OIR or the Department of Financial Services (DFS) in order for a person to claim that the document is a trade secret. Each page or portion that is a trade secret must be labeled as such and be separated from non-trade secret material. The submitting party must include an affidavit certifying certain information as to the trade secret status of the documents.

The OIR is authorized to release a document marked as trade secret to a requestor if the OIR provides the insurer with 30-days notice and opportunity to obtain a court order barring disclosure. The bill allows the OIR or DFS to disclose a trade secret to employees or officers of

another governmental agency whose use of the trade secret is within the scope of their employment.

***Market Conduct Examinations—Required Filing of Claims Handling Practices (s. 624.3161, F.S.)***

The bill authorizes the OIR to order an insurer to file its claims handling practices and procedures as a public record based on findings of a market conduct examination. The OIR findings must be that the insurer had a pattern or practice of willful violations of an unfair insurance trade practice related to claims-handling causing harm to policyholders, as prohibited by s. 626.9541(1)(i), F.S. The requirement applies to the claims-handling procedures for the line of insurance that was the subject of the market conduct exam. The filings must be held by the office for a 36-month period.

***Administrative Fines for Violations of the Insurance Code (s. 624.4211, F.S.)***

The bill doubles all current fines that may be imposed by the OIR upon an insurer for violation of the Insurance Code or any rule or order. A maximum fine of \$40,000 (rather than \$20,000) may be levied for a willful violation, not to exceed an amount equal to \$200,000 (rather than \$100,000), for all willful violations arising out of the same action. A maximum fine of \$5,000 (rather than \$2,500) for a nonwillful violation, not to exceed an amount of \$20,000 (rather than \$10,000) for all nonwillful violations arising out of the same action.

***Administrative Fines for Unfair Insurance Trade Practices (s. 626.9521, F.S.)***

The bill doubles all current fines that may be imposed by the OIR or the Department of Financial Services (within each agency's respective jurisdiction) upon a person who violates any unfair or deceptive act or practice related to insurance. A maximum fine of \$40,000 (rather than \$20,000) may be levied for a willful violation, not to exceed an amount equal to \$200,000 (rather than \$100,000), for all willful violations arising out of the same action. A maximum fine of \$5,000 (rather than \$2,500) for a nonwillful violation, not to exceed an amount of \$20,000 (rather than \$10,000) for all nonwillful violations arising out of the same action.

***Unfair Insurance Trade Practices; Payment of Undisputed Claim Amount (s. 626.9541, F.S.)***

The bill prohibits an insurer from failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 90 days after determining the amount and agreeing to coverage, unless payment of the undisputed benefits is prevented by an act of God, prevented by the impossibility of performance, or due to actions by the insured or claimant that constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed. Violations are grounds for a private civil remedy action, due to the cross-reference in current s. 624.155, F.S.

### ***Notice of Non-Renewal***

The bill increases the required notice of nonrenewal of a personal or commercial residential insurance policy from 100 days to 180 days if the policy has been written for 5 years or more. Insurers that are planning to nonrenew more than 10,000 policies within a 12-month period must notify the OIR 90 days before issuing any notices of nonrenewal.

### ***Required Use of Models Approved by Florida Commission on Hurricane Loss Projection Methodology (s. 627.0628, F.S.)***

The bill requires that for purposes of a rate filing insurers must use, and may not modify or adjust, a model or method found to be accurate or reliable by the Commission on Hurricane Loss Projection Methodology. The bill deletes the current law that in order for an approved model to be admissible and relevant, the OIR must have access to all of the assumptions and factors used in developing the model.

The commission is required to adopt findings related to a model's probable maximum loss calculations. An insurer must use and may not modify or adjust models found by the commission to be accurate or reliable in determining probable maximum loss levels for rate filings made more than 60 days after the commission has made such findings.

The bill specifies that the processes, standards, and guidelines of the commission do not constitute final agency action or statements of general applicability that implement, interpret, or prescribe law and are exempt from chapter 120, F.S.

### ***Use of Public Hurricane Loss Model***

The bill allows insurance companies to use the Public Hurricane Loss Model to determine rate requests in advance of a filing, but requires the insurer to pay for use of the public model. It requires the Financial Services Commission to establish by rule, by January 1, 2009, a fee schedule for access and use of the model, reasonably calculated to cover only the actual costs.

### ***Hurricane Mitigation Premium Credits Tied to Uniform Home Rating Scale (s. 627.0629, F.S.)***

The OIR is required to develop, by February 1, 2011, a proposed method for insurers to establish windstorm mitigation premium credits (discounts) that correlate to the numerical rating of a structure pursuant to the uniform home rating scale. The Financial Services Commission must then adopt rules by October 1, 2011, requiring insurers to make rate filings which revise their credits pursuant to this method, consistent with generally accepted actuarial principles and wind loss mitigation studies. The rules must allow a period of at least two years after the effective date of the revised credits for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer must continue to apply the old mitigation credit.

***Disclosure of Windstorm Mitigation Rating Upon Sale of Home (s. 689.262, F.S.)***

The bill provides that, effective January 1, 2010, the potential purchaser of a residential property with an insured value of \$500,000 or more, insured by Citizens, and located in the wind-borne debris region be informed of the structure's windstorm mitigation rating.

Effective January 1, 2011, a purchaser of residential property located in the wind-borne debris region must be informed of the windstorm mitigation rating of the structure, either in the contract for sale or as a separate document attached to the contract. The Financial Services Commission is authorized to adopt rules, including the form of the disclosure and the requirements for the inspection or report that is required.

***Citizens Property Insurance Corporation (s. 627.351, F.S.)***

*Extension of Rate Freeze* - Extends the freeze on rate increases in Citizens from January 1, 2009 to January 1, 2010. Requires Citizens to make an annual, actuarially sound rate filing beginning July 15, 2009, to be effective no earlier than January 1, 2010.

*Assessments for Citizens Deficits* - Revises the required assessments to fund a deficit in *each* of Citizens' three accounts (high risk, personal lines, or commercial lines) to:

- Require up to a 15 percent of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal;
- If this is insufficient, require a regular assessment against insurers which may be recouped from their policyholders, of up to 6 percent (rather than 10 percent) of premium for most lines of property and casualty insurance or 6 percent of the deficit, whichever is greater;
- Require any remaining deficit to be funded by a bond issue, funded by multi-year emergency assessments on policyholders on most types of property and casualty insurance, of up to 10 percent of premium for most lines of property and casualty insurance, or 10 percent of the deficit, whichever is greater.

The bill grants the board of Citizens the discretion to apply the amount of any assessment or surcharge which exceeds the amount of the deficit to various business purposes.

*Eligibility for Higher Value Homes* - Provides that homes with a dwelling replacement cost of \$2 million or more, rather than current law's \$1 million or more, are ineligible for coverage, effective January 1, 2009, with limited exceptions for current policyholders who obtain rejections from three surplus lines insurers and one authorized insurer.

*Eligibility for Properties Within 2,500 Feet of the Coast* - Deletes the current law requiring that new properties constructed after January 1, 2009, within 2,500 feet of the coast must meet "Code Plus" requirements in order to be eligible for Citizens. By repealing this provision, the law would still require that any new home meet the Florida Building Code.

*Forced Purchase of Bonds* - Deletes current law requiring insurers to purchase bonds that remain unsold for 60 days.

*Access to Claims and Underwriting Files* - Provides that a policyholder who has filed suit against Citizens has the right to discover the contents of his or her claims file to the same extent that discovery would be available from a private insurer. Allows Citizens to release confidential underwriting and claims file information under certain circumstances.

### ***Multi-Policy Discount***

Allows an insurer to offer a multi-policy discount if the policyholder has wind-only coverage with Citizens or an insurer that has removed a policy from Citizens, provided that the same insurance agent services both policies.

### ***Citizens Property Insurance Corporation Mission Review Task Force***

The bill creates the Citizens Mission Review Task Force to analyze and report on changes needed to return Citizens to its former role as a state-created, noncompetitive residual market mechanism that provides property insurance coverage to risks that are otherwise entitled but unable to obtain such coverage in the private market. The task force must submit reports by January 31, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The task force is composed of 11 members and must be funded by Citizens.

### ***Insurance Capital Build-Up Incentive Program (s. 215.5595, F.S.)***

The bill revises the requirements for the Program, which provides for surplus note loans to insurers of up to \$25 million, repayable over 20 years at the 10-year Treasury bond rate, as approved by the State Board of Administration (SBA). Insurers that apply by September 1, 2008 are eligible for a surplus note loan equal to the amount of new capital that an insurer contributes. Insurers that apply after September 1, but before June 1, 2009, may apply for a surplus note equal to one-half of the amount of new capital that the insurer contributes. The bill revises the minimum premiums that the insurer must commit to write, by adding a minimum *gross* premium to surplus ratio requirement, as an alternative to the current *net* premium to surplus writing ratio requirement. The distinction is that net premiums deduct the reinsurance premiums that the insurer pays (cedes) to a reinsurer. An insurer must write at least 15 percent of its premiums for new policies for policies taken out of Citizens, for each of the first 3 years of the surplus note.



To fund the program, Citizens is to transfer \$250 million from its personal lines account and commercial lines account to the General Revenue Fund on December 15, 2008, unless the estimated year-end surplus in the Personal Lines Account and the Commercial Lines Account is less than \$1 billion. The State Board of Administration (SBA), beginning July 1, 2009, must make quarterly transfers to Citizens of interest and principal payments for surplus notes that were funded by appropriations from Citizens in FY 2008-09. Citizens is prohibited from using any of the amendments to the Insurance Capital Build-Up Program or any transfer of funds as justification or cause in seeking any rate or assessment increase. However, this provision does not limit the amount of an assessment that may be greater due to the transfer of these funds.

The bill requires the SBA to make annual reports to the Legislature on the results of the program and each insurer's compliance with the terms of its surplus note. The SBA must transfer to Citizens on January 15, 2009, uncommitted or unreserved funds, that were funded by transfers from Citizens.

#### ***Florida Hurricane Catastrophe Fund; \$10 Million Coverage Option***

The bill requires the FHCF to offer \$10 million of additional coverage to limited apportionment companies (having \$25 million in surplus or less and writing at least 25 percent of premiums in Florida), insurers approved to participate in the Insurance Capital Build-Up Incentive Program, and insurers that purchased the supplemental coverage in 2007. Similar coverage was offered in 2006 and 2007. This coverage would reimburse the insurer for up to \$10 million in losses, for each of two hurricanes. The coverage will again be priced at a 50 percent rate on line (e.g., \$5 million premium for \$10 million in coverage) with a free reinstatement for a second storm. The insurer's retention for such coverage remains at 30 percent of the company's surplus. The coverage expires on May 31, 2009.

#### ***Annual Report by CFO***

Requires the CFO to annually report to the Governor and Legislative presiding officers regarding the economic impact on Florida from a 1-in-100 year hurricane and the premium increase needed to fund such a hurricane.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 33-5; House 117-0*

#### **HB 7103 — My Safe Florida Home Program**

by Jobs and Entrepreneurship Council and Rep. Reagan (CS/SB 644 by Banking and Insurance Committee and Senators Justice, Rich, Gaetz, Storms, Dockery, and Joyner)

The bill makes several changes to the My Safe Florida Home Program (MSFHP) administered by the Department of Financial Services (DFS). The intent of the MSFHP is to provide free

home inspections for at least 400,000 site-built, single-family residential properties and provide grants to at least 35,000 applicants prior to June 30, 2009.

The bill provides that to qualify for selection by the DFS as a wind certification entity to provide hurricane mitigation inspections, an entity must use hurricane mitigation inspectors who are certified or licensed as building inspectors, general or residential contractors, professional engineers or architects, or individuals who have at least two years prior experience in residential construction or residential building inspection and who have received specialized training in hurricane mitigation procedures.

The legislation requires DFS to adopt a quality assurance program that includes a statistically valid number of reinspections. It also allows DFS to verify that mitigation improvements have been made to all openings, including exterior doors and garage doors, prior to issuing a reimbursement grant check to the homeowner. The bill eliminates a provision in current law which requires DFS to transfer \$40 million to the Volunteer Florida Foundation to provide inspections and grants to low-income homeowners. This provision is removed due to concerns about the tax status of the Foundation. The DFS may provide the remaining \$18.7 million that has not yet been transferred to the Foundation, directly to non-profit organizations to serve low-income homeowners.

The bill mandates that DFS implement a no-interest loan program by October 1, 2008, which is to be contingent upon the selection of a qualified vendor and the execution of a contract acceptable to DFS and the vendor. The DFS is directed to set aside \$10 million from the MSFHP funds for the loan program.

The bill allows DFS to contract with third parties for the provision of information technology and contractor services for low-income homeowners, which shall be considered direct program costs, rather than administrative costs for purposes of administrative cost limitations.

The bill clarifies that policyholders may submit a uniform mitigation verification inspection form to their insurers for the purpose of determining premium discounts for wind insurance. Further, insurers must accept as valid the uniform mitigation verification forms certified by the DFS or signed by a hurricane mitigation inspector employed by an approved My Safe Florida Home wind certification entity, a building code inspector, a general or residential contractor or a professional engineer or architect so that homeowners can access insurance discounts or credits for which they are eligible.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*

## **OTHER INSURANCE**

### **CS/CS/SB 2082 — Insurance (Sale of Annuities)**

by General Government Appropriations Committee; Banking and Insurance Committee; and Senators Bennett and Atwater

The bill increases penalties for specified unfair or deceptive insurance practices related to the sale of life insurance and annuity contracts and strengthens the standards for making recommendations involving annuities to senior consumers. The act is named the "John and Patricia Seibel Act."

#### ***Unfair or Deceptive Insurance Practices***

The bill imposes increased fines and penalties for the unfair and deceptive insurance practices known as "twisting" and "churning," and adds a prohibited practice of willfully submitting to an insurer on behalf of a consumer a document bearing a false signature. "Twisting" and "churning" involves misleading representations in an attempt to induce a consumer to cash in funds from a current investment or insurance product in order to purchase another product. The bill classifies engaging in a pattern or practice of "twisting" and "churning" as a first degree misdemeanor. Willfully submitting a false signature is a third degree felony. The fines (administrative penalties) for these practices are increased to:

- \$5,000 for each non-willful violation (currently \$2,500), up to a maximum aggregate amount of \$50,000 (currently \$10,000).
- \$30,000 for each willful violation (currently \$20,000), up to a maximum aggregate amount of \$250,000 (currently \$100,000).

The bill also makes it an unfair or deceptive insurance practice for an agent to use designations or titles that falsely imply that he or she has special financial knowledge or training.

#### ***Sales of Annuities to Senior Consumers***

The bill strengthens the standards that apply to recommendations to a senior consumer to purchase an annuity contract. Specifically, it:

- Requires that the insurer or insurance agent have an objectively reasonable basis for believing that an annuity recommendation to a senior consumer is suitable.
- Requires insurance agents, prior to recommending a product to a senior consumer, to obtain specified personal and financial information from the consumer relevant to the suitability of the recommendation, on a form adopted by the Department of Financial Services (department).

- Requires the insurer or agent to provide the consumer with specified information on a form adopted by the department concerning differences between the annuity being recommended for purchase and the existing annuity that would be surrendered or replaced.
- Authorizes the Office of Insurance Regulation (OIR) to order an insurer to rescind a life insurance policy or annuity and provide a full refund of the premiums paid or the accumulation value, whichever is greater, when a senior consumer is harmed by a violation of the suitability statute.
- Requires insurers, managing general agents, and insurance agencies to each maintain or make available to the department or the OIR records of information collected from senior consumers and other information for five years after the insurance transaction is completed.
- Deems that any person who is registered with a member of the federal Financial Industry Regulatory Authority, who is required to make a suitability determination and does so while documenting the determination, is deemed to satisfy the section's requirements.

#### ***"Free Look" Period; Annuity Regulation***

The bill increases the "free look" period from 10 days to 14 days after purchase of a life insurance or fixed annuity, for the consumer to obtain a refund. The bill applies this requirement to all annuities, rather than "fixed" annuities.

The bill clarifies the regulatory jurisdiction of the agencies under the Department of Financial Services regarding the sale of annuities.

#### ***Other Provisions***

- Requires applicants for agent licensure to provide their home and business telephone numbers and email address in the application and to notify the department within 60 days after any changes.
- Requires all licensees to complete three hours of department-approved continuing education on the subject of suitability in annuity and life insurance transactions. The hours may be used to satisfy the current ethics continuing education requirement.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 40-0; House 119-0*

## **CS/CS/SB 2012 — Insurance Policies**

by Health Policy Committee; Banking and Insurance Committee; and Senators Deutch, Crist, and Fasano

The bill amends various provisions of the Insurance Code to provide for the following:

### ***Long-Term Care Insurance***

The bill amends s. 627.94073, F.S., to require insurers to notify a long-term care insurance policyholder of the right to designate a secondary addressee annually, rather than every 2 years, and requires the form designating the secondary addressee to inform the policyholder to update any change made to the address of the secondary addressee. Notice of possible lapse in coverage due to nonpayment of premium must be made by the United States Postal Service proof of mailing or certified or registered mail to the policyholder and to the secondary designee at the address shown in the policy or at the last known address provided to the insurer. The bill changes the requirement for an insurer to allow a policyholder to reinstate a long term care policy that has been cancelled for non-payment of premium, to include persons whose failure to pay the premium was due to continuous confinement in a hospital, skilled nursing facility, or assisted living facility of longer than 60 days. These provisions are effective January 1, 2009.

### ***Holocaust Victims***

The bill amends s. 626.9543, F.S., to extend the statute of limitations for filing insurance claims under the Holocaust Victims Insurance Act, from July 1, 2008 to July 1, 2018.

### ***Multiple Employer Welfare Arrangement (MEWA)***

The bill amends s. 624.443, F.S., to allow the Office of Insurance Regulation to waive the requirement that each MEWA maintain its principal place of business in this state if the MEWA has been operating in another state for at least 25 years, has been licensed in such state for at least 10 years, and has a minimum fund balance of \$25 million at the time of licensure.

### ***Motor Vehicle Personal Injury Protection Insurance***

The bill amends s. 627.736, F.S., to clarify that personal injury protection (PIP) reimbursement for medical services be based on 200 percent of the allowable amount under the "participating physicians" schedule of Medicare Part B for 2007. Participating physicians accept Medicare's allowed charges as payment in full for their Medicare patients.

### ***Hospital Self-Insurance Alliances***

Under current law, any two or more hospitals may form a self-insurance alliance to pool and spread liabilities for property insurance coverage. If an alliance purchases excess insurance, it is subject to the premium tax. The bill amends s. 395.106, F.S., to allow such alliances to be considered insurers only for the purpose of purchasing reinsurance coverage which would not be subject to the premium tax. The bill clarifies that contracts of reinsurance issued to a hospital alliance shall receive the same tax treatment as reinsurance contracts issued to insurers.

### ***Citizens Property Insurance Corporation (Citizens)***

The bill amends s. 627.351, F.S., to provide that a policyholder (and his or her attorney) who has filed suit against Citizens may have access to his or her own claim file to the same extent that discovery would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure. This same right of access to claim files is provided to a third party in litigation pursuant to subpoena. Access to such files is subject to any confidentiality protections requested by Citizens. The bill authorizes Citizens to release confidential underwriting and claims file contents as it deems necessary to underwrite or service insurance policies and claims, subject to confidentiality protections deemed necessary. It also allows Citizens to release confidential underwriting file records to other governmental agencies upon written request and demonstration of need, which records remain confidential.

The bill requires Citizens to electronically report claims data and histories to a consumer reporting agency upon the request of such agency. A consumer reporting agency, as defined by the federal Fair Credit Reporting Act, that is in compliance with the confidentiality requirements of the Act maintains claims data and histories for use in connection with the underwriting of insurance involving a consumer. Insurers are able to review the claims history of insureds using the service provided by a consumer reporting agency.

### ***Public Housing Authority Self-Insurance Funds***

Current law allows public housing authorities to form self-insurance funds to spread liabilities of their members for property and casualty insurance. The bill amends s. 624.46226, F.S., to provide criteria that such entities must follow in forming self-insurance funds which includes:

- Having annual premiums in excess of \$5 million;
- Using a qualified actuary to determine rates and reserves;
- Maintaining excess insurance coverage and reserve evaluation to protect the financial stability of the fund;
- Submitting annual audited financial statements to the Office of Insurance Regulation (OIR);

- Having a governing body comprised of commissioners of public housing authorities;
- Using knowledgeable persons or business entities to service the fund; and
- Certifying to the OIR that the fund meets the above provisions.

Should a self-insurance fund not meet such requirements, the fund is subject to the requirements under general law for commercial self-insurance funds, or if the fund provides only workers' compensation coverage, the general law for group (employer) self-insurance funds. The bill clarifies that such funds are not covered by the insurance guaranty association, but are subject to the premium tax.

### ***Public Adjusters***

The bill contains the substance of CS/SB 1098, as revised, and is the product of recommendations pertaining to public adjusters from the Task Force on Citizens Claims Handling and Resolution. The Task Force found that while the services of public adjusters can be beneficial to policyholders who have suffered a loss, the current laws do not adequately protect consumers from unscrupulous public adjusters.

The bill amends various provisions of the Insurance Code to provide for the following changes:

- Requires the Department of Financial Services to create a specific examination for public adjusters and mandates continuing education requirements for such adjusters;
- Prohibits public adjusters from contacting an insured or claimant until 48 hours after the occurrence of an event that may be the subject of a claim under a policy;
- Prohibits public adjusters from soliciting an insured or claimant except on Monday through Saturday and only between the hours of 8 a.m. and 8 p.m.;
- Prohibits public adjusters from charging a fee unless a written contract was executed prior to the payment of a claim;
- Prohibits public adjusters from charging more than:
  - 20 percent of the insurance claims payment on non-hurricane claims;
  - 10 percent of the insurance claims payment on hurricane claims for claims made during the first year after the declaration of emergency;
- Provides for no cap on re-opened or supplemental hurricane claims; however, the fee cannot be based on any payments made by the insurer to the insured prior to the time of the public adjuster contract;
- Allows insureds or claimants to have 5 business days after the date on which the contract is executed to cancel a public adjuster's contract during a state of emergency declared by

the Governor; insureds or claimants have 3 business days to cancel a contract as to claims involving non-emergencies;

- Creates a public adjuster apprentice license and examination;
- Requires public adjuster contracts to be in writing and to display an anti-fraud statement; and
- Provides for nonresident public adjuster qualifications.

### ***Title Insurance (UCC Personal Property Insurance)***

The bill allows a title insurer to petition the OIR for a rate deviation under s. 627.783, F.S., for personal property title insurance, a Uniform Commercial Code insurance product. The bill requires that the OIR, in determining whether to approve a rate deviation for a personal property title insurance product, must be guided by "standards for national rates for the product being offered in other states."

### ***Florida Hurricane Catastrophe Fund***

The bill amends s. 215.555, F.S. to require the Florida Hurricane Catastrophe Fund to offer \$10 million of additional coverage to qualified insurers in 2008, as was required in 2006 and 2007. This coverage would again be made available to limited apportionment companies (each having \$25 million or less in surplus and writing at least 25 percent of its premiums in Florida), insurers approved to participate in the Insurance Capital Build Up Incentive Program, and insurers that purchased the supplemental coverage in 2007. This coverage would reimburse the insurer for up to \$10 million in losses, for each of two hurricanes. The coverage will again be priced at a 50 percent rate on line (e.g., \$5 million premium for \$10 million in coverage) with a free reinstatement for a second storm. The insurer's retention for such coverage remains at 30 percent of the company's surplus. The bill would provide that the coverage expires on May 31, 2009.

### ***Insurance Agents and Other Insurance Representatives***

The bill amends several sections of the Insurance Code pertaining to insurance agents and other insurance representatives and provides for the following:

- Allows applicants to be exempt from the customer representative licensing examination if they have earned a specified degree and have completed at least nine academic hours in property and casualty insurance;
- Prohibits insurers, including Citizens, from requiring appointees (insurance agents) to complete specified continuing education (CE) courses offered by such insurers or by Citizens, in order for the appointment to be issued or renewed;



- Allows insurers, including Citizens, to require appointees to attend non-CE training and education programs offered by such insurers or by Citizens, in order for the appointment to be issued or renewed;
- Allows Citizens to require its employees to take training relevant to their employment and to require appointees to take CE courses which pertain solely to Citizens' internal procedures or products; and
- Authorizes independent study programs offering CE courses through correspondence to allow students to take a final closed book examination without being monitored provided that the student submits a sworn affidavit attesting he or she did not receive assistance while taking the exam.

Except as otherwise provided in this act, this act shall take effect July 1, 2008.

*Vote: Senate 39-0; House 118-1*

## **CS/SB 648 — Insurable Interest in Insurance Contracts**

by Judiciary Committee and Senator Posey

This bill is expressly intended to clarify current Florida law relating to insurable interests and the purchase of life insurance. Florida case law has interpreted Florida law as prohibiting the issuance of a life insurance policy to someone who does not have an insurable interest in the insured.

The bill states that a person may purchase insurance on his or her own life or body for payment to any beneficiary. However, no person may purchase an insurance contract on the life or body of another individual unless the benefits under the insurance are payable to the individual insured, the insured's personal representatives, or a person who had an "insurable interest" in the life of the insured when the contract was entered into. The bill defines the various circumstances that constitute an insurable interest for purposes of life, health, or disability insurance. An insurable interest exists that allows such insurance to be purchased on:

- *Yourself*: an individual has an insurable interest in his or her own life, health and body.
- *Family members and loved ones*: an individual has an insurable interest in another person who is a close relation by blood or law and in whom the individual has a substantial interest engendered by love and affection.
- *Persons whose health and life is of substantial benefit to you financially*: an individual has an insurable interest in another person if there is a substantial pecuniary advantage in the continued life, health, and safety of that other person and the individual will have a substantial pecuniary loss upon the death, illness, or disability of that other person.

- *Other parties to a contract for the sale of a business:* an individual party to a contract for the purchase or sale in a business entity has an insurable interest in the life of the other parties for purposes of that contract.
- *Grantors of trusts, their relations, and others:* A trust or trustee acting in its fiduciary capacity has an insurable interest in the life of the trust grantor, persons closely related by blood or law to the grantor, or individuals in whom the grantor has an insurable interest. The insurable interest only exists if the life insurance proceeds are primarily for the benefit of trust beneficiaries who have an insurable interest in the life of the insured. *Beneficiaries:* a guardian, trustee, or fiduciary who acts in a fiduciary capacity has an insurable interest in a beneficiary and in any person for which the beneficiary has an insurable interest.
- *Persons who consent in writing to a charity:* a charitable organization has an insurable interest in the life of any person who consents in writing to the charity's ownership or purchase of insurance on that person. This provision is the substance of current s. 627.404(2), F.S.
- *Participants in a retirement or deferred compensation plan who consent in writing:* a trustee or custodian of a retirement or deferred compensation plan has an insurable interest in the life of participants in the plan who consent in writing to the plan's ownership of a life insurance policy on that person. The bill prohibits an employer, trustee, or custodian from taking adverse action against a plan participant who refuses to give consent.
- *Owners, directors, officers, partners, managers, and key employees of a business:* a business entity has an insurable interest in its owners, directors, officers, partners, and managers, and in key employees if their loss will result in a substantial pecuniary loss.

The bill requires the written consent of the insured as a prerequisite to the issuance of a contract of insurance on the insured, with exceptions for group life insurance or group or blanket accident, health or disability insurance. The signature of the proposed insured on the application for insurance constitutes written consent.

The bill provides a right of recovery against persons who receive insurance policy benefits if they did not have an insurable interest in the insured when the insurance contract was entered into.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 38-0; House 112-0*

**CS/HB 937 — Title Insurance**

by Jobs and Entrepreneurship Council and Rep. Ambler and Galvano (CS/CS/CS/SB 1684 by General Government Appropriations Committee; Governmental Operations Committee; Banking and Insurance Committee; and Senators Baker and Gaetz)

This bill creates the Florida 2008 Title Insurance Study Advisory Council (Council) which will undertake a comprehensive examination of the title insurance system in Florida and make findings and recommendations in its final report to the Governor, Speaker of the House of Representatives and President of the Senate on or before December 31, 2009. The final report must be approved by at least two-thirds of the Council's membership with the chair voting to approve. The Council will terminate after submitting its final report, but no later than December 31, 2009.

The Council is composed of 21 members including the Governor or designee serving as chair; the Chief Financial Officer or designee serving as vice chair; one member of the Senate appointed by the President; one member of the House of Representatives appointed by the Speaker; the Insurance Consumer Advocate; the Commissioners of Insurance Regulation and Financial Regulation or their designees; three representatives of title insurers and two independent title agents appointed by the Senate President; four representatives of title insurers and one independent title agent appointed by the Speaker of the House of Representatives; two members designated by the Real Property, Probate and Trust Law Section of the Florida Bar; one member of the banking industry appointed by the Commissioner of Financial Regulation, and one member of the real estate industry appointed by the Chief Financial Officer.

The Council will be administratively supported by the staff of the Executive Office of the Governor (EOG) with specified agencies and applicable legislative committees supplying information, assistance and facilities. The Legislature's Office of Program Policy Analysis and Governmental Accountability will conduct an independent historical analysis of title insurance and report its findings to the Council by September 30, 2008. The Council must hold its first meeting by August 1, 2008, with all meetings to be held in Tallahassee.

The legislation provides the sum of \$242,003 in nonrecurring funds to be appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services for transfer to the EOG for FY 2008-2009 for the purpose of implementing the activities of the Council. The legislation authorizes two full-time equivalent positions to support the Council's activities.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 115-0*

## **CS/SB 2462 — Group Self-Insurance Funds**

by Banking and Insurance Committee and Senator Gaetz

Section 624.4621, F.S., allows two or more employers to pool their liabilities under the workers' compensation act and form a group self-insurance fund (fund). The Office of Insurance Regulation (office) regulates these funds, which are subject to requirements primarily intended to address solvency and financial ability to pay claims.

The bill amends current law relating to the process by which group self-insurance funds pay dividends to members. The bill allows the trustees of a fund, established prior to June 1, 2008, to distribute dividends to fund members without prior approval of the office; however, the fund must notify the office within 10 days after the dividend distribution and provide certain information to support the dividend payment. The bill limits the amount of the dividend and prohibits the distribution of dividends if it jeopardizes the financial condition of the fund. Group self-insurance funds established after June 1, 2008 are required to obtain prior approval of the office for the distribution of dividends for the first 7 years of operation.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 117-0*

## **FINANCIAL MATTERS**

### **CS/CS/CS/SB 2158 — Money Services Businesses**

by General Government Appropriations Committee; Finance and Tax Committee; and Banking and Insurance Committee)

Money services businesses (MSBs), also known as money transmitters, offer financial services, such as check cashing, money transmittals (wire transfers), sales of monetary instruments, and currency exchange outside the traditional banking environment. This bill incorporates recommendations from a recently released statewide grand jury report, *Check Cashers: A Call for Enforcement* and from the Senate Interim Project 2008-101, *Regulation of Money Services Businesses* designed to enhance the regulation of money services businesses in Florida. The bill provides the following changes.

#### ***General Provisions***

- Reduces application and renewal fees for part II (money transmitters) and part III (check cashers) licensees by 25 percent.
- Caps branch location and vendor application fees associated with a change in control at \$20,000.

- Expands prohibited acts to include violations under 18 U.S.C., sec. 1957, which pertains to engaging in monetary transactions in property derived from specified unlawful activity. This violation would be punishable as a third-degree felony.
- Makes it a violation of state law, subject to administrative sanctions, for a licensee to fail to comply with federal regulations relating to the prevention of money laundering such as maintaining records and preparing reports.
- Authorizes the office to immediately suspend or revoke a license if a licensee fails to provide requested records at the time of an exam.
- Requires licensees to incur the costs of an examination. An examination of a licensee is required at least once every five years. A new licensee is required to be examined within 6 months of licensure. Currently, there is not a statutory schedule and less than 40 percent of licensees have been examined in the last 5 years.
- Requires the office to make referrals of violations of law that may be a felony to the appropriate criminal investigatory agency having jurisdiction.
- Requires the office to adopt disciplinary rules concerning violations of the law.
- Requires the office to submit an annual report to the Legislature summarizing its activities relating to the regulation of ch. 560, F.S., entities, including examinations, investigations, referrals and the disposition of such referrals.

### ***Money Transmitter Provisions***

- Requires a money transmitter to be organized as a limited liability company, limited liability partnership, or a corporation to assist in the determination of net worth requirements.
- Creates a definition for net worth and increases the maximum net worth requirements to \$2 million. The net worth requirement per location is reduced from \$50,000 to \$10,000.
- Requires all licensees to submit annual audited financial reports that are used to determine whether net worth and other safety and soundness requirements are met.

### ***Check Cashier Provisions***

- Exempts from licensure a check cashier that engages in a check cashing transaction that is less than \$2,000 per person per day and for whom the check cashing compensation at each location does not exceed 5 percent of the total gross income of the retail business for the prior 60 days. Currently, the law provides that a person is engaged in check cashing which is incidental to its retail business if the check cashing compensation at each location does not exceed 5 percent of the total gross income of the retail business for the prior year.

- Requires a customer to present an acceptable identification and provide a thumbprint for checks greater than \$1,000.
- Increases security at licensed check cashing locations by requiring the installation of security cameras or bullet-proof glass.
- Requires check cashers subject to licensure to submit suspicious activity reports (SARs) to the federal government, when applicable.

***Deferred Presentment Provider Provisions:***

- Requires a deferred presentment provider to notify the office within 15 business days after ceasing operations. The bill authorizes the Financial Services Commission to adopt rules regarding the reconciliation of open transactions.
- Prohibits a deferred presentment provider from accepting more than one check to collect on a deferred presentment transaction for a single transaction.
- Prohibits a deferred presentment provider from assessing the costs of collection, other than charges for insufficient funds as allowed by law, without a judgment from a court of competent jurisdiction. This same provision is also added to s. 560.309, F.S., relating to check cashers.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 39-0; House 119-0*

**CS/CSHB 343 — Financial Services**

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Carroll and others (CS/CS/SB 818 by General Government Appropriations Committee; Banking and Insurance Committee; and Senator Bennett)

The bill addresses a number of issues related to banking, insurance, and financial instruments, as follows.

- Authorizes the sale of optional guaranteed asset protection (GAP) products by motor vehicle installment sellers, sales finance companies, retail lessors and their assignees, and establishes requirements for the sale of such products. The creditor selling the GAP product agrees to waive the customer's liability for some or all of the amount by which the debt exceeds the value of the collateral. The seller of GAP coverage may not require its purchase as a condition for making a loan. In order to offer a GAP product, the seller of the GAP product must comply with specified statutory consumer protection requirements.

- Defines "debt cancellation product," specifies that such products may be sold by financial institutions (banks, credit unions, etc.) and their subsidiaries and other business entities authorized by law, and states that it is not insurance for purposes of the Florida Insurance Code. A creditor selling a debt cancellation product agrees to cancel or suspend all or part of a customer's obligation to make payments upon the occurrence of specified events, including guaranteed asset protection contracts and other debt cancellation or suspension agreements. Financial institutions are required to manage risks associated with debt cancellation products prudently, and to establish and maintain effective risk management and control programs regarding such products. A financial institution may not require the purchase of a debt cancellation product as a condition for making the loan, line of credit, or loan extension.
- Defines insurance purchased by a creditor for its financial debt cancellation products as a form of casualty insurance.
- Eliminates the \$50,000 limit on insurance that may be procured on the life of a debtor under a debtor group contract, or pursuant to a credit life insurance policy. Instead, the limit is the amount of the person's indebtedness to the creditor. The bill also allows the term of credit disability insurance to extend for the term of the indebtedness, rather than the current 10-year time limitation.
- Specifies that a deposit or account made in the name of two persons who are husband and wife is considered a tenancy by the entirety unless otherwise specified in writing.
- Raises the minimum proposed capitalization for any proposed bank to \$8 million and deletes the differing capitalization for banks in metropolitan areas and those in rural counties. The bill also raises the minimum total capital accounts at opening for a trust company from \$2 million to \$3 million and sets differing capitalization standards for banks owned by single-bank holding companies and banks owned by multi-bank holding companies.
- Eliminates the need for a bank or trust company to obtain approval from the Office of Financial Regulation (OFR) in order to increase its capital. However, a state bank or trust company must notify the OFR in writing 15 days before increasing its capital stock. The bill deletes the prohibition against a bank or trust company issuing capital stock with over a \$100 par value. It states a financial institution may not issue or sell stock of the same class which creates different rights, options, warrants, or benefits among the purchasers or stockholders of that class of stock. However, the financial institution may create uniform restrictions on the transfer of stock as permitted in s. 607.0627, F.S.
- Deletes the current prohibition against a bank or trust company issuing capital stock that has a par value greater than \$100, thus giving these institutions more flexibility.
- Clarifies who can assert dissenter's rights pursuant to the approval of the sale of stock by a state bank or trust company. The fair value of the shares of stock will be determined

using the procedures in s. 607.1326, F.S., and s. 607.1331, F.S. – the same as is applied to corporations.

- Allows state-mandated endowments that are funded by a general appropriation act prior to 1990 to maintain funds in trust accounts in financial institutions.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 40-0; House 115-0*

### **CS/HB 643 — Foreclosure Fraud**

by Jobs and Entrepreneurial Council and Rep. Ford and others (CS/CS/SB 992 by Judiciary Committee; Banking and Insurance Committee; and Senators Fasano, Gaetz, Atwater, Lynn, and Baker)

With the increasing number of foreclosures in Florida and nationwide, a significant number of schemes have appeared that are allegedly designed to rescue or save a homeowner from foreclosure. Unscrupulous businesses have targeted and defrauded homeowners of the equity in their homes. Often the specific details of these arrangements are not explained or adequately disclosed to the homeowner.

The bill provides additional protections to such homeowners facing foreclosure. The bill defines and addresses transactions involving foreclosure-rescue consultants and equity purchasers—two of the main types of foreclosure-rescue schemes.

#### ***Foreclosure-Rescue Consultants***

- Defines the term, "foreclosure-rescue consultant" as a person who directly or indirectly makes a solicitation, representation, or offer to a homeowner to provide or perform, in return for payment of money or other valuable consideration, foreclosure related rescue services. The bill provides exceptions.
- Requires a foreclosure-rescue consultant to have a signed agreement before initiating or engaging in any services. Certain disclosures are required to be in the agreement. A homeowner is allowed one business day to review the agreement before signing, and a homeowner must receive a copy of the signed agreement within three hours of signing the agreement.
- Prohibits a foreclosure rescue-consultant from soliciting, charging, or receiving fees for such services until all services contained in the agreement have been completely performed.
- Allows the homeowner the right to cancel an agreement within three business days of signing without penalty. This right may not be waived by either party. In the event of



cancellation, any payments made to a consultant are returned to the homeowner within 10 business days of cancellation notice.

### ***Equity Purchasers***

- Defines the term "equity purchaser," as any person who acquires title to any residential real property as a result of a foreclosure-rescue transaction.
- Requires a foreclosure-rescue transaction written agreement to contain certain disclosures including any option or right to repurchase the property in foreclosure.
- Requires at the time the written agreement is signed, the purchaser must give a homeowner a notice of the homeowner's right to cancel the transaction. A homeowner may cancel a transaction within 3 business days without penalty. This right to cancel may not be waived or limited by either party.
- Requires that, in the event of cancellation, any payments made by an equity purchaser to the homeowner or by the homeowner to the equity purchaser must be returned at cancellation.
- Provides that the homeowner has a 30-day right to cure any default of the contract with the purchaser, and this right may be exercised on at least three separate occasions during the life of the agreement.
- Requires that, if the homeowner has the right to repurchase the property, the purchaser must verify and demonstrate that the homeowner has a reasonable ability to make the repurchase payment. A rebuttable presumption arises that the homeowner has a reasonable ability to make the payments if the monthly payments and interest payments on other personal debt do not exceed 60 percent of the homeowner's monthly gross income.
- Provides that the price the homeowner pays may not be unconscionable. A rebuttable presumption arises that the transaction was unconscionable if the repurchase price is greater than 17 percent per annum more than the total amount paid by the equity purchaser to acquire, improve, and maintain the property.
- Provides that any foreclosure-rescue transaction involving a lease option or other repurchase agreement creates a rebuttable presumption that the transaction is a loan transaction and the conveyance from the homeowner to the equity purchaser is a mortgage under s. 697.01, F.S.
- Provides that a violation of any provision of this act is an unfair and deceptive trade practice. Violators are subject to the penalties and remedies provided in ch. 501, part II, F.S., including a monetary penalty not to exceed \$15,000 per violation.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 38-0; House 113-0*

### **CS/SB 966 — Automated Teller Machine Transactions**

by Commerce Committee and Senators Alexander and Lynn

The bill authorizes an owner or operator of an automated teller machine (ATM) in Florida to charge a fee or surcharge to a customer who is accessing funds from that ATM. The fee or surcharge must be disclosed in compliance with federal Regulation E. The bill provides that an agreement to operate or share an ATM may not "prohibit, limit, or restrict" the right of the owner or operator to charge an access fee or surcharge not otherwise prohibited under state or federal law to a customer conducting a transaction using an account from an international banking corporation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 118-0*

### **SB 874 — Title Loans/Regulation/Consumers**

by Senator Fasano

In 2000, the Legislature enacted the Florida Title Loan Act, which established a regulatory framework for title loan transactions. A title loan is a transaction in which a loan of money is made with the title to a motor vehicle offered as security. Physical possession of the motor vehicle is maintained by the borrower, and the motor vehicle title is held by the lender. This legislation was in response to title loan lenders making high interest loans to consumers.

In recent years, litigation has arisen regarding the application of the Florida Title Loan Act to commercial transactions, such as financing floor planning or inventory purchases for independent used car dealers. This bill amends the scope of the act by providing that this act applies to the regulation of title loans made to consumers. The term "consumer" is defined to mean an individual borrowing money for personal, family, or household purposes.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 115-0*

## **MISCELLANEOUS**

### **CS/HB 727 — Firesafety/Structure Markings**

By the Jobs and Entrepreneurship Council and Rep. Gibson and others (SB 1554 by Senators Wise and Lynn)

This bill provides that the act may be cited as the "Aldridge/Benge Firefighter Safety Act." The bill requires that structures using light-frame truss-type construction must be marked to warn

persons conducting fire control and other emergency operations of the existence of such construction, due to danger of collapse. The State Fire Marshal is provided with rulemaking authority, and local fire officials and the State Fire Marshal are authorized to enforce the signage provision.

The State Fire Marshal is directed to study the use of managed, facilities-based voice over Internet protocol telephone service for monitoring fire alarm signals. If the study determines that the voice over Internet protocol telephone service provides a level of protection equal to that required in the National Fire Alarm Code, the State Fire Marshal must begin rulemaking by December 1, 2008, to allow the use of the technology as an additional method of monitoring fire alarm systems.

The bill further provides that notwithstanding other provisions of law to the contrary, nursing homes licensed under ch. 400, part II, F.S., must be protected throughout by approved automatic sprinkler systems by December 31, 2010. The bill eliminates the requirements that an approved system be installed in each hazardous area of a nursing home by December 31, 2008. After July 1, 2009, the State Fire Marshal may not accept applications for participation in the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program. A nursing home licensee must submit complete sprinkler construction documents to the Agency for Health Care Administration for review by December 31, 2008, and the licensee must have final agency approval by June 30, 2009, to begin construction. Exceptions are provided for nursing home licensees if the construction documents are contingent upon approval of an application for the loan guarantee program.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 118-0*

### **CS/CS/SB 2264 — Motor Vehicle Warranty Associations**

by Banking and Insurance Committee; Commerce Committee; and Senator Lawson

The bill makes several changes to ch. 634, F.S., which governs the regulation of warranty associations, including motor vehicle service agreement companies and service warranty associations.

- Creates a definition of "motor vehicle manufacturer" that includes the subsidiaries and affiliates of an automobile manufacturer. It further defines "subsidiary" as used in this context.
- Exempts motor vehicle manufacturers from complying with certain financial solvency requirements that are required of other companies selling automobile service warranties. However, motor vehicle manufacturers still would be required to file forms and rates, comply with the unfair trade practices statutes, and be subject to other provisions in this chapter and regulation by the Office of Insurance Regulation (OIR).

- Exempts motor vehicle manufacturers from submitting fingerprinting or background information for anyone except those serving as officers or directors of the applicant entity.
- Gives the OIR the authority to develop by rule an abbreviated form for statistical reporting of sales of service agreements sold by motor vehicle manufacturers. Therefore, motor vehicle manufacturers will be required to file the abbreviated form instead of submitting the detailed financial report required by current Florida law.
- Specifies that the warranty register required in s. 634.4165, F.S., of warranty associations selling service warranties for consumer products (which are not motor vehicle service agreements or home warranties) must include the name and address of warranty holders, to the extent that the warranty holders provide that information.
- Requires that service warranty companies provide an alternate means for consumers to submit their name and address such as online registration, postcard remittance, or other methods acceptable to the OIR.
- Adds to the existing list of what constitutes an unfair or deceptive claim settlement practice by a service warranty association. The bill prohibits a service warranty association from denying a claim solely because it was unable to confirm that a customer in fact purchased a warranty, because the association did not collect the customer's name and address.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 117-0*

### **HB 1037 — Escrow Agents**

by Jobs and Entrepreneurship Council and Rep. Poppell and others (SB 2272 by Banking and Insurance Committee and Senator Posey)

The bill restricts unauthorized individuals from transacting business using the term "escrow" unless authorized under state law. The parties who are authorized to act as an "escrow agent," and are thus exempt from the requirements of this bill include:

- A financial institution as defined in s. 655.005, F.S.;
- An attorney who is a member of The Florida Bar or his or her law firm;
- A real estate broker who is licensed pursuant to chapter 475, F.S., or his or her brokerage firm; or
- A title insurance agent who is licensed pursuant to s. 626.8417, F.S., a title insurance agency that is licensed pursuant to s. 626.8418, F.S., or a title insurer who is authorized to transact business in this state pursuant to s. 624.401, F.S.

A willful violation is a first degree misdemeanor. The bill creates a cause of action for a person aggrieved by violation of the section. The bill provides for recovery of actual damages plus attorney fees and court costs.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 40-0; House 117-0*



**HB 35 — Social Worker Identification**

by Rep. Richardson and others (SB 226 by Senators Rich, Bullard, Deutch, Villalobos, Margolis, Justice, and Lynn)

Social services are currently provided by persons using the title "social worker" in a variety of settings including child welfare programs, adoption agencies, schools, hospitals, correctional facilities, nursing homes, and hospices. The title "social worker" has no statutory definition, and there are no limitations on the use of the title "social worker."

The bill amends ss. 39.01 and 491.003, F.S., to define a social worker as a person who holds a bachelor's, master's, or doctoral degree in social work.

The bill provides that a social worker must hold a license or certification issued pursuant to ch. 491, F.S., to conduct clinical social work.

The bill provides that a person holding himself or herself out to the public as a social worker either directly or through an entity commits a misdemeanor of the first degree unless that person:

- Holds at least a bachelor's or master's degree in social work from a social work program accredited by the Council of Social Work Education or from an institution actively seeking that accreditation.
- Completes a social work program outside the United States or Canada that is determined by the Council on Social Work Education to be equivalent to a bachelor's or master's degree in social work.

If a person used the title "social worker" on or before July 1, 2008, in his or her employment, or provides social work services under administrative supervision in a long-term care facility licensed by AHCA, that person is exempt from the provisions of this bill.

The bill provides rule making authority to DOH.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-1; House 117-0*

### **SB 78 — Child Welfare Professionals Recognition Day**

by Senators Wilson and Lynn

This bill designates the second Monday in May as "Child Welfare Professionals Recognition Day," to recognize the efforts of professionals who work with abused children and dysfunctional families.

The bill encourages the Department of Children and Families, local governments, and other agencies to sponsor events to promote awareness of the child welfare system and the personnel who work in the system.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 119-0*

### **HB 489 — Employee Leave for Victims of Sexual Violence**

by Rep. Jenne and others (CS/SB 994 by Judiciary Committee and Senators Fasano, Crist, and Joyner)

This bill requires employers to allow employees to request and take up to three working days of leave, if the employee, or a member of the employee's family or household, is the victim of sexual violence and the leave is sought to seek an injunction for protection, to obtain medical care, to access victim services or legal assistance, or to secure safe housing.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-0; House 113-0*

### **CS/SB 502 — Missing Person Investigations**

by Children, Families, and Elder Affairs Committee and Senators Constantine, Jones, Fasano, Lynn, Ring, Haridopolos, Dockery, and Crist

Chapter 937, F.S., prescribes Florida's law concerning missing person investigations. Except for one section concerning dental records, ch. 937, F.S., deals exclusively with missing children. This bill amends ch. 937, F.S., making its provisions generally applicable not only to missing children, but also to missing adults.

The bill provides the following definitions:

- "Missing adult" means a person 18 years of age or older whose temporary or permanent residence is in, or is believed to be in, this state, whose location has not been determined, and who has been reported as missing to a law enforcement agency.



- "Missing child" means a person younger than 18 years of age whose temporary or permanent residence is in, or is believed to be in, this state, whose location has not been determined, and who has been reported as missing to a law enforcement agency.
- "Missing endangered person" means a missing child, a missing adult younger than 26 years of age. The definition also includes a missing adult 26 years of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

The bill requires law enforcement agencies to adopt written policies regarding the procedures to be used to investigate reports of missing children and adults, and provides that a report that a child or an adult is missing must be filed with and accepted by the law enforcement agency with jurisdiction in the locale where the person was last seen. The bill clarifies that a law enforcement agency must transmit any report of a missing child, as well as any credible report of a missing adult, to the state and federal criminal databases within two hours of receipt of the report.

The bill emphasizes that AMBER Alerts and Missing Child Alerts may be issued only for missing children (under the age of 18), but provides immunity for individuals who release information and photographs pertaining to missing adults.

The bill provides that if a missing child or missing adult is not located within 90 days, the law enforcement agency that accepted the report must attempt to obtain, and submit to the Florida Department of Law Enforcement, a biological specimen for DNA analysis from the missing person or from appropriate family members.

The bill expands the scope of the existing Missing Children Information Clearinghouse to include all missing endangered persons as defined by the bill, and renames the clearinghouse the "Missing Endangered Persons Information Clearinghouse."

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 118-0*

## **CS/HB 625 — Independent Living Transition Services for Youth in Foster Care**

by Healthcare Council and Rep. Glorioso and others (CS/SB 2192 by Health and Human Services Appropriations Committee and Senator Storms)

This bill amends s. 409.1451, F.S., to allow family foster homes, residential child-caring agencies, and other authorized caregivers (in addition to foster parents) to participate in the development of written plans that specify age-appropriate activities and authorize the caregiver to approve the activities for youth in their care who are transitioning out of foster care.

The bill also requires the Independent Living Services Advisory Council to include in its 2008 report a specific analysis and recommendations regarding youth who have turned 18 while in foster care and who have not completed high school or its equivalent.

The bill removes the disability of nonage of minors for youths who have reached 17 years of age, have been adjudicated dependent, and are in the legal custody of the Department of Children and Families through foster care or subsidized independent living. The bill authorizes these minors to execute all instruments necessary to secure utility services at a residential property.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 112-0*

### **CS/HB 663 — Adoption/Termination of Parental Rights/Putative Father Registry**

by Healthcare Council and Rep. Cannon and others (CS/CS/SB 1084 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Rich, Lynn, Margolis, and Atwater)

This bill substantially amends ch. 63, F.S., relating to adoption, termination of parental rights, and the rights and responsibilities of unmarried biological fathers.

In 2003, Florida enacted a Putative Father Registry (the Registry). The Registry, and the concurrent revisions to ch. 63, F.S., were designed to protect the rights of all parties to an adoption proceeding. Since its establishment, the Registry has been subject to varying judicial interpretation, leaving its applicability uncertain in some aspects.

This bill clarifies that, in order to preserve his rights, an unmarried biological father must, *before* a petition for termination of parental rights is filed, either (1) file a claim of paternity; (2) file an affidavit of paternity; or (3) comply with the requirements of the Putative Father Registry. The bill also clarifies the notice and consent provisions of the chapter to ensure the due process rights of unmarried biological fathers are protected.

The bill amends the required language of adoption disclosures, to include detailed information about the Registry and the consequences of the failure of an unmarried biological father to respond as required. The bill also mandates an additional disclosure to prospective adoptive parents that must include detailed, available information about the child to be adopted.

The bill deletes provisions allowing a parent to revoke or rescind his or her consent to the adoption of a child who is older than six months at any time prior to placement of the minor with the prospective adoptive parents, limiting the revocation period to three business days.

The bill authorizes service of process by publication in termination of parental rights proceedings pursuant to ch. 63, F.S.

The bill provides that abandonment as a result of incarceration under ch. 63, F.S., for purposes of terminating parental rights, is established when the time period for which a parent has been, as well as is expected to be, incarcerated constitutes a significant portion of the child's minority, as measured from the date the parent enters into incarceration.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 115-0*

### **CS/HB 739 — Guardian Advocates/Developmentally Disabled**

by Healthcare Council and Rep. Ambler and others (CS/CS/SB 688 by Health and Human Services Appropriations Committee; Judiciary Committee; and Senators Crist, Gaetz, and Lynn)

The bill provides that a guardian advocate does not need to have legal representation, unless otherwise required.

The bill specifies that if the court appoints an attorney it must do so within a specified period, and that the appointed attorney must be from the private attorney registry compiled pursuant to s. 27.40, F.S., and have completed specific education requirements. The bill provides certain exemptions to the education requirements. To eliminate potential conflict, a person representing a developmentally disabled person is prohibited from also serving as the guardian advocate, counsel to the guardian advocate, or counsel for the person petitioning for the appointment of a guardian advocate.

The bill prohibits the court from appointing a guardian advocate if the developmentally disabled person executed an advance directive or durable power of attorney that provides an alternative to the appointment of a guardian that is sufficient for the person's need. Any interested person may seek to contest an advance directive or durable power of attorney.

If the court determines that a guardian advocate is needed, the court must specify the guardian advocate's authority. The court cannot suspend the powers of an attorney in fact unless it finds that the durable power of attorney is invalid or there has been an abuse of power.

The bill provides that any interested person may file a suggestion of restoration of rights. If no evidentiary support is attached, the court is required to immediately set a hearing to inquire as to the reason and enter the needed orders to secure the required documents. If an objection to the restoration of rights is timely filed (within 20 days after service of the notice) or if a medical examination suggests that restoration of rights is not appropriate, the court must notice the matter for a hearing. At the end of the hearing, the court may either deny the suggestion or restore some or all of the person's rights. The order must state which rights are restored, and the letters of

guardianship advocacy must be amended. Within 60 days after the order and amended letters of guardian advocacy are issued, the guardian advocate must amend the current plan and file a final accounting, if all property rights are restored to the person. If no objections are filed and the court is satisfied with the evidentiary support attached to the suggestion, the court shall enter an order, within 30 days after the suggestion is filed, restoring the person's rights.

The bill provides additional notice requirements, and clarifies the role of the guardian advocate in decisions regarding treatment.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 106-0*

### **CS/SB 1042 — Open Government Sunset Review of the Putative Father Registry**

by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Lynn

This bill reenacts the public records exemption for information contained in the Florida Putative Father Registry (the Registry). The bill also expands access to the information by providing an exception that allows a birth mother to have access to any Registry entry in which she is identified as the birth mother.

The Legislature created the Registry in 2003. In order to establish parental rights and preserve the right to notice and consent to an adoption, an unmarried biological father must file a claim of paternity form with the Registry before a petition for termination of parental rights is filed. A public records exemption for information contained in the Registry was also enacted in 2003. Section 63.0541, F.S., provides that all information contained in the Registry is confidential and exempt from public disclosure, except that such information shall be disclosed to the following:

- An adoption entity;
- The registrant unmarried biological father; and
- The court, upon issuance of a court order concerning a petitioner acting pro se.

The exemption was scheduled to sunset on October 2, 2008, unless saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 118-0*

**SB 1046 — OGSR/Foster Parents/DCFS**

by Children, Families, and Elder Affairs Committee and Senator Lynn

Sections 409.175(16)(a) and (b), F.S., make exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information of a sensitive nature regarding a foster parent applicant and a licensed foster parent and his or her spouse, minor child, or other household member. The protected information includes the home, business, work, child care, or school addresses and telephone numbers, social security numbers, birth dates, medical records, home floor plans and photographs of these persons. This exemption was scheduled to sunset on October 2, 2008, unless saved from repeal through reenactment by the Legislature.

This bill repeals the public records exemption for social security numbers in this section, since social security numbers are confidential and exempt under s. 119.071(5)(a)5., F.S. The bill retains the remainder of the exemption for the information held by the Department of Children and Families regarding a foster parent applicant or a licensed foster parent and his or her spouse, minor child, and other adult household member.

The bill strikes redundant language related to the release of records by courts.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*

**CS/HB 1141 — Public Records Exemption for Victims of Sexual Violence**

by Jobs and Entrepreneurship Council and Rep. Jenne and others (CS/SB 2574 by Judiciary Committee and Senators Fasano and Crist)

This bill provides a public records exemption for HB 489 (CS/SB 994), to which it is linked. HB 489 requires the submission of specified documentation in order for an employee to seek leave from his or her employer in connection with an incident of sexual violence.

A public employee's personnel records are a public record unless specifically exempted from Florida's public records law. This bill makes personal identifying information that is contained in the records documenting an act of sexual violence that are submitted to a public agency by an agency employee confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.

The bill provides a statement of public necessity for the exemption and a finding that disclosure may:

- Expose the victim of sexual violence to humiliation and shame;
- Deter the victim of sexual violence from seeking the relief provided by the statute; and
- Enable the perpetrator of sexual violence to determine the victim's schedule and location.

The bill specifies that the exemption is subject to the Open Government Sunset Review Act and provides that it will stand repealed on October 2, 2013, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect on the same date that HB 489 or similar legislation takes effect, if such legislation is adopted in the same legislative session, or an extension thereof, and becomes law.

*Vote: Senate 39-0; House 117-0*

### **CS/CS/HB 1395 — Council on the Social Status of Black Men and Boys**

by Policy and Budget Council; Safety and Security Council; and Rep. Llorente and others (CS/CS/SB 546 by Criminal and Civil Justice Appropriations Committee; Governmental Operations Committee; and Senator Wilson)

This bill amends s. 16.615, F.S., which establishes the Council on the Social Status of Black Men and Boys (the Council). The bill makes the Council permanent, requires it to develop a strategic program and funding initiative to establish local councils, and authorizes it to request assistance and information from the Joint Legislative Auditing Committee, the Legislature's Office of Economic and Demographic Research, historically black colleges and universities, and other state and local agencies. The bill permits the Council to apply for and accept funds, grants, gifts, and services to defray administrative costs.

The bill creates s. 16.616, F.S., authorizing the Department of Legal Affairs to establish a direct-support organization (DSO) to support the Council. The bill requires the DSO to operate under written contract with the Department of Legal Affairs and provides for staggered appointments of a 13-member board of directors.

The bill directs the DSO to develop strategic program and funding initiatives to implement or expand the following programs:

- 5000 Role Models of Excellence;
- Reading 4 Success;
- One Church, One Child; and
- Mapping the Future for Black Males.

The bill further directs the DSO to develop a marketing and public awareness campaign to showcase its programs and to fund the Council's clerical and administrative costs.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 111-0*

**CS/HB 1429 — Mental Health and Substance Abuse Services**

by Healthcare Council and Rep. Gardiner (CS/CS/CS/SB 2626 by Health and Human Services Appropriations Committee; Governmental Operations Committee; Children, Families, and Elder Affairs Committee; and Senators Storms and Lynn)

The bill provides legislative findings and intent relating to substance abuse and mental health disorders, and provides definitions.

The bill authorizes DCF to contract with community-based managing entities for the purchase, coordination, integration, and management of behavioral health services, and requires the secretary of DCF to determine the schedule for phasing in contracts with managing entities to serve a designated geographic area of sufficient size to allow for flexibility and maximum efficiency of behavioral health services. The bill provides that DCF may establish standards and a process for the qualification and operation of managing entities.

The bill provides for the funding of managing entities and requires that DCF negotiate a reasonable and appropriate administrative cost rate with each managing entity. The bill also authorizes DCF to employ capitation, case rates, or other methods of payment which promote flexibility and efficiencies. The bill requires DCF to terminate its mental health or substance abuse provider contracts for services to be provided by the managing entity as it contracts with the managing entity.

The bill provides that a managing entity must develop and implement written cooperative agreements among the criminal and juvenile justice systems, the local community-based care network, and the local behavioral health providers, and must collect and submit data to the department regarding service. The bill requires DCF to evaluate the managing entity's services, and to work with managing entities to establish performance standards.

The bill authorizes the Agency for Health Care Administration to establish a voluntary certified match program, limiting reimbursement to the federal Medicaid share to Medicaid-enrolled strategy participants.

The bill gives DCF rulemaking authority, and directs the department to submit reports on January 1 and July 1 of each year until the transition to managing entities has been accomplished statewide.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 118-0*

**SB 2516 — East Central Florida Memory Disorder Clinic**

by Senator Haridopolos

In 1995, the Legislature designated The East Central Florida Memory Disorder Clinic at the Joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc. as one of the memory disorder centers to receive state funding. Recently, the clinic changed its formal, corporate name to the Memory Disorder Clinic, Inc.

The bill amends s. 430.502(1)(e), F.S., changing the name of The East Central Florida Memory Disorder Clinic at the Joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc. to The Memory Disorder Clinic, Inc., operating in Brevard County.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 118-0*

**CS/CS/SB 2532 — Dissolution of Marriage, Child Custody and Support**

by General Government Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Lynn

This bill amends ch. 61, F.S., relating to dissolution of marriage and the custody and support of minor children. The bill replaces references made throughout the chapter to the terms "custody," "primary residential parent," "primary residence," "noncustodial parent," and "visitation" with the updated terms "parenting plans" and "time-sharing."

The bill defines a parenting plan as a document developed by the parents of a minor child, and approved or established by the court, which governs the relationship between the parents regarding the child. The bill provides that a parenting plan must include a time-sharing schedule and address certain other issues relating to parental responsibility and the child's welfare. The parenting plan and time-sharing schedule proposed by the bill are similar to the family law form order currently used in dissolution cases involving minor children.

The bill replaces the term "custody evaluation" with the term "parenting plan recommendation," defined as a nonbinding recommendation made by a licensed psychologist concerning a parenting plan. The bill makes conforming amendments to s. 61.20, F.S., relating to court-ordered social investigations and recommendations.

The bill clarifies that there is no presumption made for or against either parent when a parenting plan is created or modified, and that for purposes of creating or modifying a parenting plan, the best interests of the child shall always be the primary consideration. The bill lists the factors to



be considered to determine the best interests of the child, rewording and deleting some of the factors identified in current law and adding new factors for courts to consider.

The bill permits a court to temporarily modify child support obligations when a parent is called to military service and makes conforming changes throughout the Florida Statutes.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 116-0*

### **HB 7007 — Newborn Safe Abandonment**

by Healthcare Council and Rep. R. Garcia and others (CS/SB 1704 Children, Families, and Elder Affairs Committee and Senators Storms, Peaden, Dockery, Bennett, and Crist)

This bill amends Florida's newborn safe abandonment laws to clarify that a parent who safely surrenders a newborn is presumed to have consented to termination of his or her parental rights. The bill expressly prohibits a licensed agency from searching for or notifying the surrendering parent, unless there is actual or suspected child abuse or neglect.

The bill extends the period during which a newborn infant may be legally surrendered from three days to seven days, and requires hospitals to complete the birth certificate of a safely surrendered newborn infant without naming the mother under specified circumstances.

The bill replaces the term "abandoned" with the word "surrendered" throughout the relevant statutes to distinguish infants who are relinquished to a safe haven from children who are abandoned as a matter of child abuse.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 116-0*

### **HB 7041 — Self-Directed Care Program for Mental Health Treatment**

by Healthcare Council and Rep. Bean and others (CS/SB 2390 by Health and Human Services Appropriations Committee and Senator Webster)

Self-Directed Care (SDC) is a consumer-centered model for mental health services in which participants manage the course of their mental health treatment and control the public financial resources available for their care. Each program participant has the opportunity to access traditional, alternative, and non-traditional services concurrently, and to purchase tangible items that he or she believes will enhance community integration and allow him or her to return to work, access other meaningful activities, and live productively. Participants establish their recovery goals, determine what services to purchase, and choose who provides the services.

In 2001, the Legislature established an SDC pilot program in the Department of Children and Families' (DCF or the department) district 4. The pilot program has served approximately 200 people in a five county area since 2002. The success of the northeast Florida program led to the creation of a second program in district 8, serving five counties and approximately 95 participants in southwest Florida.

This bill amends s. 394.9084, F.S., authorizing the department to establish SDC programs statewide to provide mental health treatment and support services to adults with serious mental illness. The bill changes the name and function of the entity that provides administrative support services to SDC participants from "managing entity" to "fiscal intermediary" and delineates the responsibilities of the fiscal intermediary.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the effectiveness of the SDC program by December 31, 2009, and specifies the scope of OPPAGA's evaluation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 105-1*

### **HB 7073 — Child Support Enforcement**

by Healthcare Council and Rep. Galvano (CS/CS/SB 1152 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Storms and Lynn)

The bill specifies that payments on child support judgments are to be applied first to the current child support due, then to any past-due amount, and finally to the interest due. The bill also requires electronic disbursement of payments to an account designated by the obligee or, if an account is not designated, to a stored value account accessible to the obligee.

The bill requires the Department of Highway Safety and Motor Vehicles, the Department of Health, the Department of Financial Services, the Department of Business and Professional Regulation, and the Department of Education to work cooperatively with the Department of Revenue (DOR or department) to implement an automated method for disclosing information regarding current license or certificate holders to the department, and clarifies that, upon notice by DOR, these state agencies and the Education Practices Commission must deny or suspend the license or certificate of those persons not in compliance with a child support order, a subpoena, an order to show cause, or a written agreement with DOR.

The bill provides that if a putative father is incarcerated, the correctional facility shall assist the putative father in complying with an administrative order for genetic testing and repeals a duplicative provision relating to administrative orders for genetic testing in s. 409.25645, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 111-0*

### **HB 7075 — Developmental Disabilities**

by Healthcare Council and Rep. Galvano (CS/SB 1950 by Children, Families, and Elder Affairs Committee and Senator Rich; CS/SB 1954 by Children, Families, and Elder Affairs Committee and Senators Rich and Lynn)

This bill amends the definition of the term "retardation" in ch. 393, F.S., to clarify that the disability requires manifestation prior to age 18 and an expectation that it will continue indefinitely. This amendment makes the definition of retardation consistent with the chapter's definition of the term "developmental disability." The bill also replaces the term "developmental disabilities institutions" throughout ch. 393, F.S., with the term "developmental disabilities centers" to more accurately reflect the nature of services delivered to the clients of the Agency for Persons with Disabilities (APD or the agency).

The bill authorizes APD to suspend, revoke, or fine a residential facility licensee if that facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult; and to deny an application for licensure if a facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult, or previously had a license revoked by APD, the Department of Children and Family Services, or the Agency for Health Care Administration.

The bill amends the background re-screening requirements for direct care staff, and allows unlicensed direct care staff, with proper and validated training, to administer enteral medication to APD clients.

The bill amends s. 916.301, F.S., clarifying that the court must appoint at least two experts to evaluate competency when a criminal defendant is suspected to be retarded or autistic.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

### **HB 7077 — Child Protection**

by Healthcare Council and Rep. Galvano and others (CS/CS/CS/SB 1048 by Health and Human Services Appropriations Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Lynn)

This bill clarifies the responsibilities of the Department of Children and Families (the department) and law enforcement agencies in cases where children become missing while in the care of the department.

The bill also addresses issues raised in public hearings held by the Senate Committee on Children, Families and Elder Affairs, especially those relating to termination of parental rights and permanency. In this area, the bill:

- Amends the definitions of "abandoned" and "harm" in ch. 39, F.S.;
- Adds new grounds for terminating parental rights; and
- Gives priority for shelter placement to adoptive parents when a sibling of their adopted child comes into the department's care, and requires courts to consider such family when a child is determined to be dependent and in need of placement.

Finally, the bill includes the department's legislative priorities. Specifically, the bill:

- Adds a definition for "child who has exhibited inappropriate sexual behavior" to ch. 39, F.S., to provide a more precise name for young children who are reported to have acted inappropriately and who, under current law, are called juvenile sexual offenders;
- Clarifies the requirements for background screening of caregivers;
- Amends the law to reflect the department's current practice of accepting reports of abuse via fax and web interface;
- Provides exceptions to the requirement that all child protective investigations be closed within 60 days;
- Requires that notice of dependency proceedings be given to foster and pre-adoptive parents;
- Revises the provisions for a diligent search for a parent or prospective parent to include a thorough search of at least one electronic database;
- Authorizes courts to enter injunctions relating to domestic violence issues in certain child welfare cases;
- Permits courts to grant an exception to the requirement that a predisposition study be filed in every case;
- Allows the Department of Highway Safety and Motor Vehicles to give the department access to information contained in its database for purposes of identifying persons who are the subject of child protective investigations;
- Makes significant changes to the Florida Child Welfare Student Loan Forgiveness Program;
- Authorizes community-based care providers to pay for automobile liability insurance coverage for employees who drive their personal cars in the course of their work; and

- Allows the department additional time to complete its reorganization process.

If approved by the Governor, these provisions take effect July 1, 2008, except as otherwise expressly provided.

*Vote: Senate 40-0; House 119-0*



**CS/CS/SB 428 — Workforce Innovation**

by Transportation and Economic Development Appropriations Committee; Commerce Committee; and Senator Bennett

This bill allows Regional Workforce Boards to be direct providers of intake, assessment, eligibility determinations, or other direct provider services, except training services, subject to agreement between the designated chief elected official and the Governor. The bill requires Workforce Florida, Inc. to establish request procedures and also the criteria for granting permission for a board to be a direct provider of services. The criteria must include a reduction in the cost of providing the permitted services. Such permission may be granted for a period not to exceed 3 years for any single request.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

**CS/CS/HB 105 — Secondary Metals Recyclers**

by Policy and Budget Council; Safety and Security Council; and Rep. Troutman and others (CS/CS/SB 556 by Criminal Justice Committee; Commerce Committee; and Senators Constantine, Crist, Lynn, and Dockery)

The bill amends ch. 538, F.S., to address the regulation of Secondary Metals Recyclers in the following ways:

- Expands the definition of regulated metals to include stainless steel beer kegs;
- Expands the types of transaction records secondary metals recyclers must maintain, to include detailed descriptions of and related personal information from persons from whom metals were acquired with exceptions;
- Creates a penalty of a first degree misdemeanor and third degree felony for a third or subsequent violation for secondary metals recyclers who fail to comply with the new cash transaction restrictions;
- Increases penalties for a third or subsequent violation for secondary metals recyclers who fail to comply with current and proposed requirements related to metal recycling;
- Increases penalties to a third degree felony for a third or subsequent violation for persons giving false verification of ownership or false or altered identification in metal recycling transactions;

- Creates a penalty of a third degree felony for secondary metals recyclers that are not registered with the Department of Revenue;
- Requires that all regulated metals be transported to a secondary metals recycler in a motor vehicle, eliminating the current exception; and
- Requires payments for all transactions in excess of \$1,000 are made by check.

In addition, the bill requires the Department of Law Enforcement to approve the form for purchase transactions and requires the Department of Revenue to release information relating to secondary metals recyclers to law enforcement officials.

If approved by the Governor, these provisions take effect October 1, 2008

*Vote: Senate 37-1; House 108-0*

### **CS/HB 225 – Telephone Caller Identification**

by Safety and Security Council and Rep. Kiar and others (CS/SB 694 by Commerce Committee and Senators Aronberg and Lynn)

This bill prohibits entering or causing to be entered false information into a telephone caller identification system with the intent to deceive, defraud, or mislead. It also prohibits placing a call knowing that the aforementioned information was entered into the telephone caller identification system.

It provides exceptions for federal, state, county or municipal government law enforcement agencies, any federal intelligence or security agency, and telecommunications, broadband, or Voice over Internet Protocol (VoIP) service providers that are acting solely as intermediaries for the transmission calls.

It provides for the enhancement of penalties when a violation is committed during or facilitates the commission of a criminal offense, and that a violation is an unlawful trade practice under specified provisions.

This bill creates section 817.487 of the Florida Statutes.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 38-0; House 117-0*



### **CS/HB 419 — Business Entities**

by Jobs and Entrepreneurship Council and Rep. Simmons and others (CS/SB 698 by Judiciary Committee and Senator Deutch)

The bill amends statutory provisions (chs. 607, 608, 617, and 620, F.S.) relating to Florida business organizations to eliminate duplicative filing requirements and to provide that the conversion or merger of two or more business entities will occur under the statute that governs the resulting or surviving entity.

The bill also includes several technical corrections to current law. For example, the bill conforms certain defined term references that were overlooked when 2005 changes in law expanded and simplified the rules governing mergers and conversion of different business entities. A specific reference to a "corporation" is included in the definition of "another business entity" that may be converted into a limited liability company. The bill also modifies the management rights of general partners in limited partnerships to require that all limited partners consent to the expulsion of a limited partner. The bill clarifies how a certificate of merger or conversion may be filed for a registered general partnership, and clarifies that a statement of cancellation is not required to be filed when a certificate of conversion has been filed for that partnership.

Finally, the bill revises terms related to qualifications of professional associations and limited liability companies to render professional services. The bill also enables mergers between domestic professional associations/domestic limited liability companies and foreign professional associations/foreign limited liability companies.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 36-0; House 112-0*

### **CS/CS/SB 854 — Unemployment Compensation/Day Laborer**

by Transportation and Economic Development Appropriations Committee; Commerce Committee; and Senators Fasano and Lynn

This bill includes day laborers employed by labor pools in the definition of "temporary employee" in s. 443.101(10), F.S., thereby making the current provisions relating to unemployment compensation for temporary employees applicable to day laborers.

Consequently, a day laborer will be deemed to have voluntarily quit employment and be disqualified for unemployment benefits if, upon conclusion of his or her latest assignment, the day laborer, without good cause, failed to contact the labor pool for reassignment, if the labor pool advised the day laborer at the time of hire and separation that he or she must report for reassignment upon conclusion of each assignment, and that unemployment benefits may be denied for failure to report.

Furthermore, this subsection is amended to specify that the "time of hire" for a day laborer is upon "acceptance of the first assignment following completion of an employment application with the labor pool." The subsection is also amended to require that, upon conclusion of the latest assignment, a labor pool must provide written notice to the temporary employee that work is available and that the employee must report for reassignment the next business day. The notice must be given by means of a notice printed on the paycheck, a notice included in the pay envelope, or other written notification.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*

### **HB 7109 — Small Business Regulatory Relief**

by Government Efficiency and Accountability Council and Rep. Attkisson (CS/CS/SB 928 by Governmental Operations Committee; Commerce Committee; and Senator Diaz de la Portilla)

This bill creates ss. 288.001, 288.7001 and 288.7002, F.S., related to small business entities.

These new sections:

- Designate the Florida Small Business Development Center Network (network) as the principal business-assistance organization for small businesses in this state. (There is no fiscal impact attached to this designation.)
- Establish the 9-member Small Business Regulatory Review Advisory Council (council).
- Create the Office of Small Business Advocate (advocate).

Specifically, the council has a number of duties, the most important of which is to provide state agencies with input regarding proposed rules or programs that may adversely affect small business. It also will review agency rules in conjunction with the agency sunset review process in current law. The council is directed to provide the Governor, the President of the Senate, and the Speaker of the House of Representatives an annual report on its activities.

The council will be housed for administrative purposes within the network. The Governor, the President of the Senate, and the Speaker of the House of Representatives will each appoint 3 members to the council. The council members will serve without salary, and will not be entitled to per diem or state compensation for travel expenses. The council replaces the responsibilities of the "small business ombudsman," a position that currently is housed in the Governor's Office of Tourism, Trade, and Economic Development.

The Small Business Advocate has a number of responsibilities:

- Representing the views and interests of small businesses before the Legislature and agencies;

- Receiving and responding to complaints from small businesses about agency rules or state laws that may adversely affect small businesses;
- Creating a website and coordinating statewide meetings on small-business issues; and
- Submitting an annual report to the Governor and the Legislature about the office's activities.

The advocate will be housed within Florida's Small Business Development Center Network and will be either an employee of, or under contract with, the network. There is no fiscal impact to the state.

This bill also amends ss. 11.908, 11.911, and 11.919, F.S., to provide a role for the council to participate in the agency sunset review process.

Finally, this bill amends ss. 120.54 and 120.74, F.S., related to agency rulemaking. The changes to s. 120.54, F.S., are:

- Agencies must prepare a statement of estimated regulatory costs of their proposed rules that impact small businesses;
- The council, which replaces the small business ombudsman in statute, is directed to review agency rules and to recommend alternatives that achieve the same goal, but are less burdensome to small businesses; and
- If an agency does not adopt the council's alternative rule, the council may request the Legislature's presiding officers to direct the Office of Program Policy Analysis and Government Accountability (OPPAGA) to determine whether the rejected alternative does achieve the agency's goals and reduce impacts on small businesses. OPPAGA will forward its report to the Legislature's Administrative Procedures Committee, which in turn will forward the OPPAGA recommendation to the applicable agency. The agency must respond in writing why it will not accept an alternative rule proposed by the council.

Section 120.74, F.S., is amended to require agencies to:

- Include in their biennial rule review a determination of whether rules should be amended or repealed to reduce their impacts on small businesses and to require state agencies to prepare a statement of estimated regulatory cost if their proposed rules will impact small business.
- Include in their annual rulemaking reports to the Legislature a discussion of how their rules impact small businesses.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 115-1*

### **CS/SB 948 – Concealed Weapons License**

by Commerce Committee and Senators Diaz de la Portilla and Lynn

This bill clarifies the residency requirements to obtain a Florida license to carry a concealed weapon or firearm. To qualify for the license, an applicant must be a United States citizen or permanent resident alien of the United States. Additionally, the bill extends the length of time that a concealed weapons license is valid from 5 years to 7 years.

The bill amends s. 790.06, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 117-0*

### **CS/SB 1026 — Unemployment Compensation Benefits**

by Governmental Operations Committee and Senators Fasano and Lynn

This bill authorizes the Agency for Workforce Innovation to develop a system for the payment of unemployment compensation benefits by electronic funds transfer. Commodities or services related to the development of such a system must be procured by competitive solicitation, or from state term contracts procured by competitive solicitation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-1*

### **CS/CS/SB 1310 – Sellers of Travel**

by Criminal Justice Committee; Military Affairs and Domestic Security Committee; and Senator Baker

This bill creates disclosure requirements for sellers of travel, requiring them to annually certify to the Department of Agriculture and Consumer Services whether or not they provide travel services to terrorist states. Such disclosures include:

- Identifying information regarding the certifying party;
- Identification of each terrorist state with which the certifying party engages in any business or commerce;
- Identification information regarding every commercial entity with which the certifying party engages in business or commerce that is related in any way to the certifying party's business or commerce with any terrorist state; and
- The type and frequency of all travel-related services offered by the certifying party.

Additionally, this bill repeals the exemption for Airline Reporters Corporation affiliates who are offering travel services to terrorist states. This bill creates increased administrative, civil, and criminal penalties for failure to comply with the new certification requirements.

This bill increases fees and performance bond thresholds for sellers of travel who engage in the sale of travel services to terrorist states, and eliminates the use of letters of credit or certificates of deposit in lieu of the bond required for registration.

This bill amends the following sections of the Florida Statutes: 559.927, 559.928, 559.929, 559.9335, 559.935, 559.9355, 559.936, and 559.937.

This bill creates section 559.9285, Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-2; House 109-6*

### **CS/SB 2310 — Economic Stimulus**

by Governmental Operations Committee and Senators Ring, Diaz de la Portilla, and Crist

This bill amends ss. 215.44 and 215.47, F.S., related to investments by the State Board of Administration (SBA). The SBA is directed to invest a maximum 1.5 percent of the net asset value of the Florida Retirement System Trust Fund in technology and growth investments in businesses that are either domiciled in Florida, or whose principal address is in Florida. The investments must be consistent with the SBA's fiduciary responsibilities.

As used in this subsection, the phrase "technology and growth investments" includes, but is not limited to: space technology, aerospace and aviation engineering, computer technology, renewable energy, and medical and life sciences.

Pursuant to a newly created s. 215.474, F.S., the Office of Program Policy and Government Accountability (OPPAGA) will review and report on the investments by January 15 of each year. OPPAGA may consult with the SBA, the Department of Revenue, the Office of Economic and Demographic Research, and other entities as necessary to obtain and evaluate the information requested. The annual review shall include:

- The dollar amount of technology and growth investments made by the SBA during the previous year ending June 30 and the investments' percentage share of the system trust fund's net assets.
- A list of investments identified by the board as technology and growth investments within each asset class.

- An analysis of the direct and indirect economic benefits to the state resulting from the technology and growth investments.

Finally, this bill creates a \$40 million prize (\$20 million contributed by the state) to encourage the invention of a reusable space vehicle that could be used to replace the Space Shuttle. No appropriation is provided to fund the state's share of the prize.

The lieutenant governor will chair the space prize program and appoint a committee for the purpose of establishing or adopting an application form, criteria for awarding the prize, and any other rules or guidelines related to the entry, judging, administration, or results of the program. The application and all other information shall be posted on the website of the Office of Tourism, Trade, and Economic Development on or before January 1, 2009.

The space prize program will terminate January 2, 2014.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-1*

### **CS/HB 1417 – Counterfeit Goods**

by Safety and Security Council and Rep. Gardiner (CS/SB 2374 by Commerce Committee and Senator Diaz de la Portilla)

This bill reorganizes the provisions of s. 831.03, and repeals 831.05, F.S., relating to counterfeiting. New sections are created within ch. 831, F.S., to incorporate provisions from the federal model act on counterfeiting. Specifically, the bill:

- Provides that an individual possessing more than 25 pieces of property that bear a counterfeit mark gives rise to an inference that such property is being possessed with the intent to offer it for sale or distribution;
- Provides a tiered penalty system based on the quantity or total retail value of counterfeited goods that are knowingly sold, manufactured, distributed, or transported;
- Increases the penalty for offenses involving counterfeiting if a person, during the commission of the offense or as a result of the offense, knowingly, or by culpable negligence, causes bodily injury, serious bodily injury, or death;
- Increases the penalty for repeat offenders of counterfeiting;
- Authorizes the court to order an individual to pay a fine up to three times the retail value of the counterfeit goods seized, manufactured, or sold, whichever is greater;
- Requires the court to order a person convicted of a violation of this offense to pay restitution to the trademark owner and any other victim of the offense;

- Requires the court to order the forfeiture of any property constituting or derived from any proceeds that an individual obtained, directly or indirectly, as the result of the offense and forfeit any property used to commit the offense. The court must order that any forfeited item bearing or consisting of a counterfeit mark be destroyed, or be disposed of in another manner with the written consent of the trademark owner; and
- Provides that prosecuting under these provisions does not preclude the applicability of any other provision of the law which applies to any transaction that violates these provisions, unless inconsistencies exist.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 40-0; House 115-0*

### **CS/SB 2438 — Spaceflight**

by Judiciary Committee and Senator Posey

The bill creates s. 331.501, F.S., to provide that a spaceflight entity is not liable for injury to or death of a spaceflight participant resulting from the inherent risks of spaceflight launch activities, so long as a required warning is given to and signed by the participant. The immunity provided by this bill does not apply if the spaceflight entity:

- Commits gross negligence or willful or wanton disregard for the safety of the participant;
- Has actual knowledge or reasonably should have known of a dangerous condition; or
- Intentionally injures the participant.

The limitation on liability is in addition to any other limitation of legal liability that might otherwise be provided by law.

The bill provides that the provisions of the newly created section will expire October 2, 2018, unless reviewed and reenacted by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 118-0*

### **CS/SB 2582 — Motor Vehicle Dealers**

by Regulated Industries Committee and Senator Haridopolos

This bill amends ss. 320.64 and 320.696, F.S., and creates s. 320.6412, F.S., and addresses a number of issues related to the contractual business relationship between automobile dealers and the automobile manufacturers, distributors, or importers who provide the vehicles.

The bill creates or expands upon three situations where actions by automobile manufacturers, distributors, or importers against their franchised motor vehicle dealers could result in loss or suspension of an automobile manufacturer's, a distributor's, or an importer's license to do business in Florida. These situations involve:

- Manufacturers' requirements for dealers to remodel their facilities;
- Reasons for reduced vehicle inventory; and
- Dealers' responsibility to know whether their customers buy vehicles to then export overseas.

Additionally, the bill prohibits manufacturers from terminating franchise agreements on the basis of fraud and misrepresentation by dealer employees, unless there is clear and convincing evidence that the dealership majority owner, dealer operator, or dealer principal had actual knowledge of the fraudulent acts and did not take action to resolve the problems.

Finally, the bill rewrites the existing dealer warranty provision in law to provide a formula by which dealers are to be reimbursed for labor and parts used in warranty service.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 118-0*

### **CS/HB 1373 — Qualified Defense Contractor Tax Refund Program**

by Economic Expansion and Infrastructure Council and Rep. Altman and others (CS/SB 2666 by the Transportation and Economic Development Appropriations Committee and Senators Posey and Haridopolos)

This bill amends s. 288.1045, F.S., to expand the existing Qualified Defense Contractor (QDC) tax refund program to allow space-flight companies to qualify for the program's incentives. To that end, the bill defines the terms "space flight business," "space flight business contract," "new space flight contract," and "consolidation of a space flight contract."

Also, the bill changes the amount of tax refunds available to qualified applicants to match the tiered system used to award tax refunds under the Qualified Targeted Industry Tax Refund Program. It replaces the uniform \$5,000 tax credit per job created with the following formula:

- A basic credit of \$3,000 per job specified in the QDC or space-flight business contract with the Governor's Office of Tourism, Trade, and Economic Development;
- QDC and space-flight projects in rural counties or enterprise zones will qualify for \$6,000 per job;



- An additional \$1,000 per-job bonus is available when jobs pay 150 percent of the average private-sector wage in the area; and
- An additional \$2,000 per job bonus is available when jobs pay 200 percent of the average private-sector area wage.

Additionally, the bill:

- Allows local governments to use donated or discounted land and buildings to qualify as local match;
- Allows municipal governing boards, and not only county commissions, to pass resolutions in support of a company receiving the QDC and space-flight business incentives;
- Simplifies the application process;
- Removes a duplicative annual reporting requirement;
- Delays the program's scheduled sunset review from 2010 to 2014;
- Corrects a reference to the timing to file for a corporate income tax refund, as requested by the state Department of Revenue; and
- Deletes several obsolete or unnecessary paperwork requirements.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 106-0*



---

## Senate Committee on Communications and Public Utilities

### **CS/HB 799 — Theft of Copper or Other Nonferrous Metals**

by Safety and Security Council and Rep. Adams and others (CS/SB 1384 by Communications and Public Utilities Committee and Senators Dean, Lynn, Baker, Haridopolos, and Crist)

The bill creates s. 812.145, F.S., to make it a first degree felony for a person to knowingly and intentionally take copper or other nonferrous metals from a utility or communications services provider (as defined in the bill), and thereby:

- Cause damage to the facilities of a utility or communications services provider,
- Interrupt or interfere with communications services or utility service, or
- Interfere with the ability of a utility or communications services provider to provide service.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 37-0; House 116-0*

### **CS/SB 794 — Underground Utilities/Excavations and Demolitions**

by Communications and Public Utilities Committee and Senator Bennett

The bill amends s. 556.105, F.S., to prohibit an excavator or an underground facilities operator from charging expenses associated with compliance with the Florida One-Call notice requirements after the effective date of the act. It also provides that this prohibition does not excuse a facilities operator or excavator from liability for any damage or injury for which it would be responsible under applicable law.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-0*

### **CS/SB 2052 — Water and Wastewater Utilities**

by Communications and Public Utilities Committee and Senator Baker

The bill increases the revenue threshold for a water or wastewater utility to be eligible for a Staff Assisted Rate Case (SARC). It raises the current revenue cap to \$250,000 from \$150,000, that was set in 1989, and then allows the Public Service Commission (commission) to adjust the cap every five years based on the index established pursuant to s. 367.081(4)(a), F.S. The commission is required to periodically report to the Legislature on the status of the proceedings conducted under the bill and provide additional information as proscribed in the bill.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 116-1*

**CS/SB 1070 — Intergovernmental Cooperation**

by Education Pre-K – 12 Committee and Senator King

District school boards are authorized to enter into interlocal agreements regarding the following: use and maintenance of facilities or equipment on a cost-reimbursement basis; transportation of students, building rental, maintenance and upkeep of school plants; and the use of school buses for other public purposes beyond serving the transportation disadvantaged. Also, the bill addresses reimbursement of the district school board for the use of school buses and requires a public agency to indemnify and hold harmless the school board for any liability arising from the use of the school buses pursuant to an interlocal agreement.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 113-0*

**CS/SB 1378 — Display of Flags/Homeowners' Associations**

by Community Affairs Committee and Senators Fasano, Gaetz, Haridopolos, and Lynn

The bill provides that a homeowner may erect a freestanding flagpole that does not exceed 20 feet on any portion of the homeowner's real property, notwithstanding any covenants, restrictions, bylaws, rules, or requirements of the homeowners' association. The homeowner may display, in a respectful manner from that flagpole, one official United States flag and may also display one official flag of the State of Florida, a flag of the U.S. Armed Services, or a POW-MIA flag. Such flag may not be larger than 4½ feet by 6 feet. A provision limiting the display of a portable U.S. Armed Services flag to certain holidays is removed and the POW-MIA flag is added to the list of authorized portable, removable flags that may be displayed. This bill applies the provisions regarding the display of flags to all community development districts and mandatory and non-mandatory homeowners' associations. Finally, the bill authorizes homeowners' association membership and association board of directors participation for mobile home park residents who reside in concrete block homes occupying park lots under 99-year leases.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 104-8*

### **CS/SB 1502 — Leased Property for Public Purposes**

by General Government Appropriations Committee and Senator Margolis

The bill provides that notwithstanding any provision of law to the contrary, any county operating under a home rule charter adopted pursuant to sections 10, 11, and 24, Article VIII of the Constitution of 1885, as preserved by section 6(e), Article VIII of the Constitution of 1968, may enter into a lease or a lease-purchase arrangement with the state or any other governmental entity for more than the 30-year lease term authorized in s. 125.031, F.S. The property being leased must be used for a public purpose and the lease must be approved by the board of county commissioners. If the lease or lease-purchase agreement is for a period of longer than 5 years, the lease fee must be paid from funds other than ad valorem tax revenues. The provisions of the bill apply only to Miami-Dade County.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 114-1*

### **CS/SB 1706 — Developments of Regional Impact**

by Higher Education Committee and Senators Margolis and Bullard

Section 380.06(19)(c), F.S., providing a three-year extension for development orders, buildout, and commencement of developments of regional impact (DRI) under active construction on July 1, 2007, is expanded to include those DRIs for which a development order was issued between January 1, 2006, and July 1, 2007 and Florida Quality Developments. The bill also applies the three-year extension to all associated local government approvals.

Under this bill, a development is exempt from DRI review if:

- One of at least two proposed land uses within the development is for an office or laboratory appropriate for the research and development of medical technology, biotechnology, or life science applications.
- The development is located within a county having a population greater than 1.25 million.
- The land is located in a designated urban infill area or within five miles of a state-supported biotechnical research facility or the local government adopts a resolution recognizing the land is located in a compact, high-intensity, and high density multi-use area.
- The land is located within three-fourths of one mile from one or more bus or light rail transit stops.
- The development is registered with the United States Green Building Council and there is an intent to apply for certification of each building under the Leadership in Energy and

Environmental Design program, or the development is registered by an alternate green building rating system that the local government approves by resolution.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 115-0*

## **SB 1986 — Homeowners' Associations/Lien Claims**

by Senator Ring

The bill provides that the lien of a homeowners' association has priority as of the date of the filing of the covenants and restrictions. However, the lien of the association is subordinate to that of a first mortgage that was recorded prior to the filing of a notice of lien. The bill provides a form to record a notice requiring a homeowners' association to enforce a recorded claim of lien against a parcel within 90 days or the lien is void.

Homeowners' associations are authorized to bring an action to foreclose a lien for assessments and to recover a money judgment for unpaid assessments, including reasonable attorney's fees. A court may order a parcel owner, who remains in possession following a foreclosure judgment, to pay a reasonable rent. Also, a homeowner's association is entitled to the appointment of a receiver to collect the rent during the pendency of a foreclosure proceeding.

This bill limits the liability of a first mortgagee, or its successor or assignee, for unpaid homeowner's association assessments when title to a parcel is acquired by foreclosure or a deed in lieu of foreclosure. It clarifies there is a 45-day window after the notice or demand for unpaid assessments is mailed for a parcel owner to pay in full and an additional 45 days must follow an association's notice of its intent to foreclose and collect the unpaid amount. The 45-day notice of an association's intent to foreclose and collect unpaid assessments does not apply if the parcel is subject to a foreclosure action or forced sale of another party, or if an owner of the parcel is a debtor in a bankruptcy proceeding.

A qualifying offer is voidable at the election of the association if a parcel becomes the subject of a foreclosure action or a notice of tax certificate sale while a qualifying offer is pending. If the parcel owner is a debtor in a bankruptcy proceeding, while the offer is pending, the qualifying offer becomes void. The bill also specifies a timeframe for making a qualifying offer and prescribes a form for such offer.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 119-0*

**CS/SB 2224 — Open Government Sunset Review/Paratransit Services**  
by Governmental Operations Committee and Community Affairs Committee

This bill reenacts and expands the public records exemption for personal identifying information relating to an application for paratransit services. The exemption is expanded to include all personal identifying information for individuals receiving services as well as applying for services. The bill provides that the exemption is applicable to all information held by an agency rather than a local government entity so that personal identifying information is exempt when given to private providers contracting with a unit of local government to provide services. The bill contains a statement of public necessity.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 119-0*

**CS/HB 3 — Children's Zones**

by Healthcare Council and Rep. Bendross-Mindingall and others (CS/SB 500 by Health and Human Services Appropriations Committee and Senators Bullard, Wilson, Margolis, Lawson, Dawson, and Storms)

The bill authorizes local governments to request designation of a children's zone by the Ounce of Prevention Fund of Florida, Inc., for the purpose of revitalizing a disadvantaged area through programs and services that support family stability. The local government must adopt a resolution that makes certain findings, establish a planning team that will develop a strategic plan, and create a not-for-profit corporation to implement the children's zone. The planning team is required to specifically address certain focus areas, including the development of objectives and strategies.

The bill creates Magic City Children's Zone, Inc., a pilot project within the Liberty City neighborhood in Miami-Dade County. It establishes the boundaries of the zone, and provides for a not-for-profit corporation to manage the pilot project. The not-for-profit corporation will be governed by a 15-member board of directors. The board of directors of the not-for-profit must contract with a management consultant to provide a ten-year business plan. There is an annual reporting requirement. Implementation of this bill, including the pilot project, is contingent upon a specific appropriation that would provide a 3-year grant.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 33-0; House 118-0*



## **CS/HB 531 — Florida Retirement System**

by Government Efficiency and Accountability Council and Rep. Weatherford and others  
(CS/SB 800 by Governmental Operations Committee and Senators Villalobos and Lynn)

This bill amends s. 121.0515, F.S., to narrow the criteria under which certain employees in law enforcement agencies or a medical examiner's office are eligible for membership in the Special Risk Class of the Florida Retirement System. The bill contains a statement of important state interest.

Effective July 1, 2008, a state employee must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshall in the forensic laboratory, as a forensic technologist, a crime laboratory technician, a crime laboratory analyst or a senior crime laboratory analyst, a crime laboratory analyst supervisor, a forensic chief, or a forensic services quality manager.

Effective July 1, 2008, a local government employee must be employed by a local law enforcement agency or medical examiner's office and spend at least 65 percent of work time performing duties involving the collection, examination, or analysis of human tissues or fluids, or physical evidence, either of which has the potential to be a biological, chemical, or radiological hazard or contaminate. The employee may also perform duties that involve the use of chemicals, processes, or materials that may have carcinogenic or health-damaging properties when used to analyze evidence. A direct supervisor of a local government employee or employees performing these duties is also eligible for membership in the Special Risk Class.

Existing Special Risk Class members employed by a law enforcement agency or medical examiner's office in a forensic discipline as provided in current law must meet the new forensic eligibility requirements or, effective July 1, 2008, the special risk designation is removed. The employee will be designated a Regular Class member and earn only Regular Class membership credit. The Department of Management Services is authorized to review the special risk designation of current members to determine if such members meet the new criteria for continued membership in the Special Risk Class.

The bill provides that a member qualifying for the Special Risk Class under the new forensic eligibility requirements who also has earned creditable service in another membership class of the Florida Retirement System doing similar work may purchase additional retirement credit to upgrade such service to Special Risk Class. The bill establishes a methodology for calculating the cost of the upgrade, and provides that for local government employees, the cost for the upgrade may be paid by a local government employer if the employee has three or more years of service with that employer.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 113-0*

## **CS/HB 697 — Building Standards**

by Economic Expansion and Infrastructure Council and Rep. Aubuchon and others  
(CS/CS/CS/CS/SB 560 by Transportation and Economic Development Appropriations  
Committee; Environmental Preservation and Conservation Committee; Regulated Industries  
Committee; Community Affairs Committee; and Senator Constantine)

This bill makes several revisions to the Florida Building Code and implements recommendations of the Florida Energy Commission.

### ***Energy Provisions:***

*Condominiums* - The bill provides that deed restrictions, covenants, declarations, or similar binding agreements may not prohibit solar collectors or other energy devices based on renewable resources from being installed on buildings covered by such restrictions, covenants, declarations or agreements. The owner of a condominium unit may not be denied permission to install renewable energy resources within the boundaries of the unit. Notwithstanding the provisions of s. 718.113, F.S., relating to maintenance and limitation on improvements, or the provisions of any governing documents of a condominium or a multicondominium association, the condominium board of administration may, without the approval of the unit owners, install solar collectors or other renewable energy resource devices on or within the common elements of the condominium or on association property.

*Local Comprehensive Plans* - With respect to local comprehensive plans to guide development, the bill provides the following:

- The future land-use element of the plan must be based on the discouragement of urban sprawl, energy-efficient land use patterns that account for existing and future electric power generation and transmission systems, and greenhouse gas reduction strategies. The land use map or map series contained in the future land-use element of the local plan must identify and depict energy conservation.
- The traffic circulation element of the local plan must incorporate transportation strategies to address the reduction of greenhouse gas emissions from the transportation sector.
- When developing the conservation element of the local plan, local governments must give some consideration to factors that affect energy conservation.
- The housing element must include standards, plans, and principles to be followed for energy conservation in the design and construction of new housing and the use of renewable energy resources.
- As a precondition to receiving any state affordable housing funding or allocation for projects or programs within the jurisdiction of a county in which the gap between the buying power of a family of four and the median county home sales price exceeds \$170,000, the county must certify to the Department of Community Affairs by July 1 of

each year that it has adopted a plan to ensure affordable workforce housing for families with incomes exceeding 140 percent of the area median income and identified adequate sites for such housing.

- For units of local government within an urbanized area designated as a metropolitan planning area, the transportation element of the local plan must incorporate transportation strategies to address the reduction of greenhouse gas emission from the transportation sector.

*Solar Energy System Incentives Program* - The bill provides that roofing contractors who install standing seam hybrid thermal roofs may participate in the state's Solar Energy System Incentives Program funded through the Department of Environmental Protection.

*Florida Building Code and Florida Energy Efficiency Code for Building Construction* - The bill provides that the Florida Building Commission (commission) must select the most current version of the International Energy Conservation Code (IECC) as a foundation code so long as the IECC is modified by the commission to maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction adopted and amended pursuant to s. 553.901, F.S. The commission is authorized to implement recommendations on an energy efficiency standard to be adopted by the commission for the construction of all new residential, commercial, and government building.

The bill creates a schedule of increases in the energy performance of buildings subject to the Florida Energy Efficiency Code (energy efficiency code) for Building Construction. The provisions necessary to increase the energy performance of new buildings by at least 20 percent must be included in the 2010 edition of the energy efficiency code, and provisions necessary to provide for increases of 10 percent must be included in the energy efficiency code on an annual basis until 2019 when the energy performance of new buildings must be increased by at least 50 percent when compared to the 2007 Florida Building Code adopted October 31, 2007.

The bill directs the commission to identify and include within code support and compliance documents the specific building options and elements available to meet the scheduled increases in the energy performance of buildings, and specifies some of the options and elements which must be included. Prior to implementing the energy efficiency performance goals, the commission must adopt by rule and implement a cost-effectiveness test for proposed increases in energy efficiency. The test must measure the cost-effectiveness of the proposed increase to ensure a positive net financial impact, and the text of the rule must be submitted to the Legislature in the commission's 2009-2010 annual report. The commission must provide a July 1, 2009 effective date for the cost-effectiveness test rule.

***Florida Building Code Provisions:***

*Roofing contractor* - The bill amends the definition of "roofing contractor" in s. 489.105, F.S., to provide that the scope of work of a roofing contractor also includes the required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement.

*Manufactured buildings* - The bill clarifies that for purposes of chapter 553, a manufactured building, a modular building, or a factory-built building are the same thing. The criteria governing the construction or modification of manufactured buildings is revised to provide that the Department of Community Affairs (DCA or department) must adopt rules to address procedures and qualifications for approval of third-party plan review and inspection agencies and approval of those who perform inspections and plan reviews. The bill provides that no manufactured building in this state may be installed unless it is approved and bears the DCA's insignia and a manufacturer's data plate. The DCA is directed to develop an insignia to be affixed to all newly constructed buildings by the manufacturer or the inspection agency before the building leaves the plant, is authorized to charge a fee for issuing such insignias, and is authorized to develop by rule minimum criteria for the manufacturer's data plate. With regard to factory-built schools, the DCA must require that an insignia bearing the department's name and state seal, and a manufacturer's data plate must be affixed to all newly constructed factory-built school buildings. The DCA may charge a fee for issuing such insignia, and the insignia and data plate must be permanently affixed to the new factory-built school by the manufacturer. In the case of existing factory-built buildings altered to comply with the requirements for relocatables used as classroom space, the DCA or its designee must ensure that the insignia and data plate are permanently affixed.

*Commercial wireless communications towers* - The bill provides that the general provisions of the Florida Building Code for buildings and other structures shall not apply to commercial wireless communications towers when such general provisions are inconsistent with the provisions of the code that control radio and television towers. The provision is intended to be remedial in nature and to clarify existing law.

*Enforcement* - The bill provides that construction regulations relating to secure mental health treatment facilities under the jurisdiction of the Department of Children and Family Services shall be enforced exclusively by that department in conjunction with the review authority provided to the Agency for Health Care Administration. The bill further provides that when local governments provide the schedule of fees for enforcing the provisions of the Florida Building Code, the basis for the fee structure must include consideration for refunding fees for inspection services provided by a private provider when both the local government and the private provider charge for the inspection.

***Florida Building Commission Provisions:***

*Membership* - The bill expands the membership of the Florida Building Commission from 23 to 25 members, and specifies criteria by which members may be appointed. The Governor may appoint one member to serve as chair of the commission and this member need not represent a discipline regulated by the commission.

*Product Evaluation* - The bill directs the commission to review the list of product evaluation entities and, in the annual report to the Legislature, recommend amendments to the list to add evaluation entities the commission determines should be authorized to perform product evaluations. As an alternative, the commission may report on the criteria adopted by rule or to be adopted by rule allowing the approval of evaluation entities that use the commission's product evaluation process. If the commission adopts criteria by rule, the rulemaking process must be completed by July 1, 2009.

The bill provides that notwithstanding statutory requirements, the International Association of Plumbing and Mechanical Officials Evaluation Services is approved as an evaluation entity until October 1, 2009. If the association does not receive permanent evaluation authority by that date, products approved by the association must be substituted by an alternative, approved entity by December 31, 2009. On January 1, 2010, any product approval issued by the commission based on an association evaluation is void.

*Windstorm loss mitigation* - The bill provides that the criteria developed and adopted by the commission relating to secondary water barriers may not be limited to one method or material. Roof-to-wall connections are not required unless evaluation and installation of connections at the gable ends or all corners can be completed for 15 percent of the cost of roof replacement. For houses with both hip and gable roof-to-wall connections, priority must be given to retrofitting the gable end roof-to-wall connections unless the width of the hip is more than 1.5 times greater than the width of the gable end. Priority shall also be given to connecting the corners of roofs to walls below the locations at which the spans of the roofing members are greatest.

*Carbon monoxide alarms* - The bill provides that for a new hospital, an inpatient hospice facility, or a nursing home facility, all of which are licensed by the Agency for Health Care Administration, an approved operational carbon monoxide detector must be installed inside or directly outside of each room or area within the hospital or facility where a fossil-fuel burning heater, engine, or appliance is located. The detector must be connected to the fire-alarm system of the hospital or facility as a supervisory signal.

***Miscellaneous Provisions:***

*National Electrical Code* - The commission is authorized to adopt an updated edition of the National Electrical Code if it finds that delay of the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety and welfare.

*Meetings of the Commission-* The DCA is authorized to use communications media technology to conduct meetings of the commission and meetings of the commission must be conducted so as to encourage public participation. At a minimum, the commission must provide one opportunity for public input on each proposed action of the commission before a final vote may be taken.

*Florida Accessibility Code for Building Construction -* The commission is provided with the authority to render declaratory statements with respect to the provisions of the Florida Accessibility Code for Building Construction not attributable to the Americans with Disabilities Act Accessibility Guidelines.

*Low-Income Home Energy Assistance Program and the Weatherization Assistance Program -* The bill directs the Department of Community Affairs, in conjunction with the Florida Energy Affordability Coalition, to identify and review issues relating to the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program, and identify recommendations that support customer health, safety, and well-being; improve the quality of service to customers seeking assistance; maximize available financial and energy-conservation assistance; and educate customers. On or before January 1, 2009, the department must report its findings and any recommended statutory changes required to implement the findings to the President of the Senate and the Speaker of the Florida House of Representatives.

*Counties providing road equipment -* The bill provides that notwithstanding any law to the contrary, a county, city, or special district may not own or operate an asphalt plant or a portable or stationary concrete batch plant that has an independent mixer. An exception is provided for any county that owns or is under contract to purchase an asphalt plant as of April 15, 2008, and that furnishes its plant-generated asphalt solely for use by local governments or companies under contract with local governments for projects within the boundaries of the county. The bill prohibits the sale of plant-generated asphalt to private entities or local governments outside the county boundaries.

*Repealers -* The bill repeals s. 553.731, F.S., relating to wind-borne debris and provides that the repeal of the statutory provisions does not affect Florida Building Code requirements relating to wind resistance or water intrusion adopted pursuant to chapter 2007-1, L.O.F. The bill repeals s. 627.351(6)(a)6., F.S., relating to requirements for certain properties to meet the building code plus requirements as a condition of eligibility for coverage by Citizens Property Insurance Corporation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 116-0*

### **CS/HB 743 — Mortgage Fraud**

by Jobs and Entrepreneurship Council and Rep. Lopez-Cantera and others (CS/SB 1116 by Community Affairs Committee and Senators Margolis, Posey, Fasano, Lynn, Baker, and Wilson)

Law enforcement agencies are required to promptly notify the property appraiser if the agency makes a finding of probable cause of the crime of mortgage fraud or other fraud involving real property which could affect its value. Notification may be delayed if it would jeopardize or negatively affect the investigation. The property appraiser may reassess the real property considering the effect of the fraud on the property's valuation. Upon a conviction of mortgage fraud or other fraud involving real property which could affect its value, the property appraiser shall, if necessary, reassess the properties affected by the fraud. The bill also increases the penalty for mortgage fraud involving a loan value greater than \$100,000 from a third-degree felony to a second-degree felony.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 111-0*

### **CS/HB 853 — Cemetery Lands**

by Jobs and Entrepreneurship Council and Rep. Troutman and others (CS/SB 1308 by Judiciary Committee and Senator Bennett)

The bill provides that except for road system, transportation corridor, or rights-of-way purposes, property dedicated for cemetery purposes and licensed under ch. 497, part II, F.S., may not be taken by eminent domain if the area of property to be taken is one contiguous acre or greater in size, unless the taking entity determines in a public hearing that there are no reasonable alternatives except to use cemetery property for the project. It also prohibits a governmental entity from requiring the transfer of property dedicated for cemetery purposes and licensed under ch. 497, part II, F.S., as a condition of obtaining regulatory approval under the chapter.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 37-0; House 110-1*





---

**Senate Committee on  
Criminal and Civil Justice Appropriations**

**CS/SB 1788 — Indigent Civil Defense**

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill creates the Indigent Civil Defense Trust Fund for use by the offices of criminal conflict and civil regional counsel as provided in s. 27.511, F.S. The offices of criminal conflict and civil regional counsel are currently funded by general revenue. The office now has access to the Indigent Criminal Defense Trust Fund and funds have been appropriated in FY 2008-2009.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*

**CS/SB 1790 — State Judicial System**

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill increases certain service charges, court costs, and fees. Among other principal changes, the bill:

- Reassigns the funding responsibility for court juror payments from the State Court System to the clerk of the courts;
- Provides that the public defender shall provide appellate representation in criminal cases handled at trial by the criminal conflict and civil regional counsel, unless the case presents a conflict for the public defender, in which case the regional counsel or private court-appointed counsel shall handle the appeal;
- Allows part-time attorneys in the office of criminal conflict and civil regional counsel to take private-pay criminal cases for 2 years, unless the case presents a conflict of interest for the office;
- Deletes a provision allowing county court judges to receive a circuit court judge salary when hearing circuit court cases;
- Requires the clerks to report to the Office of the State Court Administrator on a quarterly basis on moneys collected and remitted to the Mediation and Arbitration Trust Fund;
- Decreases the number of judges in the Third District Court of Appeal from 11 to 10;
- Requires a person who seeks a determination of indigent status in order to receive court-appointed counsel in a dependency proceeding to pay a \$50 application fee;
- Creates a \$12.50 administrative fee to be paid for all noncriminal moving and nonmoving traffic violations under ch. 316, F.S.;

- Mandates costs of prosecution in all criminal, juvenile, and violation-of-probation or community-control case convictions;
- Mandates fees and costs related to receiving state-funded legal representation in a criminal or violation-of-probation or community-control case convictions;
- Clarifies that a person is liable for the application fee for a determination of indigent status in a criminal case and that the fee may be collected through the use of a lien;
- Increases the financial penalties for driving under the influence (DUI) and boating under the influence (BUI);
- Creates a new filing fee for certain counterclaim suits or cross appeals in county, circuit, and appellate courts;
- Creates a fee for the issuance of summons;
- Removes outdated language authorizing counties to recover attorney fees and costs for legal representation provided in certain proceedings involving children and families in need of services under ch. 984, F.S.;
- Directs the Clerk of Court Operations Corporation to not consider the increased revenue from the bill in setting the individual clerk of court budgets; and
- Allows the Clerk of Court Operations Corporation to increase the clerk budgets to pay for juror payments. On an annual basis, clerks can increase their budgets by \$4.7 million in the aggregate.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*

### **CS/SB 1792 — Criminal History Information**

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill increases fees for criminal history background checks by the Florida Department of Law Enforcement by amending s. 943.053, F.S. The current fee is \$23 for each records check with the exception of background checks for vendors of the Department of Children and Family Services (DCF), Department of Elder Affairs (DEA), Department of Juvenile Justice (DJJ), specific checks for the Department of Agriculture and Consumer Services (DACs), and summer camps. The new fee structure will increase the fee by \$1 to \$24 for the dissemination of criminal justice information and is estimated to generate an additional \$1,750,000 in fee revenues. This bill will also allow the department to apply the revenue generated from this fee to any legislatively approved department purpose rather than strictly toward the cost of providing the service.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*

### **SB 2100 — Shared County/State Juvenile Detention Trust Fund/DJJ**

by Senator Crist

This bill (Chapter 2008-8, L.O.F.) re-creates the Shared County/State Juvenile Detention Trust Fund within the Department of Juvenile Justice without modification, and repeals the provisions that would have terminated the trust fund. This bill amends s. 985.686, F.S.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 78-37*

### **SB 2820 — Juvenile Offenders/Residential Facilities**

by Senator Crist

This bill places limitations on residential facilities that house juvenile offenders by amending the restrictiveness levels in s. 985.02, F.S., so that low-risk, moderate-risk, high-risk, and maximum-risk residential facilities must have no more than 165 beds each. This policy change was adopted by the Legislature in order to better serve kids that are placed in residential programs, because smaller programs improve the quality of the programs. Also, smaller programs give the Department of Juvenile Justice the ability to place these programs in the communities where these kids live and will encourage more family participation in the future.

This limitation does not apply if the facility has a specified campus-style program that includes more than one level of restrictiveness, provides multilevel education and treatment programs using different treatment protocols, and has facilities that co-exist separately in distinct locations on the same property. This exemption applies to the DeSoto Juvenile Correctional Facility and the Dozier Campus, which facility houses both the Dozier School for Boys and the Jackson Juvenile Offender Correctional Center. The Department of Juvenile Justice will have to rearrange two facilities, Hastings Moderate-risk facility and Avon Park Youth Academy, and transfer juveniles in order to accommodate the restriction.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*



## **CONTROLLED SUBSTANCES**

### **CS/HB 173 — Controlled Substances**

by Safety and Security Council and Rep. N. Thompson and others (CS/SB 390 by Criminal Justice Committee and Senators Oelrich, Gaetz, and Lynn)

The primary purpose of the bill is to address the illegal growing of marijuana through indoor grow operations. The bill defines "cultivating," a term of relevance to indoor grow operations. The bill also creates several felony offenses, which are ranked within the offense-severity ranking chart of the Criminal Punishment Code:

- A third-degree felony (level 5) to own, lease, or rent any place, structure, or part thereof, trailer, or other conveyance with the knowledge that it will be used for the purpose of manufacturing a controlled substance intended for sale or distribution to another.
- A second-degree felony (level 7) to knowingly be in actual or constructive possession of any place, structure, or part thereof, trailer, or other conveyance with the knowledge that it will be used for the purpose of trafficking in a controlled substance, selling a controlled substance, or manufacturing a controlled substance intended for sale or distribution to another.
- A first-degree felony (level 8) to be in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge it is being used to manufacture a controlled substance intended for sale or distribution to another, if the violator knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance.

The bill also provides that proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution.

The bill also provides that in the prosecution of an offense involving the manufacture of a controlled substance, a photograph or video recording of the manufacturing equipment used in committing the offense may be introduced as competent evidence of the existence and use of the equipment and is admissible in the prosecution of the offense to the same extent as if the property were introduced as evidence.

Finally, the bill provides that after a law enforcement agency documents the manufacturing equipment by photography or video recording, the agency may destroy the manufacturing equipment on site and leave it in disrepair. The law enforcement agency destroying the equipment is immune from civil liability for the destruction of the equipment. The destruction of

the equipment must be recorded by the supervising law enforcement officer and records must be maintained for 24 months.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-0; House 115-1*

### **CS/HB 1363 — Controlled Substances**

by Safety and Security Council and Rep. Brandenburg and others (CS/SB 340 by Criminal Justice Committee and Senators Lynn and Dockery)

The bill schedules *Salvia divinorum* and Salvinorin A as Schedule I controlled substances. *Salvia divinorum*, a relatively rare sage plant, and Salvinorin A, the plant's main psychoactive component, are being used recreationally in the United States for their hallucinogenic-like effects. The bill provides for an exception to the scheduling of *Salvia divinorum* and Salvinorin A: any drug product approved by the U.S. Food and Drug Administration which contains either of these substances or their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 109-4*

## **CORRECTIONS**

### **CS/CS/SB 2000 — Sentencing/Justice and Correctional Policies**

by Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee; and Senator Dockery

The bill creates the Correctional Policy Advisory Council within the Legislature. The Council is a 10-member advisory body that is abolished July 1, 2011. The purpose of the council is to evaluate and make findings and recommendations on or before January 15 of each year regarding correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections. All recommendations must be consistent with the goals of protecting public safety and providing for the most cost-effective and efficient use of correctional resources to the extent that such use is not in conflict with the public safety goal.

The council consists of the following members: two senators; two representatives; a representative from the victim advocacy profession appointed by the Attorney general; the Attorney General or designee; the Secretary of Corrections or designee; one state attorney, one public defender, and one private attorney appointed by the Governor. Council members serve without compensation but are entitled to per diem and travel expenses. The Office of Legislative Services provides administrative staff support and EDR provides technical and substantive staff support.

The council contains a Justice Reinvestment Subcommittee. The subcommittee is tasked with reviewing the availability of alternative sanctions for low-level drug and property offenders, the effectiveness of mental health and substance abuse diversion programs, the effectiveness of prison reentry practices, the feasibility of implementing a progressive sanctions system for probationers, the impact of jail overcrowding on the effectiveness of local alternative programs and sanctions, the effectiveness of supervision strategies, and the delivery of supervision and programs in neighborhoods that have a high proportion of supervised offenders. The council is required to develop a technical assistance agreement with the Justice Center of the Council of State Governments to work with the subcommittee to accomplish its duties.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 117-0*

### **HB 7137 — Department of Corrections**

by Safety and Security Council and Rep. Adams (CS/CS/CS/CS/SB 1614 by Criminal and Civil Justice Appropriations Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Criminal Justice Committee)

This bill addresses a number of issues within the department's jurisdiction. Through its principal provisions, the bill:

- Provides that an administrative law judge may appoint a private pro bono attorney in a continued placement proceeding to represent an inmate who is receiving treatment in a correctional mental health facility.
- Adds cellular phones and other portable communication devices to the list of articles declared to be contraband within a state prison and makes it a third-degree felony to introduce or possess a cellular phone or portable communication device with an intent to provide the device to an inmate.
- Revises the Corrections Mental Health Act to allow, among other changes, a court to waive the presence of an inmate at the mental health hearing, the inmate's counsel to have access to the inmate and records that are relevant to representation of the inmate, and an administrative law judge to waive the inmate's presence at a continued placement hearing.
- Requires the department to house certain young adult offenders, who currently must be housed separately, at youthful offender facilities.
- Authorizes a court to place on community control an offender who has been convicted of a forcible felony and who has a prior forcible felony conviction.
- Removes the requirement that a trainee who attends an approved basic recruit training program paid for by the employing agency and leaves employment less than two years

after graduation shall reimburse the agency for wages and benefits paid during the training period.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 37-0; House 105-0*

## **CRIMINAL OFFENSES AND PENALTIES**

### **CS/CS/HB 43 — Criminal Activity/Criminal Gangs**

by Policy and Budget Council; Safety and Security Council; and Rep. Snyder and others (CS/CS/SB 76 by Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee; and Senators Atwater, Gaetz, Lynn, Fasano, Baker, Haridopolos, Bullard, and Jones)

This bill addresses the problem of criminal gang activity in Florida. The bill requires a felon, as part of convicted felon registration, to register information on any felony committed for the purpose of furthering a criminal gang, and creates a third degree felony for failure to register this information.

The bill creates a first degree felony, punishable by imprisonment up to life and ranked in level 7 of the offense severity ranking chart of the Criminal Punishment Code, for a person to own or possess a firearm, ammunition, or specified weapon or device if that person has been convicted of a felony and has previously qualified or currently qualifies for penalty enhancements under the gang chapter (ch. 874, F.S.).

The bill provides that a person commits a third degree felony if he or she is in possession of a bulletproof vest while committing or attempting to commit a criminal gang-related offense under ch. 874, F.S., or a narcotics offense under ch. 893, F.S.

The bill also provides that a criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. The use of a location on two or more occasions by such person or persons for the purpose of engaging in criminal gang-related activity is also a public nuisance. These public nuisances can be abated or enjoined.

The bill makes a number of changes to current definitions and creates new definitions. The bill specifies that "criminal gangs" include terrorist organizations and hate groups. A "criminal gang member" is not required to be a member of a "criminal gang" but must meet two or more specified criteria, including new criteria. The bill expands "criminal gang-related activity" to include activity for a non-monetary benefit (such as status), and provides that a single act or factual transaction may satisfy multiple criteria.



The bill provides that findings necessary for imposing the current enhanced penalty for gang-related offenses must be found "beyond a reasonable doubt."

The bill amends provisions relating to the recovery of attorney's fees and costs in a civil cause of action for treble damages under s. 874.06, F.S., for harm in violation of ch. 874, F.S., and provides that the state has a civil cause of action for damages (excluding punitive damages). The bill creates a first degree misdemeanor for knowingly violating a temporary or permanent order relating to abating or enjoining a public nuisance.

The bill authorizes the Florida Department of Law Enforcement to compile and retain information regarding criminal gangs, and authorizes local law enforcement agencies to create or update the electronic file of a suspected gang member or associate within that database and to notify the prosecutor of that individual's status.

The bill creates a first degree felony, punishable by imprisonment up to life and ranked in level 7, for a person to knowingly initiate, organize, plan, finance, direct, or supervise criminal gang-related activity ("gang kingpin" penalty).

The bill also creates a third degree felony for any person who, for the purpose of furthering the interests of a criminal gang, uses electronic communication (defined in the bill) to intimidate or harass other persons, or to advertise his or her presence in the community, including, but not limited to, such activities as distributing, selling, transmitting, or posting on the Internet any audio, video, or still image of criminal activity.

The bill also creates a second degree felony for possessing or manufacturing any blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued identification document to further the interests of a criminal gang.

The bill provides that juvenile adjudications of delinquency may serve as predicate offenses for a racketeering charge, and adds additional predicate offenses for a racketeering charge, such as fleeing and eluding, burglaries, etc., which are offenses commonly committed by criminal gang members.

The bill requires courts during bail determinations to consider whether the funds, real property, etc., used to post bail or procure an appearance bond may be linked to or derived from criminal activity, and places the burden on the defendant to establish noninvolvement in or nonderivation from such activity of such funds, real property, etc. Courts, during bail determination, must also consider whether the crime charged is a violation of ch. 874, F.S., or alleged to be subject to enhanced punishment under that chapter. If such is the case, the defendant is ineligible for release on bail or surety bond until the first appearance on the case.

The bill creates new penalties for tampering or harassment affecting a criminal investigation or criminal proceeding so that the tampering offense is one misdemeanor or felony degree greater

than the misdemeanor or felony degree of the crime being investigated or prosecuted, or in the case of the harassment offense, is the same degree as the misdemeanor or felony degree of the crime being investigated or prosecuted. Further, it is a third degree felony to commit tampering or harassment that affects an official investigation or official proceeding of a crime in which the misdemeanor or felony degree is indeterminable or involves a noncriminal investigation or proceeding.

The bill authorizes the Florida Violent Crime and Drug Control Council to disburse grants for certain gang initiatives, amends criteria and other provisions relevant to grant disbursement, and creates the Drug Control Strategy and Criminal Gang Committee within the council to review and approve all requests for disbursement of funds.

The bill provides as a condition of probation, community control, parole, or conditional release that persons found to have committed a crime for the purpose of furthering the interests of a criminal gang are prohibited from knowingly associating with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal gang activity.

Finally, the bill creates an 11-member Coordinating Council on Criminal Gang Reduction Strategies within the Department of Legal Affairs. The council's duties include, but are not limited to, developing a statewide strategy to stop the growth of, reduce the number of, and render ineffectual criminal gangs in this state. The council is abolished June 30, 2009.

If approved by the Governor, these provisions take effect October 1, 2008, except as otherwise provided.

*Vote: Senate 39-0; House 119-0*

## **HB 61 — Offenses Against Officers**

by Rep. Scionti and others (CS/SB 654 by Criminal Justice Committee and Senator Crist)

The bill extends the current prohibition against a citizen's use of violence to resist an arrest to include virtually any legal duty undertaken by a law enforcement officer so long as it is undertaken in good faith.

The bill prohibits the use of force "to resist a law enforcement officer who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith." The bill gives law enforcement officers greater legal protections in citizen encounters that don't rise to the level of arrests, should a citizen respond to an officer aggressively or violently.

Also, the law enforcement officer or any person summoned to assist the officer may not use force under circumstances, including arrests or the execution of other legal duties, if the officer's actions are unlawful and known by him or her to be unlawful.

This bill substantially amends s. 776.051, F.S.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 115-0*

### **HB 85 — Lewd or Lascivious Molestation**

by Rep. Kravitz and others (SB 496 by Senators Dockery and Fasano)

The bill provides that, for a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), F.S. (lewd or lascivious molestation by a person 18 years of age or older against a victim less than 12 years of age), the penalty is a term of imprisonment for life.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 112-0*

### **CS/SB 92 — Persons Injured by Crime/Medical Treatment**

by Judiciary Committee and Senators Villalobos, Gaetz, Dockery, and Lynn

The bill creates two new felony offenses when a person takes custody of or exercises control over someone he or she knows to be injured as a result of criminal activity and deprives that person of medical care with the intent to avoid, delay, hinder, or obstruct any investigation of the criminal activity contributing to the injury. It is a third-degree felony if the victim's medical condition worsens as a result of the deprivation of medical care. It is a second-degree felony if the deprivation of medical care results in the victim's death.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 117-0*

### **CS/HB 321 — Murder of Law Enforcement Officers**

by Safety and Security Council and Rep. Snyder and others (CS/SB 1064 by Criminal Justice Committee and Senators Dockery, Baker, Dean, and Bullard)

The bill provides that a person shall be sentenced to life imprisonment without eligibility for early release if the person is found beyond a reasonable doubt to have committed or attempted to commit murder in the first degree as described in s. 782.04(1), F.S., and a death sentence was not imposed; murder in the second or third degree as described in s. 782.04(2), (3), or (4), F.S.; attempted murder in the first or second degree as described in s. 782.04(1)(a)1. or (2), F.S.; or attempted felony murder as described in s. 782.051, F.S., when the victim of the offense is a law

enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer engaged in the lawful performance of a legal duty.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 110-0*

### **SB 366 — Elderly Persons and Disabled Adults/Abuse and Neglect**

by Senators Margolis, Fasano, Bullard, and Lynn

The bill increases the felony degree of the offense of aggravated abuse of an elderly person or disabled adult from a second degree felony to a first degree felony. The bill also requires that certified law enforcement personnel receive training in the identification and investigation of elder abuse and neglect.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*

### **CS/HB 537 — Offense of Voyeurism**

by Safety and Security Council and Rep. Dorworth and others (CS/SB 328 by Criminal and Civil Justice Appropriations Committee and Senators Aronberg and Fasano)

The bill provides that it is a third degree felony for:

- A person 18 years of age or older to commit video voyeurism against a child younger than 16 years of age when the offender is responsible for the welfare of the child, regardless of whether the person knows or has reason to know the age of the child;
- A person 18 years of age or older who is employed at a K-12 school or voluntary prekindergarten program, whether public or private, to commit video voyeurism against a student of the school or program; or
- A person 24 years of age or older to commit video voyeurism against a child younger than 16 years of age, regardless of whether the person knows or has reason to know the age of the child.

The bill also provides that these offenses are second degree felonies if the offender has a prior conviction or delinquency adjudication for video voyeurism.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*

**CS/HB 559 — Material Harmful to Minors**

by Safety and Security Council and Rep. Schenck and others (CS/CS/SB 1128 by Judiciary Committee; Criminal Justice Committee; and Senator Fasano)

This bill expands what materials might be determined harmful to minors by amending the three-pronged definition of "harmful to minors."

The bill provides that any person who knowingly sells, etc., obscene materials that depict a minor engaged in any act or conduct that is harmful to minors commits a third degree felony. The bill also provides that it is a third degree felony for a person to knowingly use a minor in the production of certain proscribed material (such as photographs or videos of sexual conduct) regardless of whether the material is intended for distribution to minors or is actually distributed to them.

The bill amends sections of law relating to the prohibition of sale or other distribution of materials harmful to minors and relating to exposing minors to harmful motion pictures, by removing an "honest mistake" excuse from the definition of "knowingly."

Throughout various obscenity statutes dealing with minors, the bill provides that a person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for offenses under those statutes.

Legislative intent language is amended to specify that it is the intent of the Legislature to preempt the field, to the exclusion of counties and municipalities, insofar as it concerns exposing persons less than 17 years of age to commercial or sexual exploitation.

Finally, the bill provides exceptions from criminal offenses for providers of communications services or providers of information services.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 111-0*

**CS/SB 1988 — Drivers' Licenses/Suspended, Revoked, or Canceled**

by Criminal Justice Committee and Senators Dockery and Joyner

The bill subjects persons convicted of knowingly driving while their license is suspended, revoked, or cancelled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction, and a first degree misdemeanor penalty for the second or subsequent conviction. (Currently, the third conviction is punished as a third degree felony.)

The underlying enumerated violations are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;
- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

This newly created first degree misdemeanor penalty is available only to drivers who do not have a prior forcible felony conviction.

The bill also requires the Department of Highway Safety and Motor Vehicles to study the effectiveness of suspending a person's driver's license for the underlying violations listed above and to submit a report to the Governor and Legislature by January 2, 2009.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-3; House 117-2*

## **LAW ENFORCEMENT**

### **CS/HB 151 — Radio Equipment Using Law Enforcement Frequencies**

by Safety and Security Council and Rep. Reed and others (CS/SB 522 by Criminal Justice Committee and Senators Hill and Lynn)

The bill provides that the prohibition on unlawfully installing or transporting radio equipment using an assigned frequency of state or local law enforcement officers does not apply to:

- Any sworn law enforcement officer as defined in s. 943.10(1), F.S., or emergency service employee as defined in s. 496.404(9), F.S., while using personal transportation to and from work.
- An employee of a government agency that holds a valid Federal Communications Commission station license or a valid agreement or contract allowing access to another agency radio station.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*

## **HB 7113 — Department of Law Enforcement**

by Safety and Security Council and Rep. Adams (CS/SB 838 by Criminal Justice Committee and Senator Dockery)

The bill makes several changes to the policies and procedures of the Florida Department of Law Enforcement (FDLE) relating to the statewide fingerprint system, administrative expunction, sealing and expunged records, the Criminal and Juvenile Information Systems Council, and Florida Missing Children's Day. The bill provides that if fingerprints submitted to the FDLE for background screening, whether retained or not, are identified with the fingerprints of a person having a criminal history record, such fingerprints may subsequently be available for all purposes and uses authorized for arrest fingerprint cards. This includes entry into the statewide automated fingerprint identification system to augment or replace the fingerprints that identify the criminal history record.

The bill clarifies statutory authority applicable to fees assessed for records of criminal history information. It also provides that a qualified entity can electronically submit to the FDLE a request for screening an employee or volunteer or person applying to be an employee or volunteer. It removes language that might suggest (inaccurately) that the fee assessed to qualified entities for a statewide criminal history check is based on the FDLE's assessment of the actual cost of producing the record information. The fee assessed by the FDLE is actually the fee prescribed by the Legislature, as provided in s. 943.053, F.S.

The bill provides that the endorsement for an application for an administrative expunction of a nonjudicial record of an arrest can be made by the designee of the head of the arresting agency or a designee of the state attorney of the judicial circuit in which the arrest occurred. It removes the requirement for an affidavit to be included with the application. It eliminates the requirement to report in the application the name of the arresting officer, but requires that the application include the offender-based tracking system number, be on the submitting agency's letterhead, and be signed by the head of the submitting agency or a designee. It also provides that if the person was arrested on a warrant, *capias*, or pick-up order, a request for an administrative expunction may be made by the sheriff (or his or her designee) of the county where the warrant, *capias*, or pick-up order was issued, or by the state attorney (or his or her designee) of the judicial circuit where the warrant, *capias*, or pick-up order was issued or his or her designee.

The bill provides that those seeking employment with the Agency for Health Care Administration or the Agency for Persons with Disabilities cannot deny or fail to acknowledge an expunged or sealed arrest. A sealed criminal history record is made available to state court judges to assist them in their case-related decisionmaking responsibilities.

The bill adds the Secretary of the Department of Children and Family Services or the Secretary's designated assistant as a member of the Criminal and Juvenile Justice Information Systems (CJJIS) Council. It also amends CJJIS Council statutes to reflect technological advances and address privacy issues as they relate to increased availability of shared data.

The bill authorizes the FDLE to establish a citizen support organization (CSO) to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. It defines the CSO, specifies how it is organized and its function, specifies authorized activities of and limitations on the CSO, authorizes the FDLE to adopt rules with which the CSO must comply; specifies that money received from rentals of facilities and properties managed by the FDLE is to be held in the FDLE's operating trust fund or in a separate depository account (in the name of the CSO and subject to the provisions of a letter of agreement with the FDLE), specifies that funds held in a separate depository account must revert to the FDLE if the CSO is no longer approved by the FDLE to operate in the best interests of the state, and requires the CSO to provide an annual financial audit.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

## **PUBLIC SAFETY**

### **CS/HB 29 — DNA Testing**

by Safety and Security Council and Rep. Snyder and others (CS/SB 472 by Criminal and Civil Justice Appropriations Committee and Senators Dean, Haridopolos, Bullard, Dockery, and Lynn)

In 1989, the Legislature enacted s. 943.325, F.S., which required the Florida Department of Law Enforcement (FDLE) to establish and maintain a statewide DNA data bank. Originally, the statute only required persons convicted of offenses relating to sexual battery or lewd and lascivious conduct to submit blood samples to the FDLE. Since that time, qualifying offenses have been added at a measured pace. This bill (Chapter 2008-27, L.O.F.) adds certain misdemeanor offenses for inclusion in the database.

Offenders who are convicted of misdemeanor violations of ss. 784.048, 810.14, 847.011, 847.013, 847.0135, or 877.26, F.S., or have previously been convicted and are still under some form of incarceration, juvenile commitment, or court-ordered supervision, will be required to submit biological specimens.

The misdemeanor offenses currently prohibited by these sections of law are:

- Section 784.048(2), F.S. – Stalking
- Section 810.14(1), F.S. – Voyeurism



- Section 847.011, F.S. – Prohibition of certain acts in connection with obscene, lewd, etc., materials
- Section 847.013, F.S. – Exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations
- Section 847.0135, F.S. – Computer pornography
- Section 877.26, F.S. – Direct observation, videotaping, or visual surveillance of customers in merchant's dressing room

The bill would also require DNA sample collection from persons who have been found by the court to have committed offenses for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang. The definition of criminal street gang is found in s. 874.03(1), F.S., which states: "Criminal street gang" means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols and have two or more members who, individually or collectively, engage in or have engaged in a pattern of criminal street gang activity.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*

### **CS/HB 503 — Right to Keep and Bear Arms in Motor Vehicles**

by Environment and Natural Resources Council and Rep. Evers and others (CS/SB 1130 by Judiciary Committee and Senators Peaden and Baker)

This bill (Chapter 2008-7, L.O.F.) creates the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008," which will codify legislative policy regarding statutory rights of lawful firearm owners and carriers as contrasted with the statutory rights of public or private employers.

The bill provides the following definitions:

- "Parking lot" means any property that is used for parking motor vehicles and is available to customers, employees, or invitees for temporary or long-term parking or storage of motor vehicles.
- "Motor vehicle" means any automobile, truck, minivan, sports utility vehicle, motor home, recreational vehicle, motorcycle, motor scooter, or any other vehicle operated on the roads of this state and required to be registered under state law.

- "Employee" means any person who possesses a valid concealed weapon or firearm license and who
  - Works for salary, wages, or other remuneration;
  - Is an independent contractor; or
  - Is a volunteer, intern, or other similar individual for an employer.
- "Employer" means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution, or association, or public-sector entity, that has employees.
- "Invitee" means any business invitee, including a customer or visitor, who is lawfully on the premises of an entity.
- "Firearm" includes ammunition and accouterments attendant to the lawful possession and use of a firearm.

This bill prohibits employers from violating what are called the "constitutional rights" of a customer, employee, or invitee in the following ways:

- Prohibiting the lawful possession of properly secured firearms within or upon a private motor vehicle in the employer's parking lot;
- Inquiring, verbally or in written form, as to the presence of a firearm or by conducting a search of a vehicle for a firearm. Searches are limited to those lawfully conducted by on-duty law enforcement personnel;
- Conditioning employment upon the employee holding or not holding a valid concealed weapon or firearm license, or upon an agreement to not keep a firearm in a motor vehicle;
- Limiting access to the employer's parking lot based upon whether there is a firearm within the vehicle; and
- Discriminating or terminating employment or expelling a customer or invitee because he or she exercises the right to keep and bear arms or lawfully defend oneself.

The prohibitions listed above do not apply, under the bill, to:

- School property as defined in s. 790.115, F.S.;
- Any correctional institution regulated under s. 944.47, F.S., or ch. 957, F.S.;
- Property where substantial activities involving national defense, aerospace, or domestic security are conducted;
- Property where a nuclear-powered electricity generation facility is located;

- Property where combustible or explosive materials regulated under state or federal law are manufactured, used, stored, or transported;
- A motor vehicle owned, leased, or rented by an employer or his landlord; and
- Any other property where possession of a firearm is prohibited by any federal contract, federal law, or general law of this state.

The bill declares that, except for those employers listed above, other public or private employers are relieved of a duty of care insofar as it relates to the actions that they are prohibited from engaging in by the bill.

The bill provides immunity from civil liability to public or private employers based on actions or inactions taken in compliance with the bill. This immunity does not apply to civil actions based on the actions or inactions of employers that are unrelated to compliance with the bill.

The bill provides for enforcement of the act by the Attorney General, who is instructed to commence a civil or administrative action for damages, injunctive relief, civil penalties, and any other relief that may be appropriate. The Attorney General is authorized by the bill to negotiate a settlement on behalf of the aggrieved person. The bill does not prohibit a person from bringing his or her own civil suit for violations of rights protected by the act. In any successful action, the court shall award all court costs, attorney's fees, and reasonable personal costs and losses suffered by the aggrieved party as a result of the violation of rights under this act.

These provisions were approved by the Governor and take effect July 1, 2008, and shall apply to causes of action accruing on or after that date.

*Vote: Senate 26-13; House 72-42*

### **CS/SB 1616 — Weapon and Firearm Licenses/Interagency Data Sharing**

by Judiciary Committee; Criminal Justice Committee; and Senator Lynn

This bill authorizes the Florida Department of Law Enforcement to share data with the Department of Agriculture and Consumer Services (department) on a routine basis. Currently, the mental health data in the MECOM (mental competency) database is shared, upon request, at the time the department is conducting a background check on the initial application for a concealed weapon or firearm license. Once the application is approved and the license is issued, the department is statutorily required to suspend or revoke the license when a license-holder is adjudicated an incapacitated person or is committed to a mental institution. However, the department does not have routine access to the information necessary to form the basis of a suspension or revocation on mental health grounds. This bill would give the department that access.

Additionally, the bill expands the definition of "committed to a mental institution" to include individuals under court order for involuntary outpatient placement, for purposes of the issuance of concealed weapons and firearms licenses, as well as suspension or revocation of those licenses.

This bill substantially amends s. 790.065, F.S.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 115-0*

## **PUBLIC RECORDS**

### **CS/SB 1618 — Open Government Sunset Review/Victims of Child Abuse or Sex Crimes**

by Criminal Justice Committee and Senators Bullard and Lynn

The bill reenacts the public record exemption currently found in s. 119.071(2)(h)2., F.S., which is subject to open government sunset review. This provision makes confidential and exempt any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of a victim of specified sexual offenses. The bill modifies and slightly expands this exemption to include any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of a victim of a sexual offense under ch. 796, F.S., such as sex trafficking, and a sexual offense under ch. 847, F.S., such as child pornography. The bill also makes the same change to a related exemption currently found in s. 119.071(2)(h)1., F.S., to which s. 119.071(2)(h)2., F.S., is linked. This exemption pertains to criminal intelligence information and criminal investigative information that identifies the victim of child abuse and sexual offenses.

The bill also expands the exemption in s. 119.071(2)(h)1., F.S., by making the records in this exemption confidential and exempt rather than simply exempt.

The bill allows a law enforcement agency to disclose records in s. 119.071(2)(h), F.S., in the following circumstances: in furtherance of the law enforcement agency's official duties and responsibilities; for print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered; and to another governmental agency in the furtherance of its official duties and responsibilities. The bill states that the information provided relevant to missing or endangered persons should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

The bill also deletes chapter law providing for the repeal of s. 119.071(2)(h)2., F.S.; provides that s. 119.071(2)(h), F.S., is subject to the Open Government Sunset Review Act in accordance

with s. 119.15, F.S. (legislative review of exemptions), and stands repealed on October 2, 2013, unless reviewed and saved from repeal through reenactment by the Legislature; and provides a statement of public necessity for the exemptions in s. 119.071(2)(h), F.S.

The bill also amends s. 119.0714, F.S., relating to court records and court files, to make that statute consistent with the changes to s. 119.071(2)(h), F.S., by indicating that criminal intelligence information or criminal investigative information that is confidential and exempt as provided in s. 119.071(2)(h), F.S., is an exception from disclosure requirements regarding a public record that was made a part of a court file and that is not specifically closed by court order.

The bill also amends s. 92.56, F.S., relating to court records, to provide that the confidential and exempt status of the information in s. 119.071(2)(h), F.S., must be maintained in court records and in court proceedings. If a petition for access to such confidential and exempt information is filed with the trial court with jurisdiction over the alleged offense, the confidential and exempt status of such information must be maintained by the court if the state or the victim demonstrates that the criteria currently provided in s. 92.56, F.S., are met.

Further, the bill amends s. 92.56, F.S., to provide that a defendant charged with any specified sexual offenses or child abuse offenses under that statute may apply to the trial court for an order of disclosure of information in court records held confidential and exempt pursuant to s. 119.0714(1)(h), F.S., or maintained as confidential and exempt pursuant to court order under that statute. Such identifying information concerning the victim may be released to the defendant or his or her attorney in order to prepare the defendant's defense. The confidential and exempt status of such information may not be construed to prevent the disclosure of the victim's identity to the defendant.

Finally, the bill amends s. 794.03, F.S., which provides for a criminal penalty for publishing or broadcasting information identifying the victim of a sexual battery. The amendment creates an exception to the statute for confidential and exempt information disclosed as provided in s. 119.071(2)(h), F.S., or when the court determines that such information is no longer confidential and exempt pursuant to s. 92.56, F.S.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 38-0; House 119-0*

## **PRETRIAL RELEASE**

### **CS/CS/SB 2676 — Citizens' Right-to-Know Act/Pretrial Release**

by Criminal and Civil Justice Appropriations Committee; Judiciary Committee; and Senator Crist

The bill prescribes reporting requirements for pretrial release programs and also amends several sections related to the posting of bail.

The bill requires pretrial release programs to maintain a register with the clerk of the court which provides detailed information about defendants interviewed and released through the program. It further requires pretrial release programs to make annual reports which provide detailed information related to defendants released through the program and budgetary matters.

The bill provides that any monetary component of pretrial release may be met by a surety bond and prohibits differing amounts from being set for cash bonds, surety bonds, or other forms of pretrial release.

The bill requires cash bond forms to display a notice that any and all parts of a cash bond may be subject to withholding by the clerk of the court to pay court costs, fees, and fines, regardless of who posts the cash bond.

The Office of Program Policy Analysis and Government Accountability is directed to complete annual studies for the presiding officers of the Legislature evaluating the effectiveness and cost-efficiency of pretrial release programs.

This bill substantially amends ss. 903.011 and 903.286, F.S., and creates s. 907.043, F.S.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 114-2*

## **VICTIM PROTECTION**

### **HB 313 — Dating Violence**

by Rep. Kelly and others (SB 1188 by Senators Dean and Lynn)

This bill creates the "Barwick-Ruschak Act" and provides a variety of requirements that law enforcement officers who are investigating alleged incidents of dating violence must follow. Such requirements include providing victims of dating violence notice of their legal rights and remedies, providing victims information about local domestic violence centers, and including certain information in police reports.

This bill also provides that a person who willfully violates a condition of pretrial release, where the initial arrest was for an act of dating violence, commits a misdemeanor of the first degree and must be held in custody until his or her first appearance.

This bill makes conforming changes to permit a law enforcement officer to make a warrantless arrest when there is probable cause to believe that the person has committed an act of dating violence (similar to domestic violence).

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 40-0; House 113-0*

### **CS/SB 622 — Orders of No Contact with Victims of Crimes**

by Criminal Justice Committee and Senators Dockery and Lynn

The bill adds several violent offenses prescribed in s. 775.084(1)(b)1.a.-o., F.S., to the current crimes requiring a court to issue a no-contact order with the victim when sentencing a convicted offender. These offenses would include the following: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; and aggravated stalking.

Violating a no-contact order remains a third-degree felony under the bill.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 40-0; House 119-0*

### **CS/CS/CS/SB 1442 — Exploited Children**

by Criminal and Civil Justice Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Dockery, Baker, and Lynn

This bill provides additional protections in civil and criminal proceedings, as well as a civil remedy for victims of child pornography. Specifically, the bill:

- Allows for the use of a pseudonym in court records and proceedings instead of revealing the victim's name;
- Removes a requirement that the prosecution prove that the person who sells or transfers custody of a minor knew that "force, fraud, or coercion" would be used to cause the minor to engage in prostitution. Instead, the prosecution would only need to prove that the person selling or transferring the custody of a minor knew that the minor being sold

would engage in prostitution, perform naked for compensation, or otherwise participate in the trade of sex trafficking;

- Relocates a provision in s. 800.04(7)(b), F.S., proscribing the offense of lewd or lascivious exhibition live over a computer online service, to the computer pornography statute in s. 847.0135(5), F.S. (This is a technical restructuring; the current criminal penalties are not affected by this transfer.);
- Requires law enforcement officers who recover child pornography images or movies during an investigation to provide these images and other identifying information to the National Center for Missing and Exploited Children, Child Victim Identification Program;
- Requires prosecutors to enter certain information into the Victims in Child Pornography Tracking Repeat Exploitation database to be developed and maintained by the Office of the Attorney General;
- Creates a new state civil remedy, allowing victims of child pornography to recover actual damages and costs against a producer, promoter, or possessor of images involving the victim;
- Provides that these victims of child pornography shall be deemed to have sustained minimum damages of \$150,000;
- Allows the Office of the Attorney General to pursue cases on behalf of child pornography victims, and to seek any reasonable attorney's fees and costs; and
- Allows identified victims of child pornography and child victims of online sexual exploitation who suffer psychiatric or psychological injury as a direct result of the crime to file a victim's compensation claim under ch. 960, F.S.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 115-0*



## **ETHICS IN EDUCATION**

### **CS/CS/CS/SB 1712 — Ethics in Education Act**

by Education Pre-K – 12 Appropriations Committee; Governmental Operations Committee; Education Pre-K – 12 Committee; and Senators Carlton, Gaetz, and Lynn

The bill establishes comprehensive changes at the state and local level regarding the screening, hiring, and termination policies for educators and the reporting procedures related to allegations of educator misconduct.

#### ***Background Screening***

Each school district, charter school, and private school that accepts scholarship students under certain state programs must to screen potential applicants for instructional personnel and school-based administrator positions by contacting previous employers, reviewing the certification history of the individual through the Department of Education certification website, and performing criminal history records checks on these individuals.

The bill establishes a list of crimes that would disqualify an individual , if convicted, from obtaining or retaining a teaching certificate or instructional employment involving direct contact with students.

#### ***Immediate Suspension and Reassignment from Classroom or School***

A school district superintendent must immediately suspend and reassign instructional personnel or school-based administrators from direct contact with students upon an allegation of misconduct involving the health, safety, or welfare of students.

#### ***Confidentiality Agreements Prohibited***

Schools are prohibited from entering into confidentiality agreements when terminating an employee when the termination is based in whole or in part on the misconduct of the individual, which affects the health, safety, or welfare of students. Schools are also prohibited from providing a reference to a prospective employer without disclosing such misconduct.

#### ***Penalties and Sanctions***

The bill includes significant financial penalties and teacher-certification sanctions for non-compliance. District school superintendents and school personnel that fail to report misconduct

of instructional personnel and school-based administrators, which affects the health, safety, or welfare of students would also be subject to certification penalties.

The bill provides that any public officer or employee convicted of certain sex-related offenses on minors within the scope of his or her duties would forfeit his or her right to any state retirement benefits, except for an individual's accumulated contributions up to the time of the conviction.

### ***Education Practices Commission***

The bill revises the membership of the Education Practices Commission to include sworn law enforcement officers, parents of public school students, and an administrator of a private school. The authority of the commission is expanded to include discipline of an educator who knowingly fails to report suspected or actual child abuse or misconduct by an educator.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*

## **SCHOOL STANDARDS, ACCOUNTABILITY, AND GRADING**

### **CS/SB 1908 — State Curriculum Standards, Accountability, and High School Grades**

by Education Pre-K – 12 Committee and Senators Gaetz, Lynn, and Wise

#### ***School Grading***

Beginning with the 2009-2010 school year, the bill revises the high school grading formula to reduce the FCAT component of a high school's grade to 50 percent of the grade and adds the school's graduation rate, at-risk student graduation rate, postsecondary readiness rate, and the participation and performance of students on demanding coursework such as Advanced Placement, International Baccalaureate, dual enrollment, Advanced International Certificate of Education, and industry certification in a career and professional academy as the remaining 50 percent of a school's grade.

The bill revises the assignment of grades to alternative schools by requiring that the grade of a student assigned to an alternative school is credited to the school for which the student is assigned. The bill also makes school performance more accessible to the public by reducing the minimum number of student scores required to calculate a school grade or rating while protecting student identity.

The bill expands the number of schools eligible for School Recognition Program funding by awarding funds to schools that increase more than one school grade in a given year and maintain that performance the following year.

### ***State Curriculum Standards***

The bill provides for the revision of Florida's K-12 curriculum standards to include collaboration with renowned experts in content area and subject related fields. The standards revised to date and those scheduled for completion within the next three years would be renamed the Next Generation Sunshine State Standards.

### ***Statewide Assessments and Preparation***

The Commissioner of Education is authorized to adopt rigorous end-of-course assessments for secondary courses and provide for the transition to a more comprehensive and cost-effective state writing assessment. The bill also establishes parameters for statewide testing dates to require the latest possible date for test administration and the earliest possible date for the return of test scores.

The Department of Education must select an assessment to evaluate the postsecondary readiness of certain students, and districts must provide remediation to those students before they graduate and enter college.

The bill prohibits school districts from interrupting a student's regular day of instruction to engage in test taking practices for the statewide assessment with certain exceptions.

### ***High School Graduation***

The bill authorizes students to earn credit in practical arts for purposes of meeting the fine arts requirements for high school graduation.

Beginning with the 2008-2009 school year, students may earn a differentiated diploma that indicates their achievement in certain demanding coursework and college credit.

### ***Teacher Stipends and Certification***

The bill revises provisions for the Teachers Lead Program Stipend to clarify eligible expenditures, deadlines for distribution of funds to teachers, and options available for the allocation and expenditure of program funds.

The bill provides additional options for teacher certification candidates to demonstrate mastery of subject area knowledge in certain foreign languages.

### ***School Cafeteria Reports***

The bill requires the posting of school cafeteria sanitation and safety reports in a public location in the school cafeteria.

If approved by the Governor, these provisions take effect July 1, 2008, except as otherwise provided.

*Vote: Senate 40-0; House 118-0*

## **SCHOOL SAFETY AND WELLNESS**

### **HB 669 — School Safety**

by Reps. N. Thompson, Bogdanoff, Aubuchon, and others (CS/SB 790 by Criminal Justice Committee and Senators Baker, Dockery, Bennett, Lynn, and Rich)

The bill creates the "Jeffrey Johnston Stand Up for All Students Act" and prohibits the bullying or harassment of any public K-12 student or employee during a public K-12 education program or activity; during a school-related or school-sponsored program or activity; on a public K-12 school bus; or through a public K-12 computer, computer system, or computer network.

The Department of Education must adopt a model bullying and harassment policy by October 1, 2008. By December 1, 2008, each school district is required to adopt a bullying and harassment policy in substantial conformity with the department's model policy, and include students, parents, teachers, administrators, school staff, volunteers, community representatives, and local law enforcement agencies in the development of the district's policy.

For the 2009-2010 school year, each school district's Safe Schools funding is contingent upon the department's approval of the district's bullying and harassment policy. To obtain approval, the district policy must substantially conform with the department's policy. Beginning with the 2010-2011 school year, a school district's annual allocation of Safe Schools funding is contingent upon the district's compliance with reporting requirements for bullying and harassment incidents, the investigation of such incidents, and the steps taken by the district in response.

The Commissioner of Education must submit an annual report to the Governor and Legislature to include data on district reports of bullying and harassment.

The bill provides limited civil immunity for a school employee, volunteer, student, or parent who reports bullying or harassment in good faith.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 112-0*

**CS/CS/SB 610 — The Don Davis Physical Education Act**

by Education Pre-K – 12 Appropriations Committee; Education Pre-K – 12 Committee; and Senator Constantine

This bill is named for the late Representative Don Davis of Jacksonville, who was the sponsor of this legislation in the House of Representatives. This bill requires each district school board to include in its written physical education policy the benefits of physical education and the availability of one-on-one counseling to parents concerning the benefits. In addition to current requirements for the provision of 150 minutes of physical education each week to students in kindergarten through grade 5, the bill requires each school board to provide such education to students in grade 6 who are enrolled in a school that also contains one or more elementary grades. On any day when such physical education instruction is provided there must be at least 30 consecutive minutes of instruction.

Beginning with the 2009-2010 school year, district school boards must provide the equivalent of one class period per day of physical education for one semester of each year for students enrolled in grades 6 through 8. This requirement must be waived for students who are enrolled in a remedial course or whose parents request a waiver under certain conditions. School districts are required to notify parents of the waiver options before scheduling a student to participate in physical education.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-1; House 113-6*

**CS/HB 623 — School Breakfast Programs**

by Schools and Learning Council and Rep. Kendrick and others (CS/CS/SB 1458 by Education Pre-K – 12 Appropriations Committee; Education Pre-K – 12 Committee; and Senators Wise, Gaetz, Fasano, and Siplin)

Beginning with the 2010-2011 school year, school districts are required to make a school breakfast available to middle and high school students. School districts are already required to make the breakfast available to elementary school students.

Beginning with the 2009-2010 school year, each school district is required to annually set prices for breakfast meals at a level that, when combined with federal reimbursement, would cover the costs of the breakfast meals. School districts may, however, set lower prices. Each school district is also required to provide students and parents with information about the district's school breakfast program.

Each school, to the maximum extent practicable, must serve breakfast at alternative sites in order to expand access. Beginning with the 2009-2010 school year, a school must make alternative

breakfast options available to students who arrive by school bus at school less than 15 minutes before the first bell rings and allow the students at least 15 minutes to eat the breakfast.

The bill also encourages school districts to provide universal-free school breakfast in all schools and requires district school boards, by the beginning of the 2010-2011 school year, to consider a policy for providing universal-free school breakfast for all students in schools in which 80 percent or more of the students are eligible for free or reduced-price meals.

The bill directs the Office of Program Policy Analysis and Government Accountability, by January 15, 2009, to issue a report that evaluates the implementation costs of universal-free school breakfast, examines school meal prices and the efficiency and effectiveness of school district food service programs, and identifies best practices and strategies for reducing food service costs.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 117-0*

## **SCHOOL AND PROGRAM CHOICE**

### **CS/CS/SB 1906 — Alternative Credit High School Courses**

by Education Pre-K – 12 Appropriations Committee; Education Pre-K – 12 Committee; and Senators Gaetz and Lynn

The bill creates a pilot program to provide opportunities for high school students enrolled in rigorous career academies to simultaneously earn credit in specific math and science courses without taking the math or science course.

High school students enrolled in career and professional academies would earn credit for Integrated Math 1 and 2, Algebra 1a and 1b, Algebra 1, Geometry, and Biology, provided the standards and essential concepts of these courses are included in their career coursework and the students can verify mastery of the core content on approved end-of-course-assessments. The bill provides that students who attain scores that verify mastery of content on the end-of-course assessments would earn the district additional funding within the funding caps provided by law.

The bill authorizes the Palm Beach County school district to conduct a pilot program to recognize business partners by publicly displaying the businesses' names on school district property in unincorporated areas.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 117-0*

**CS/CS/CS/HB 653 — Corporate Income Tax Credit Scholarship Program**

by Policy and Budget Council; Schools and Learning Council; and Rep. Traviesa and others (CS/CS/SB 1440 by Education Pre-K – 12 Appropriations Committee; Education Pre-K – 12 Committee; and Senators Gaetz, Lawson, King; Storms, Baker, Crist; Posey, Oelrich, Saunders, Fasano, Peaden, Siplin, Wise, Bennett, Dockery, Haridopolos, Alexander, and Garcia)

For the Corporate Income Tax Credit (CTC) Scholarship Program, the bill revises the scholarship eligibility criteria to allow the participation of the sibling of a scholarship student and students who are placed in foster care. The bill also makes the following changes to the provisions of the CTC scholarship program:

- Increases the current maximum scholarship award amount from \$3,750 to \$3,950, beginning with FY 2008-2009;
- Requires an eligible nonprofit scholarship-funding organization (SFO) to annually expend at least 75 percent, rather than obligate 100 percent of the eligible contributions received in that fiscal year;
- Authorizes SFOs to retain up to 3 percent of contributions for reasonable and necessary administrative expenses;
- Provides that only SFOs that have been in operation for three years and do not have any negative financial findings are eligible for the administrative fee;
- Limits the amount of the administrative fee that can be expended on recruitment of additional contributions to one-third of the administrative fee;
- Removes the limitation on interest being used for scholarships;
- Increases the \$88 million maximum tax credit by \$30 million to \$118 million beginning with FY 2008-2009;
- Provides that contributions in excess of carryforward at the end of the state fiscal year revert to General Revenue; and
- Eliminates the current reserve of at least 1 percent of the maximum tax credit for small businesses.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to provide a report to the Governor and Legislature by December 1, 2008, which reviews the advisability and net state fiscal impact of increasing the maximum annual amount of credits for the corporate income tax and authorizing the use of credits for insurance premium taxes as an additional source of funding for the scholarship program. The bill also requires OPPAGA to make recommendations, if warranted, for strategies to encourage scholarship students to participate in the statewide assessment program.

If approved by the Governor, these provisions take effect June 30, 2008.

*Vote: Senate 29-8; House 82-34*

### **CS/CS/SB 242 — Single-gender Schools, Classes, and Programs**

by Judiciary Committee; Education Pre-K – 12 Committee; and Senators Wise and Fasano

This bill (Chapter 2008-26, L.O.F.) authorizes district school boards to establish and maintain a single-gender nonvocational class, extracurricular activity, or school for elementary, middle, or high school students if the school district also makes available a substantially equally single-gender class, extracurricular activity, or school to students of the other gender and a coeducational class, extracurricular activity, or school to all students.

District school boards that elect to establish a single-gender class, extracurricular activity, or school may not require participation by any student, and must ensure that student participation is voluntary. Additionally, a district school board that establishes a single-gender class, extracurricular activity, or school must evaluate the class, activity, or school every two years in order to ensure compliance with state and federal requirements.

These provisions became law without the Governor's signature and take effect July 1, 2008.

*Vote: Senate 36-0; House 113-3*

### **SB 642 — School/Multiple Birth Siblings/Classroom Placement**

by Senators Siplin, Ring, and Baker

The bill provides for parents to request the placement of multiple birth siblings in the same or separate classrooms in the same grade level. A school must grant the parent's request unless the student's performance indicates otherwise or if it would require the district to add another class to the students' grade level. The bill provides for a principal to change the student's placement if his or her behavior is disruptive to the school. A parent may appeal the principal's decision.

The bill specifies that these provisions do not apply to the rights or obligations of students with disabilities or the removal of students pursuant to disciplinary policies.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 119-0*



**CS/HB 251 — School Access for Junior or Senior Officers' Training Corps**

by Schools and Learning Council and Rep. Jordan and others (CS/CS/SB 574 by Higher Education Committee; Military Affairs and Domestic Security Committee; and Senators Baker, Gaetz, Bennett, and Lynn)

This bill prohibits a school district from banning the establishment, maintenance, or operation of a unit of the Junior Reserve Officers' Training Corps (JROTC) at a public high school. A student who attends a high school that does not offer JROTC for any branch of the United States Armed Forces or the United States Department of Homeland Security, and who meets the minimum qualifications for enrollment in one of these programs, may enroll in the JRTOC program at another public high school, if the student's courses do not conflict with the schedule of the other school's JROTC program. However, school districts are not required to provide transportation for a student who elects the option to enroll in JRTOC at another high school.

This bill also enhances access for military recruiters to school campuses, students, and student information. School districts must grant military recruiters from the United States Armed Forces and the United States Department of Homeland Security the same access to secondary school students, and to school facilities and grounds, that the district grants to postsecondary educational institutions or prospective employers of students. School districts must also grant military recruiters access to the names, addresses, and telephone listings of secondary school students. However, the district must comply with a student's or parent's request under state or federal law to not release such directory information.

Finally, the bill addresses the presence of the Senior Reserve Officers' Training Corps and military recruiters on community college and state university campuses, as well as access by such military recruiters to the information of community college or state university students. Community colleges and state universities may not prohibit Senior Reserve Officers' Training Corps from being established, maintained, or operated at such institutions. Additionally, military recruiters from the United States Armed Forces and the United States Department of Homeland Security must receive the same access to the college's or university's students, and to campus facilities, which the college or university grants to other employers. A community college or state university must grant military recruiters access to information regarding the names, addresses, telephone listings, dates and places of birth, levels of education, academic majors, most recent educational institutions enrolled in, and degrees received of the students of the community college or state university to the extent provided by federal law.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 109-0*

### **CS/HB 1203 — Educational Opportunity for Military Children**

by Schools and Learning Council and Rep. Proctor and others (CS/SB 2546 by Education Pre-K – 12 Committee and Senators Storms, Baker, Diaz de la Portilla, Alexander, Fasano, Villalobos, Bennett, Constantine, Crist, Dean, Gaetz, and Wise)

The bill creates the Compact on Educational Opportunity for Military Children, which is designed to assist the educational continuity of students whose parents are military service members. The compact also provides for the creation of an Interstate Commission on Educational Opportunity for Military Children to provide general oversight of the agreement, create and enforce rules governing the compact's operation, and provide a venue for solving interstate issues and disputes. The bill authorizes the Governor to designate a Compact Commissioner and Military Family Education Liaison and creates the State Advisory Council to make recommendations for compliance with the compact.

The compact applies to children of the following: active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

The compact provides for the following:

#### ***Student Enrollment***

- Provides that schools must share educational records in a timely manner and allows the sending school to provide the parent with an unofficial copy that may be used until the official record is verified;
- Provides specific timelines for students to obtain required immunizations in the receiving state; and
- Provides that a student must be allowed to continue his or her enrollment at grade level in the receiving state commensurate with the student's grade level in the sending state at the time of transition.

#### ***Placement***

- Provides that when a student transfers before or during the school year, the receiving state school must initially honor placement of the student in educational courses, based on the student's enrollment in the sending state's school or educational assessments conducted at the school in the sending state if the courses are offered; however, the school in the receiving state may perform subsequent evaluations to ensure appropriate placement and continued enrollment;

- Requires the receiving state to initially provide comparable services to a student with disabilities based on his or her current Individual Education Plan; however, the school in the receiving state may perform subsequent evaluations to ensure appropriate placement;
- Provides school districts with flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the district; and
- Provides that a student whose parent is an active duty member of the uniformed services and has been called to duty, is on leave from active duty, or has immediately returned from deployment to a combat zone or combat support posting, must be granted additional excused absences at the discretion of the district superintendent to visit with his or her parent prior to the leave or deployment.

### ***Graduation***

- Requires school districts to waive specific courses required for graduation if similar course work has been satisfactorily completed in another state;
- Requires districts to provide an alternative means of acquiring required coursework for the student to graduate on time, if a waiver is not granted to a student who would qualify to graduate from the sending school;
- Requires states to accept exit or end-of-course exams required for graduation from the sending state, national norm-referenced achievement tests, or alternative testing, in lieu of testing requirements for graduation in the receiving state; and
- Requires the sending and receiving districts to ensure the receipt of a diploma from the sending district, if the student transfers in his or her senior year, is ineligible to graduate from the receiving district after considering all alternatives, and meets the graduation requirements of the sending district.

The act sunsets two years following the effective date of the act or upon enactment of the interstate compacts, whichever occurs later.

If approved by the Governor, these provisions take effect July 1, 2008, or upon enactment of the compact into law by nine other states, whichever date occurs later.

*Vote: Senate 39-0; House 107-1*

### **CS/CS/SB 526 — Interscholastic Extracurricular Activities**

by Education Pre-K – 12 Appropriations Committee; Education Pre-K – 12 Committee; and Senators Wise and Lynn

Beginning in the 2008-2009 school year in Bradford, Duval and Nassau school districts, a 2-year pilot program is established to permit a middle or high school student enrolled in a private school to participate in intrascholastic and interscholastic sports at a public school, if the student is zoned for the public school, the private school does not provide an intrascholastic or interscholastic program, and the school is not a member of the Florida High School Athletic Association (FHSAA).

To be eligible to participate at a public high school, middle school, or a grades 6-12 school, the student must meet certain conditions, including requirements for standards of conduct and student academic performance.

The bill also provides an exemption from civil liability arising out of an injury that occurs during the private school student's transportation to and from his or her public school. A report, including recommendations, must be made by the FHSAA and the participating school districts to the Governor and the legislative presiding officers by January 1, 2010.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-1; House 75-41*

### **CS/SB 1414 — Supplemental Educational Services**

by Education Pre-K – 12 Committee and Senators Diaz de la Portilla and Lynn

The bill tasks the Department of Education (DOE) with annually designating a performance grade of "A," "B," "C," "D," or "F," for each state-approved Supplemental Educational Services (SES) provider, based on a combination of student learning gains and student proficiency levels, as measured by the statewide assessment and norm-referenced tests approved by the DOE for students in kindergarten through grade 3. Under the bill, a grade is assigned beginning with the 2007-2008 school year and must be reported to parents, SES providers, school districts, and the public.

The bill limits the facility rental fee that Miami Dade County School District may charge a state-approved SES provider. The fee is limited to only the hours that a classroom is used by the provider to tutor students.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 32-5; House 114-3*

## **EXCEPTIONAL STUDENT AWARENESS**

### **CS/SB 856 — Disability History and Awareness**

by Children, Families, and Elder Affairs Committee and Senators Fasano and Wilson

The bill requires district school boards to designate "Disability History and Awareness Weeks" during the first two weeks in October of each year and authorizes school boards to provide disability history and awareness instruction in kindergarten through grade 12 during those weeks. The instruction may be integrated into the existing school curriculum. The bill encourages state postsecondary institutions to conduct and promote activities related to disability history and awareness.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*

### **CS/HB 1313 — Students with Disabilities**

by Schools and Learning Council and Rep. Precourt (CS/CS/SB 2700 by Education Pre-K – 12 Appropriations Committee; Higher Education Committee; and Senator Wise)

The bill revises the definition of an "exceptional student" to conform to federal law or accepted practice by amending the following provisions of the Florida K-20 Education Code relating to students with disabilities:

- Eligibility requirements for special programs for students with disabilities;
- Eligibility requirements for special programs and related services for children with disabilities who are three years of age or older (preschool children) and for children with disabilities who are younger than three years of age (infants and toddlers);
- Special high school graduation requirements for students with disabilities;
- Substitute admission, graduation, and upper level division requirements of public postsecondary educational institutions for students with disabilities; and
- Student eligibility requirements for the John M. McKay Scholarships for Students with Disabilities Program.

The bill also eliminates a provision that prohibits direct medical intervention or pharmaceutical intervention at any regional autism center effective July 1, 2008.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

## **EARLY LEARNING**

### **HB 879 — The Success in Early Learning Act**

by Rep. Kelly and others (CS/CS/CS/CS/SB 1670 by Transportation and Economic Development Appropriations Committee; Commerce Committee; Children, Families, and Elder Affairs Committee; Education Pre-K – 12 Committee; and Senators Gaetz and Lynn)

This bill revises statutes governing publicly-funded educational programs for young children, as follows:

- Early learning coalition boards are authorized to engage in board business by telecommunication methods;
- Responsibility for the statewide child care resource and referral network and the Child Care Executive Partnership Program are transferred from the Department of Children and Family Services to the Agency for Workforce Innovation to conform to current practice;
- The chair or executive director of a Children's Service Council or Juvenile Welfare Board may be a voting member of an Early Learning Coalition that rents office space, vehicles, equipment, or other items from the council or board, provided the rental is the only financial transaction between the coalition and the board;
- Voluntary prekindergarten program providers are authorized to employ substitute instructors to temporarily replace credentialed instructors, if they are of good moral character and meet the requirements of level 2 background screening before employment; and
- A private provider of the voluntary prekindergarten program must be accredited by an association with written accreditation standards that meet or exceed the state's licensing standards.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*

## **EDUCATIONAL FACILITIES CONSTRUCTION**

### **CS/CS/SB 1276 — Educational Facilities Construction**

by Education Facilities Appropriations Committee; Education Pre-K – 12 Committee; and Senator Bennett

The bill increases the threshold for day-labor contracts from \$200,000 to \$280,000 for the construction, renovation, remodeling, or maintenance of educational facilities and requires, beginning January 2009, that the amount shall be adjusted annually based upon changes in the Consumer Price Index. This provision applies to district school boards, community college

boards of trustees, university boards of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind.

The bill provides districts, with conversion charter schools that are not compliant with class size reduction, flexibility to use up to \$65 per unweighted full-time equivalent student funding under the 1.75-mill discretionary capital outlay levy for operational purposes if certain conditions are met.

The bill also provides an exception to the planning process for Florida Keys Community College in Monroe County to authorize the construction of dormitories for up to 100 beds for full-time or part-time students on the community college campus. The construction of the dormitories is exempt from the building permit allocation system and may be constructed up 45 feet in height, if the following conditions are met:

- The dormitories are otherwise consistent with the comprehensive plan;
- The community college has a hurricane evacuation plan that requires all dormitory occupants to be evacuated 48 hours in advance of tropical force winds; and
- Transportation is provided for dormitory occupants during an evacuation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*





---

## Senate Committee on Education Pre-K – 12 Appropriations

### **HB 7067 — Virtual Education**

by Schools and Learning Council and Rep. Pickens and others (CS/SB 1752 by Education Pre-K – 12 Appropriations Committee and Senators Wise and Lynn)

This bill authorizes school district virtual instruction programs for funding through the Florida Education Finance Program (FEFP). The bill:

- Designates school district virtual instruction programs as components of public K-12 schools, lists them as educational choice options and as open enrollment options;
- Beginning with the 2009-10 school year, requires school districts to provide students with the option of participating in school district virtual instruction programs;
- Provides that school district virtual instruction programs shall use online and distance learning technology for students in grades K to 8 on a full-time basis and for high school students on a part-time or full-time basis;
- Provides that a school district program may consist of one or more schools operated by the district, by contracted providers approved by the Department of Education (DOE), or through multi-district contractual agreements;
- Provides that charter schools may enter into joint agreements with the district to participate in a program;
- Authorizes the DOE to approve eligible providers by March 1 of each year;
- Establishes provider qualifications, including state-located administrative offices and staff, certified teachers, and appropriate accreditation;
- Grandfathers in the existing K-8 Virtual School providers and exempts them from new provider qualifications;
- Establishes program requirements to include the use of certified teachers, alignment with Sunshine State Standards, background screening of employees, provision of instructional materials, equipment and internet access, when appropriate, for full-time students in households, and no tuition or fees;
- Beginning in 2010-2011, does not allow growth in enrollment if the program earns less than a grade of "C" in the prior year;
- Limits enrollment to students who, in the prior year, were enrolled in a public school or in a school district virtual instruction program, or who are dependents of a member of the armed services;

- Requires school districts to report virtual instruction students as full-time equivalents in basic programs for grades K to 8 who complete the coursework and are promoted to the next grade level, and in basic or English for Speakers of Other Languages (ESOL) programs for high school students in Department of Juvenile Justice or dropout prevention programs who earn six credit completions for funding in the FEFP;
- For 2008-2009, provides that a school district may offer its own district virtual instruction program or contract with K-8 providers under s. 1002.415, F.S., or for grades 9 to 12, with providers who contracted with a regional consortium for 2007-2008 for students in Department of Juvenile Justice and dropout prevention programs;
- Requires school district virtual instruction programs, not including the Florida Virtual School, to be included in the state assessment and accountability system and to receive a school grade;
- Requires school district programs to be terminated if they receive a "D" or an "F" for two of any four consecutive years and requires the DOE to select a new provider;
- Clarifies that digital or online content providers that are used to supplement instruction in regular district (seat-time) schools are exempt from the requirements of the bill; and
- Exempts the school district virtual instruction programs, the Florida Virtual School, and the K-8 Virtual Schools from class size requirements by amending the "core-curricula courses" definition.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*

### **HB 5083 — Education**

by Policy and Budget Council and Rep. Sansom (CS/SB 1746 by Education Pre-K – 12 Appropriations Committee and Senator Wise)

This bill revises public school funding statutes to conform them to the General Appropriations Act (GAA). The bill:

- Removes the requirement for the norm-referenced portion of the Florida Comprehensive Assessment Test (FCAT);
- Allows for pro-ration of the regional consortia state supplement;
- Prohibits districts from withholding a portion of the Merit Award Program payment from charter schools;
- Clarifies the Full Time Equivalent (FTE) reporting requirement for dual enrollment courses;

- Makes the FTE bonus for Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education programs twice the level of funding for the course;
- Removes the middle school Algebra I bonus from the funding formula;
- Limits the industry certification bonus to students who earn a high school diploma, to .3 FTE per student, and to \$15 million annually;
- Makes the fourth calculation of the Florida Education Finance Program (FEFP) the final calculation of the Required Local Effort for the fiscal year;
- Makes the Declining Enrollment funding percentage an amount to be determined in the GAA;
- Provides school districts with additional fiscal flexibility by allowing categorical program funds, including the reading allocation and instructional materials, to be spent for classroom instruction in certain limited cases, for 2008-09 only;
- Continues the school-level compliance standard for class size reduction for 2008-09;
- Provides a shift of 0.25 mills from the 2 mill capital outlay discretionary levy to the Required Local Effort of the FEFP and provides a protection for the issuance of certificates of participation;
- Allows school districts, if they certify that they have met class size reduction requirements and have met all instructional space capital outlay needs for the next five years with expected capital outlay funding, to use up to \$65 per FTE of capital millage revenue for purchase/lease-purchase of certain vehicles or payment of casualty and property insurance premiums for 2008-09 only;
- Allows school districts to submit Merit Award Program plans for 2008-09 by October 1, 2008;
- Requires prototype design and construction when a school district is building multiple schools in a 5-year period;
- For the Excellent Teaching Program, maintains the payments for the teacher certification bonuses; removes the requirement for funding the application and portfolio fees and the FRS contribution payment; limits bonuses to one 10-year period; and retains the mentoring bonus, if funds are provided.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 28-9; House 76-43*



---

## Senate Committee on Environmental Preservation and Conservation

### **CS/SB 192 — State Parks/Violations**

by Environmental Preservation and Conservation Committee and Senators Baker and Dockery

This bill decriminalizes certain state park violations by establishing misdemeanor of the second degree penalties for those violations in accordance with ss. 775.082 and 775.083, F.S. Such violations, without expressed permission from the Division of Recreation and Parks, include:

- Damaging any water-bottom formation of coral;
- Capturing, trapping or injuring wild animals;
- Collecting plant or animal specimens;
- Leaving designated public roads in a vehicle; or
- Hunting.

The bill also provides for the use of golf carts and utility vehicles by state park employees, state park volunteers, and state park visitors on public roads within the boundaries of state parks under certain conditions.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 117-0*

### **CS/CS/SB's 1094 and 326 — Releases From Gambling Vessels**

by Regulated Industries Committee; Environmental Preservation and Conservation Committee; and Senators Haridopolos, Constantine, Gaetz, Justice, Baker, Jones, Lynn, Posey, Dockery, Deutch, and Crist

The bill creates the "Clean Ocean Act." It provides definitions and requires the owner or operator of a gambling vessel to register with the Department of Environmental Protection (DEP). The registration is required to be executed under oath and transmitted electronically.

Each waterfront-landing facility that is registered as a gambling vessel's berth is required to establish procedures for the release of waste from gambling vessels at the facility; make available a waste-management service; and collect a fee for the associated costs. The DEP shall consider certain information when estimating a facility's minimum waste-service demand. It requires a gambling vessel to report releases immediately.

Penalties are provided for violations of the act. The DEP is required to establish and collect fees to cover the costs associated with administering the Clean Ocean Act. Certain releases are exempt from the act's provisions.

The act does not apply to vessels of any branch of the U.S. Armed Services. This act also does not apply to any gambling vessel that annually verifies to DEP that it operates a marine waste treatment system that produces sterile, clear, and odorless reuse water without generating solid waste and that eliminates the need to pump out or dump wastewater.

The DEP is required to request certain amendments to Florida's Coastal Zone Management Program. Also, the DEP is required to request the appropriate federal agencies to prohibit the release of waste from any gambling vessel within the federal territorial waters off the shores of Florida.

The DEP must adopt rules to carry out the provisions of this act.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-1; House 118-0*

### **SB 432 — Artificial Reefs/Placement of Vessels**

by Senators Bennett, Gaetz, Saunders, Jones, Dockery, and Lynn.

This bill authorizes the Fish and Wildlife Conservation Commission to establish the Florida Ships-2-Reefs Program, a matching grant program, for the securing and placement of United States Maritime Administration, commonly referred to as MARAD, and United States Navy decommissioned vessels in state or federal waters to serve as artificial reefs. Each grant awarded under the program shall be matched by nonstate funds and state funds are limited to 33 percent of the total cost for securing and placement of each vessel. The commission is required to submit a report each January 1 detailing the expenditure of funds appropriated under this program to the Governor, President of the Senate and Speaker of the House of Representatives.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 36-0; House 118-0*

### **CS/CS/SB 542 — Land Acquisition and Management**

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senators Saunders, Baker, Lynn, and Bullard

This bill increases the bonding capacity for Florida Forever to \$5.3 billion and extends the authority for issuing such bonds for an additional 10 years. Additionally, an increased emphasis is placed on less-than-fee acquisitions and land management reporting requirements including the development of short-term and long-term goals in the terms of measurable objectives to be reviewed and presented to the Acquisition and Restoration Council and the Board of Trustees. The bill also requires that any single project exceeding \$100 million in any one fiscal year must be approved by the Legislative Budget Commission.

The bill recognizes the value of state lands for the purposes of carbon sequestration or carbon capture and directs the Division of State Lands to conduct an inventory of all state-owned lands to determine which lands are suitable for carbon sequestration or capture. Furthermore, the Legislature authorizes the Board of Trustees to develop rules that pertain to the use of state-owned lands for carbon sequestration or mitigation that provide for climate-change-related benefits.

The bill increases the membership of the Acquisition and Restoration Council from nine to eleven members to allow for additional appointments from the Commissioner of Agriculture and the Fish and Wildlife Conservation Commission. Additionally, of the Governor's four appointments to the council, the bill requires that one of them shall have at least 5-years of experience in managing lands for both active and passive recreation.

The bill requires the Acquisition and Restoration Council to develop rules defining specific numeric criteria and performance measures for the acquisition of state lands. All agencies that receive Florida Forever funds are required to assist in the development of such rules which shall be adopted by the Board of Trustees and submitted to the Legislature for consideration by February 1, 2010.

The bill recognizes the value of allowing for imperiled species and habitat mitigation on state-owned lands and provides that all existing lands and lands to be acquired be identified for such use. The bill directs the lead managing agency, in consultation with the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, to develop land management plans that advance the goals of imperiled species and habitat management through the restoration, enhancement and repopulation of the imperiled species or habitat. The bill allows for the collection of fees associated with such mitigation and directs that such fees shall be used for the acquisition and management of lands for those purposes. The bill also designates the Gopher Tortoise as the official state tortoise.

The bill redistributes Florida Forever funds as follows:

- Reduces the distribution to water management districts from 35 percent to 30 percent of total funds.
- Reduces the distribution to the Florida Communities Trust from 22 percent to 21 percent of total funds.
- Provides a distribution of 3.5 percent of the total funds to the Rural and Family Lands program within the Department of Agriculture and Consumer Services to be used as specified in s. 570.71, F.S.
- Provides a distribution of 2.5 percent of the total funds to the Stan Mayfield Working Waterfronts program to be used as specified in s. 380.5105, F.S.

The bill also increases the amount of funds that shall be used for land management purposes to at least 1.5 percent of the total funds allocated for the Florida Forever program.

The bill requires the Division of State Lands to develop an annual workplan that prioritizes projects on the Florida Forever List and sets forth funding available in the upcoming fiscal year. Categories considered in the workplan shall include:

- A critical natural lands category;
- A partnership or regional incentive category;
- A substantially complete projects category;
- A climate change category; and
- A less-than-fee working agricultural lands category.

Projects within each category shall be ranked in order of priority, and submitted on an annual basis to the Acquisition and Restoration Council for adoption.

Finally, the bill establishes the Stan Mayfield Working Waterfronts program to be administered by the Florida Communities Trust. The bill provides a definition for working waterfronts as well as specific criteria that lands shall meet to be considered for funding under this program. Furthermore, the bill provides rule making authority for the Department of Agriculture and Consumer Services and the Florida Communities Trust to establish an application, evaluation, scoring and ranking process as well as providing specific criteria for identifying priority projects. Annually, the Trust shall present the ranking list to the Board of Trustees for approval of projects for funding.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 116-0*

### **CS/SB 758 — Inland Navigation**

by Environmental Preservation and Conservation Committee and Senators Bennett, Gaetz, and Haridopolos

This bill makes a number of changes to existing statutes relating to inland navigation districts and exemptions from dredging permits for certain projects. The bill includes the following provisions.

- Provides that it is in the public interest for inland navigation districts to operate and maintain the Intracoastal Waterway and any other public navigation channels authorized by the Board of Trustees of the Internal Improvement Trust Fund.



- Allows the inland navigation districts to aid and cooperate with nonmember counties that contain any part of the intracoastal waterway within their boundaries, inland navigation districts, and the seaports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina for certain waterway activities.
- Specifies that the Fish and Wildlife Conservation Commission instead of the inland navigation districts will be responsible for posting and maintaining manatee protection speed zone signs. Allows the commission to request funding from the inland navigation districts in order to carry out this responsibility.
- Clarifies that a permit from the Department of Environmental Protection (DEP) is not required for maintenance dredging by seaports and the inland navigation districts.
- Provides for mixing zones to address turbidity created by dredging projects.
- Authorizes the DEP to develop and maintain a list of permitted flocculants.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 113-0*

### **CS/HB 547 — Water Pollution Control**

by Environment and Natural Resources Council and Rep. Kreegel (CS/CS/SB 1208 by Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Gaetz)

This bill establishes a pilot project for the trading of water quality credits in the Lower St. Johns River Basin. The Department of Environmental Protection (department) is authorized to develop rules to implement the pilot program that should include:

- The process to be used to determine how credits are generated, quantified and validated;
- A publicly accessible water quality credit trading registry that tracks water quality credits, trading activities, and prices paid for credits;
- Limitations on the availability and use of water quality credits, including a list of eligible pollutants or parameters and minimum water quality requirements;
- The timing and duration of credits and allowance for credit transferability; and
- Mechanisms for determining and ensuring compliance with trading procedures, including recordkeeping, monitoring, reporting, and inspections.

Draft rules shall be submitted to the United States Environmental Protection Agency for review.

Under this pilot program, basin management actions plans may allow point or nonpoint sources that will achieve greater pollutant reductions than required by a total maximum daily load or wasteload allocation to generate, register and trade water quality credits to enable other sources to achieve their allocation. The generation of such credits does not remove the obligation of a source to meet technology requirements or adopted best management practices.

Water quality credit trading must:

- Be consistent with federal law and regulation;
- Be implemented through permits or other legally binding agreements established by department rule.

The department shall establish the pollutant load reduction value of water quality credits and shall be responsible for authorizing their use. Water quality credit buyers shall submit an affidavit to the department signed by the buyer and seller disclosing the term of acquisition, number of credits, until credit price paid, and any state funding received for the facilities or activities that generate the credits. The department shall not participate in the establishment of credit prices. The department is responsible for ensuring that both sellers and buyers of credits achieve all applicable pollutant load reductions required under the total maximum daily load or wasteload allocations goals.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 116-0*

### **CS/HB 7059 — Protection of Wild and Aquatic Life**

by Policy and Budget Council; Environment and Natural Resources Council; and Reps. Mayfield and Kendrick (CS/SB 1300 by Environmental Preservation and Conservation Committee and Senators Saunders and Baker)

This bill authorizes the Board of Trustees of the Internal Improvement Trust Fund (board) to establish seagrass mitigation banks to offset the impacts to seagrasses that meet the public interest test of chapters 253 and 259, F.S. The bill creates definitions for "seagrasses" and "seagrass scarring" and provides civil penalties for persons that carelessly operate a vessel outside of a marked channel that causes damage to seagrasses within aquatic preserves.

The bill also establishes a land management review team consisting of the Executive Director of the Fish and Wildlife Conservation Commission or their designee, the Secretary of the Department of Environmental Protection or their designee, and the Commissioner of Agriculture or their designee for the purpose of reviewing land management plan operational reports submitted by each managing agency every three years. The review team shall prepare a monitoring report that assesses the progress towards achieving short-term and long-term land

management goals and proposes corrective actions for any deficiencies identified in the operational report. The monitoring report shall be submitted to the Acquisition and Restoration Council and the board for review.

The bill provides for the disposition of illegally taken fish or wildlife and establishes procedures for introducing photographs of such fish or wildlife as evidence for prosecution in lieu of submitting such fish or wildlife as evidence.

Finally, the bill authorizes the type two transfer of the Bureau of Invasive Plant Management within the Department of Environmental Protection to the Fish and Wildlife Conservation Commission with additional statutory powers, duties and administrative functions transferred to the Department of Agriculture and Consumer Services. Furthermore, the Boating Advisory Council under s. 327.803, F.S., and the Federal Law Enforcement Trust Fund under s. 372.107, F.S., are repealed.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

### **CS/CS/SB 1302 — Ocean Outfalls**

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senators Saunders, Dockery, Lynn, and Bullard

This bill provides for the prohibition of newly constructed ocean outfalls and the timely elimination of the six active ocean outfalls located in Broward, Palm Beach and Miami-Dade counties. Active outfalls are limited to the discharge capacity specified in the permit authorizing the outfall on July 1, 2008 and shall not be increased. The bill does allow, however, for the maintenance of existing permitted outfalls and all associated pumping and piping.

The bill provides the timeline as follows:

- By December 31, 2018, the discharge of domestic wastewater through the existing ocean outfalls shall meet advanced wastewater treatment and management requirements. Such advanced wastewater treatment includes:
  - A reduction in the baseline loadings, established by the Department of Environmental Protection (department), of total nitrogen and total phosphorus that would be achieved by advanced wastewater treatment requirements; or
  - A reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008 and December 31, 2025 equivalent to that which would be achieved if advanced wastewater requirements were fully implemented on December 31, 2018 and continued through December 31, 2025.

- By December 31, 2025, each facility that discharges through an ocean outfall on July 1, 2008 shall install a functioning reuse system that provides a minimum of 60 percent reuse of the facilities actual flow on an annual basis for irrigation, aquifer recharge, groundwater recharge, industrial cooling or other acceptable purposes defined by the department.
- By December 31, 2025, discharge through an ocean outfall is prohibited except as a backup to a functioning reuse system. Backup discharge may only occur during wet weather periods or periods of reduced demand for reuse.

Each utility that discharges through an ocean outfall is required to submit a detailed plan to meet the requirements of the bill, including a cost benefit and financing plan, to the department by July 1, 2013. Additional, reporting requirements are provided in the bill to ensure that the schedule for the reduction in pollutant loads and the elimination of discharge to the outfalls is met. By July 1, 2010 and each 5 years after, the department is required to submit a report on the implementation of this act to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill also creates the Leah Schad Memorial Ocean Outfall Program as a funding mechanism that may assist local governments with the implementation of this act. Funds may be received from the General Appropriations Act, gifts from individuals, corporations, or other entities, or from federal funds appropriated by Congress.

Finally, the bill directs the South Florida Water Management District (district) to require the use of reclaimed water, made available from the elimination of ocean outfalls, in lieu of surface water or ground water, or other alternative sources. The district shall include in its regional supply plan, water resource and water supply development projects that promote the elimination of wastewater ocean outfalls.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*

## **HB 7091 — Fish and Wildlife Conservation**

by Environment and Natural Resources Council and Reps. Mayfield and Kendrick (CS/SB 1304 by Environmental Preservation and Conservation Committee and Senator Saunders)

This bill consolidates chapters 370 and 372, F.S., into chapter 379, F.S., entitled "Fish and Wildlife Protection." The bill renumbers, amends and repeals sections of current statute to conform to the consolidation into one chapter. Chapter 379, F.S., is created with eight parts as follows:

- Part I – General Provisions;

- Part II – Marine Life;
- Part III – Fresh Water Aquatic Life;
- Part IV – Wild Animal Life;
- Part V – Law Enforcement;
- Part VI – Licenses for Recreational Activities;
- Part VII – Licenses for Non-recreational Activities; and
- Part VIII – Penalties.

The bill repeals obsolete provisions of law including statutory provisions clearly under the purview of the Fish and Wildlife Conservation Commission's constitutional authority and provisions that have expired pursuant to specific dates.

Finally, the bill provides legislative intent language stating it is not the intent of this bill to make substantive changes to law.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

## **HB 7135 — Energy**

by Environment and Natural Resources Council and Reps. Mayfield and Kreegel (CS/CS/CS/SB 1544, by General Government Appropriations Committee; Communications and Public Utilities Committee; Environmental Preservation and Conservation Committee; and Senators Saunders, Constantine, Bennett, Lynn, and Baker)

This is a comprehensive bill dealing with a number of energy issues.

### ***Governance and State Energy Policy***

The bill creates the Florida Energy and Climate Commission in the Executive Office of the Governor. The commission is comprised of nine members appointed by the Governor, the Commissioner of Agriculture, and the Chief Financial Officer. Appointees are to be selected from a list of persons nominated by the Florida Public Service Commission Nominating Council. The chair of the commission may designate eight ex officio nonvoting members to provide information and advice to the commission at the request of the chair. Those eight ex-officio members include:

- The chair of the Public Service Commission, or a designee.
- The Public Counsel, or a designee.
- A representative of the Department of Agriculture and Consumer Services.
- A representative of the Department of Financial Services.
- A representative of the Department of Environmental Protection.

- A representative of the Department of Community Affairs.
- A representative of the Board of Governors of the State University System.
- A representative of the Department of Transportation.

Duties of the commission include:

- Administering the Florida Renewable Energy and Energy Efficient Technologies Grants Program.
- Developing policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a grant program.
- Administering the Florida Green Government Grants Act.
- Gathering and reporting relevant energy information and studies.
- Administering petroleum planning and emergency contingency planning.
- Representing Florida in the Southern States Energy Compact.
- Completing the annual assessment of the efficacy of Florida's Energy and Climate Change Action Plan upon completion by the Governor's Action Team on Energy and Climate Change.
- Administering the provisions of the Florida Energy and Climate Protection Act.
- Advocating for energy and climate change issues and providing educational outreach and technical assistance in cooperation with the state's academic institutions.

The bill transfers all of the powers, duties, functions, personnel, and records associated with the State Energy Office in the Department of Environmental Protection to the Florida Energy and Climate Commission.

The bill further abolishes the Florida Energy Commission and provides that all of the records, property, unexpended balances of appropriations, and personnel related to the commission are transferred from the Office of Legislative Services to the Florida Energy and Climate Commission which is created in the Executive Office of the Governor. The Executive Office of the Governor is authorized to establish four full-time equivalent positions to staff the Florida Energy and Climate Commission.

### ***Florida Energy Systems Consortium***

The bill creates the Florida Energy Systems Consortium to promote collaboration among experts in the State University System for the purpose of sharing energy-related expertise and assisting

in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state.

The consortium consists of the state universities and shall be administered at the University of Florida by a director who shall be appointed by the President of the University of Florida. The director shall report to the Florida Energy and Climate Commission.

An oversight board shall consist of the Vice President for research or other appropriate representative appointed by the university president of each member of the consortium.

A steering committee shall consist of the university representatives included in the Centers of Excellence proposal for the Florida Energy Systems Consortium and the Center of Excellence in the Ocean Energy Technology-Phase II which were reviewed during FY 2007-2008 by the Florida Technology, Research, and Scholarship Board; a university representative appointed by the President of Florida International University; and the Florida Energy and Climate Commission. The steering committee shall be responsible for establishing and ensuring the success of the consortium's mission.

#### ***Public Service Commission/Nominating Council***

The bill removes the Joint Committee on Public Service Commission Oversight from the Public Service Commission appointment process, thereby returning the function of screening applicants and making recommendations on appointment to the Public Service Commission Nominating Council. To preserve an increased level of participation by legislators in the appointment process, the bill revises the membership and method of appointment of the council. The number of members is increased from nine to twelve. The President of the Senate and the Speaker of the House of Representatives are each to appoint six members, including three legislators, one of whom must be a member of the minority party. Further, the bill authorizes a successor Governor to recall an appointment to the Public Service Commission made by the predecessor Governor under certain specified circumstances and conditions.

#### ***Transmission Line Siting***

Several provisions of the Transmission Line Siting Act are revised to clarify and streamline the act and the various notice provisions.

- Public utilities may be granted fee simple title, easements, or other interests in state-owned lands for electric transmission and distribution lines, gas pipelines, and other linear facilities.
- For less than fee simple interest, the utility must pay fair market value for the initial grant of interest, the utility must vest fee simple interest in other available uplands 1.5 times the size of the easement granted. Priority for replacement uplands shall be given to parcels

identified as in-holdings and additions to public lands and lands on a Florida Forever acquisition list.

- Provision is made for the use of alternate corridors.
- Allows for the placement of transmission line facilities on Department of Transportation rights-of-way.

### ***Renewable Portfolio Standard***

The Public Service Commission is required to adopt rules for a renewable portfolio standard (RPS) requiring each provider to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the RPS rule, the commission shall consult the Department of Environmental Protection and the Florida Energy and Climate Commission. The rule cannot be implemented until ratified by the Legislature. The commission shall present a draft rule for legislative consideration by February 1, 2009. The bill specifies what the rule must include.

Beginning on April 1 of the year following final adoption of the RPS rule, each provider must submit a report to the commission describing the steps that have been taken in the previous year and the steps that will be taken in the future to add renewable energy to the provider's energy supply portfolio. Each municipal electric utility and rural electric cooperative shall develop standards for the promotion, encouragement, and expansion of the use of renewable energy resources and energy conservation and efficiency measures. On or before April 1, 2009, and annually thereafter, each municipal electric utility and electric cooperative shall submit to the commission a report that identifies such standards.

### ***Cap and Trade***

The bill creates the Florida Climate Protection Act. The Department of Environmental Protection may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. When developing the rules, the department shall consult with the Florida Energy and Climate Commission and the Public Service Commission, and may consult with the Governor's Action Team for Energy and Climate Change. The department shall not adopt rules until after January 1, 2010, and the rules shall not become effective until ratified by the Legislature.

The bill specifies what the cap-and-trade rules must contain.

### ***Renewable Fuel Standard***

Ethanol-blended fuels which contain unleaded gasoline and up to 10 percent denatured ethanol by volume may be sold at retail service stations for use in motor vehicles. Flexibility is provided to retail service stations during the transition period to ethanol-blended fuels.



Beginning December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler shall be blended gasoline. These provisions do not apply to fuel:

- Used in aircraft;
- Sold for use in boats;
- Sold to a blender;
- Sold for use in collector vehicles; for use in off-road vehicles, motorcycles, off-road vehicles, or small engines;
- Unable to comply due to requirements of the U.S. Environmental Protection Agency;
- Transferred between terminals;
- Exported from the state;
- Qualifying for any exemption in accordance with ch. 206, F.S.;
- For a railroad locomotive; and
- For equipment, including vehicle or vessel, covered by warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if the equipment were to be operated using blended fuel.

The bill provides for waivers and exemptions as well as for penalties and enforcement of violations.

### ***Green Buildings and Building Codes and Standards***

The bill provides that it is state policy for state buildings to be constructed to comply with the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services (DMS). Further, renovations of state buildings are to comply with these standards.

No state agency shall ease, construct, or have constructed, a facility without having secured from the DMS an evaluation of life-cycle costs based on sustainable building ratings. A sustainable building rating is a rating established by the USGBC LEED rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the DMS.

The bill further provides that all county, municipal, school district, water management district, state university, community college, and Florida state court buildings shall be constructed to meet the USGBC LEED rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the DMS

St. Petersburg College may work with the Florida Community College System and may consult with the University of Florida to provide training and educational opportunities that will ensure that green building rating system certifying agents are available.

The DMS shall develop the "Florida Climate-Friendly Preferred Products List." When procuring products from state term contracts, state agencies shall first consult the Florida Climate-Friendly Preferred Products List and procure such products if the price is comparable.

The bill provides a schedule of increases in the energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. The Florida Building Commission is required to periodically update the Florida Building Code.

The bill also requires that the Florida Energy Efficiency Code for Building Construction set the minimum requirements for commercial or residential swimming pool pumps, swimming pool water heaters and water heaters used to heat potable water.

### ***Demand-Side Renewable Energy***

The Public Service Commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing and encouraging the development of demand-side renewable energy systems. The commission may allow efficiency investments across generation, transmission, and distribution as well as efficiencies within the user base. In establishing the goals, the commission must take into consideration certain specified elements.

"Demand-side renewable energy" means a system located on a customer's premises generating thermal or electric energy using Florida renewable energy resources and primarily intended to offset all or part of the customer's electricity requirements provided such system does not exceed 2 megawatts.

The commission may authorize financial rewards for those utilities over which it has rate-setting authority that exceed their goals and may authorize financial penalties for those utilities that fail to meet their goals. The commission may allow an investor-owned electric utility an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency and conservation measures.

### ***Net Metering***

On or before January 1, 2009, each public utility shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. "Net metering" means metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

### ***Recycling***

By 2020, the long-term goal for the recycling efforts of state and local governmental entities, private companies and organization, and the general public is to reduce the amount of recyclable solid waste disposed of in waste management facilities, landfills, or incineration facilities by a statewide average of at least 75 percent. However, any solid waste used for the production of renewable energy shall count toward the long-term recycling goal.

The Department of Environmental Protection is directed to undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. Until such time as the Legislature adopts any recommendation of the department as a result of the analysis, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

By July 1, 2010, each county shall develop and implement a plan to achieve a goal to compost organic material that would otherwise be disposed of in a landfill.

Each county is encouraged to form multicounty regional solutions to the capture and reuse or sale of methane gas from landfills and wastewater treatment facilities.

### ***Miscellaneous Provisions***

- The bill provides for telecommuting for public employees.
- The Governor is allowed to include goals and policies relating to energy and global climate change in the state comprehensive plan. The state comprehensive plan should encourage the development of low-carbon-emitting electric power plants, including nuclear power plants.
- Each metropolitan planning organization is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.
- No deed restriction or covenant may prohibit the installation of solar or other energy devices based on renewable resources from being erected on property covered by the

deed restriction or covenant. This provision includes the boundaries of a condominium unit.

- The tax exemption for renewable energy sources installed on real property is extended to January 1, 2009.
- The state's energy performance contracting processes are clarified.
- Alternative and renewable energy projects are eligible for innovation incentive grants from the Office of Tourism, Trade, and Economic Development.
- A public utility may recover certain costs related to the construction and reconstruction of nuclear power facilities.
- Utilities may recover certain costs for scientific research and geological assessments of carbon capture and storage, and costs related to verification of greenhouse gas emissions by third parties.
- The Florida Energy and Climate Commission shall conduct a study to evaluate and recommend the life-cycle greenhouse gas emissions associated with all renewable fuels, including, but not limited to, biodiesel, renewable diesel, biobutanol, and ethanol derived from any source. The commission may also evaluate and recommend any benefits associated with the creation, banking, transfer, and sale of credits among fuel refiners, blenders, and importers.
- The Public Service Commission shall analyze utility revenue decoupling and provide a report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009.
- If the Department of Environmental Protection proposes to adopt the California motor vehicle emission standards, the standards shall not be implemented until ratified by the Legislature.
- The Department of Environmental Protection shall develop a program to provide awards or recognition for outstanding efforts or achievements concerning conservation, reductions in energy and water use, green cleaning solutions, green pest management, recycling efforts, and curriculum development that is consistent with efforts that enhance the quality of education while preserving the environment.
- Various tax credit and tax exemption provisions are clarified to specify who is eligible for the credits or exemptions and the process for transferring tax credits. A capital investment tax credit is available for a qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing facility in this state that generates a minimum of 400 jobs with an average salary of at least \$50,000.
- By July 1, 2009, the Agency for Enterprise Information Technology shall provide standards for measuring data center energy consumption and efficiency, and calculating total cost of ownership of energy-efficient information technology products.

If approved by the Governor, these provisions take effect July 1, 2008, except as otherwise provided in the act.

*Vote: Senate 40-0; House 117-0*

### **CS/SB 1552 — Everglades Restoration Bonds**

by Finance and Tax Committee and Senators Saunders, Bullard, and Baker

This bill extends the term for issuance of Everglades Restoration Bonds by an additional 10 years from 2009-2010 to 2019-2020. In addition to funding the implementation of the Comprehensive Everglades Restoration Plan, the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, and the St. Lucie River Watershed Protection Plan, the bill allows for the use of Everglades Restoration Bonds to fund the implementation of water management projects, including wastewater management projects identified in the "Keys Wastewater Plan," under the Florida Keys Area of Critical State Concern protection program.

Finally, the bill provides an additional \$50 million in authorized Everglades Restoration Bonds, for no more than four years, for the purpose of funding the Florida Keys Area of Critical State Concern protection program.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 116-0*

### **CS/HB 1427 — Beach Management**

by Environment and Natural Resources Council and Rep. Mayfield (CS/CS/SB 1672 by Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senators Jones and Gaetz)

This bill provides that it is in the public interest to replicate the natural drift of sand which is interrupted or altered by inlets. It is also in the public interest for each level of government to undertake all reasonable efforts to maximize inlet sand bypassing to ensure that beach-quality sand is placed on adjacent eroding beaches.

The Department of Environmental Protection (DEP) is required to maintain an estimate of beach-quality sand that is available for inlet management projects, and such sand placed on a beach as part of a project must be suitable for marine turtle nesting. Deepwater ports must demonstrate reasonable efforts to place beach-quality sand from port-dredging and port-development projects on adjacent eroding beaches, and may sponsor or co-sponsor inlet management projects that are fully eligible for state cost sharing. The DEP may consider permitting nearshore or upland disposal of beach-quality sand under emergency conditions.

If federal investigations and reports or state-approved inlet management plans do not specify the entity or entities responsible for the extent of erosion caused by an inlet, the DEP or local government, with the assistance of university-based or other contractual resources that they may employ or call upon is encouraged to undertake assessments that aid in specifying the responsible entity or entities and in more accurately determining cost-sharing responsibilities for measures to correct such erosion. If the beneficiaries of the inlet, the local governments having jurisdiction of lands adjacent to the inlet, or the owners of property adjacent to the inlet are involved in a dispute concerning how much sand should be bypassed, the DEP shall protect its monetary investment in beach nourishment projects within the inlet's physical zone of influence by taking all reasonable actions to balance the sediment budget of the inlet and adjacent beaches, including implementation of inlet sand bypassing and other inlet management projects.

The bill provides for inlet management by requiring the DEP to establish funding priorities for studies, activities, or other projects that mitigate the erosive effect of inlets. A portion of legislative appropriations for beach nourishment and restoration projects may be used to cost-share studies, activities, and other inlet management projects with local governments or special districts. The DEP is authorized to contract for studies consistent with the legislative declarations in the bill, and must provide an inlet management project list in priority order as part of the department's legislative budget request. A funding formula for inlet management projects and studies is provided. The Legislature is authorized to annually designate an "Inlet of the Year," and the DEP must provide annual updates on the success of projects relating to the designated inlet. The DEP is provided with rulemaking authority.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 38-0; House 117-0*

## **HB 961 — Cleanup of Sites Contaminated by Petroleum**

by Rep. Machek (SB 1982 by Senator Baker)

This bill increases the statutory cap amounts for Petroleum Cleanup Participation Program sites and Petroleum Liability and Restoration Insurance Program sites that are eligible for state funding assistance. The increases in the cap amounts only apply to sites in these programs where the Department of Environmental Protection has not issued a site rehabilitation completion order prior to June 1, 2008, indicating that the discharge has been remediated.

The bill requires a remediation preapproval contractor to submit an invoice within a certain time, and requires prompt payment by a contractor to subcontractors.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-1; House 116-0*

## **CS/HB 527 — Environmental Site Redevelopment**

by Environment and Natural Resources Council and Rep. Williams (CS/CS/SB 2018 by General Government Appropriations Committee; Judiciary Committee; and Senators Posey, Jones, and Baker; CS/CS/SB 2594 by Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Constantine)

### ***Innocent Victims Petroleum Storage Systems***

This bill provides that a contaminated petroleum site acquired by the *current owner* prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial cleanup assistance. Further, the bill clarifies that a transfer of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settler does not disqualify the site from participating in the program.

### ***Brownfield Areas***

This bill also makes a number of changes to the brownfields program. Specifically, the bill:

- Provides definitions relating to the costs of solid waste removal at brownfield sites;
- Clarifies the tax credit for the costs of solid waste removal at brownfield sites;
- Provides an additional tax credit for rehabilitation costs that result in the construction and operation of a health care facility or health care provider on a brownfield site;
- Revises the procedures for applying for a tax credit and provides additional limitations on the amount of credits claimed;
- Revises the provisions relating to the administration of the brownfield program at the local level;
- Deletes the requirement that professional engineers and geologists must maintain certain liability insurance;
- Deletes the requirement that contractors maintain certain liability insurance. Provides for the evaluation of the health effects of brownfield site rehabilitation;
- Provides that the Brownfield Areas Loan Guarantee Program may guarantee 75 percent of a loan for the construction and operation of a new health care facility or health care provider; and
- Revises the membership of the Brownfield Areas Loan Guarantee Council to include the State Surgeon General.

If approved by the Governor, these provisions take effect upon becoming law and shall operate retroactively to January 1, 2008.

*Vote: Senate 39-0; House 108-6*





**CS/CS/SB 866 — Elections**

by Judiciary Committee; Ethics and Elections Committee; and Senator Constantine

This bill is an omnibus elections package that addresses numerous issues, which are summarized as follows:

***Investigatory Authority of Secretary of State***

The bill *clarifies* that the Secretary of State has authority to conduct preliminary investigations into fraud or irregularities involving candidate petition activities.

***Pre-Registration***

The bill changes the triggering event for individuals otherwise qualified to pre-register to vote by allowing individuals to pre-register on or after the individual's 16<sup>th</sup> birthday, rather than the 17<sup>th</sup> birthday or upon obtaining a valid Florida driver's license.

***Voter Registration Applications***

The bill amends the acceptance process for voter registration applications by providing when a completed voter registration application is received by the book-closing deadline, but the driver's license number, Florida ID card number, or the last four digits of the applicant's social security number cannot be verified, the applicant shall be notified that the number cannot be verified rather than receiving notification that his or her application is incomplete. Moreover, rather than the applicant providing verification of the authenticity of the number provided on the application, the applicant can provide verification of either his or her driver's license number, Florida ID card number, or the last four digits of his or her social security number regardless of which number was initially provided on the application. These changes are effective upon becoming law.

***Identification***

The bill removes employee badge or identification and buyer's club identification from the list of acceptable forms of identification for voter registration applicants who wish to vote in-person or by absentee and who registered by mail, have never previously voted in Florida, and have not been issued a current and valid Florida driver's license, Florida identification card, or social security number.

### ***Change of Party Affiliation***

The bill allows an elector to change his or her party affiliation after the book closing deadline for an upcoming election if the upcoming election is not a nominating election. If the upcoming election is a nominating election, the elector may submit the change; however, the change will not take effect until the next, subsequent election.

### ***Registration List Maintenance***

The bill requires the Department of State to develop registration list maintenance forms that must include an address confirmation request, an address change notice, and an address confirmation final notice. The bill requires the inclusion of specific information on the address request form and address confirmation final notice. It also requires that the notices be sent by forwardable mail.

The bill requires the local Supervisor of Elections, who receives information that a registered voter has changed his or her legal residence within the state, to change the registration records to reflect the new address. The supervisor must then send the registered voter an address change notice. The notice is sent by forwardable mail to the new address. The new language also provides that if the supervisor receives information that a registered voter has moved his or her legal residence outside the state, the supervisor must send an address confirmation final notice by forwardable mail to the registered voter at his or her new address. Voters who are sent an address confirmation final notice who do not return the prepaid, preaddressed return form within 30 days or for whom the notice is returned as undeliverable are designated as inactive.

### ***Voting History Information/Precinct-Level Results***

Effective July 1, 2008, the bill amends s. 98.0981, F.S., to shorten the time frame within which supervisors must report voting history information to the department – to 45 days from 75 days after a general election. The report must be in a uniform electronic format specified by the department, with updated voting history information for each qualified voter who voted. The department then must transmit its report within 60 days after the general election to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

The bill repeals the existing statute governing precinct-level reporting (s. 101.573, F.S.) and prescribes revised requirements in s. 98.0981(2), F.S. Within 45 days (compared to 35 in current law) of an election, the supervisors shall submit to the department precinct-level election results in a uniform electronic format. The bill eliminates a requirement in existing law for such results to be submitted following a municipal election or runoff. The bill requires the data to include the aggregate total of all ballots cast.

Further, the department must compile statistical information regarding each precinct after the book-closing deadline. The bill specifies that the public may access the reports relating to voting history, precinct-level results, and precinct-level book-closing statistics.

### ***Qualification for Office***

The bill makes the provisions of s. 99.012, F.S., applicable to persons seeking federal office by removing an exception to this section for such persons. It also specifically prohibits persons seeking a federal office from qualifying for two offices at the same time when the offices have overlapping terms.

The bill removes language in the federal candidate oath that refers to a candidate's requirement to resign from an office pursuant to s. 99.012, F.S.

The bill removes the specific qualifying fee and assessment provisions for candidates seeking a position on a community development district's board of supervisors.

### ***Candidate Petitions***

The bill provides that candidate petitions may only be used for the qualifying period immediately following a candidate's campaign depository and treasurer appointment filings.

### ***Early Voting and Bond Referenda***

The bill provides that a county, district, or municipality does not have to offer early voting for a bond referendum if the election is not held in conjunction with a state or county election.

### ***Charter County and Municipal Recall***

The bill clarifies the charter county and municipal recall provisions of the election code. It provides that each signed and dated petition form must be filed simultaneously and no later than 30 days after the first signature is obtained. The supervisor of elections must verify signatures in accordance with s. 99.097, F.S. The bill clarifies that the supervisor must determine in writing if the requisite number of signatures is obtained for the purposes of the recall petition and the recall petition and defense. The bill clarifies that the clerk must make the petition and all subsequent forms and papers available in alternative formats when requested. The bill removes the prohibition that prohibited any campaigning for or against the officer facing recall before the date of the election is announced to the public.

### ***Initiative Petitions***

Effective July 1, 2008, the bill prohibits an initiative petition form circulated for signature from being attached to or coupled with another initiative petition form.

The bill removes the requirement that the supervisors record initiative petition information in the statewide voter registration system. Rather, it allows for the Department of State to prescribe the manner in which this information must be recorded. Since supervisors must no longer record this information in the statewide voter registration system, the bill removes the requirement that the Secretary of State base his or her determination of the number of verified and valid signatures and the distribution of such signatures upon information contained in the statewide voter registration system. This change becomes effective July 1, 2008.

Furthermore, the bill provides that an elector may complete and submit a standard petition-revocation form directly to the supervisor. This change also becomes effective July 1, 2008.

### ***Ballots***

The bill removes the obsolete phrase "printed and distributed" from s. 101.041, F.S.

The bill removes obsolete references to ballot stubs in s. 101.5608, F.S. This change becomes effective July 1, 2008.

### ***Voter Challenges***

The bill gives registered electors and poll workers the right to challenge a voter in a specific county if the poll watcher or registered elector lodging the challenge is of that same county. The bill clarifies that a challenge can be lodged at either the polling place on the day of election or in advance with the supervisor. If the challenge is lodged in advance, the bill provides that the supervisor must provide a copy of the challenge to the election board in the challenged voter's precinct.

### ***Poll Workers***

The bill removes language in s. 101.23(2), F.S., allowing an election inspector to keep a voter from spending more than five minutes casting a ballot. The bill also removes the following election inspector duties contained in s. 101.23(2), F.S.:

- Preventing a voter from voting a second time when the inspector has a reasonable belief that the voter has already cast a ballot; and
- Preventing any person from voting if he or she is not qualified or has become disqualified to vote.

The bill revises the procedures of an election official when an elector votes. It removes the requirement that the election official determine if the voter's name is on the election register and that there are no sustained challenges regarding that elector before allowing that elector to vote.

It also removes the requirement that the election official announce the name of the elector before allowing the elector to enter the voting booth. This change becomes effective on July 1, 2008.

The bill requires that each poll worker must complete disability training prior to working each election cycle. The bill removes the one-hour requirement for poll worker disability training. It also removes the requirement that each supervisor certify to the Department of State whether each poll worker has completed disability training. This change becomes effective on July 1, 2008.

### ***Municipal Elections***

Effective July 1, 2008, the bill gives municipalities the ability to change, by ordinance, election dates to correspond to any statewide or countywide election. The bill also removes date specific language regarding the ability of municipalities to move any scheduled March 2008 election to concur with the presidential preference primary election.

### ***Exit Polling***

Effective July 1, 2008, the bill provides that the terms "solicit" and "solicitation" are synonymous and that these terms shall not be construed to prohibit exit polling.

### ***Canvassing Returns***

Effective July 1, 2008, the bill requires that the canvassing board "compare" rather than "reconcile" the number of persons who voted with the number of ballots counted.

### ***Presidential Preference Primary***

The bill removes the ability of a presidential candidate to request that the selection committee reconsider placing his or her name on the ballot when it does not appear on the list submitted by the Secretary of State.

### ***Campaign Treasurers***

Effective upon becoming law, the bill removes a requirement for candidates who qualify for office with the Department of State and who are not voted upon statewide to file a copy of the name and address of the campaign treasurer with the local supervisor of elections office.

### ***Candidate Electronic Filing***

The bill allows local governments to develop electronic filing requirements for local officers and candidates that do not conflict with the current electronic filing process for candidates who file reports with the Division of Elections. The bill also provides that the expenditure of public funds for electronic filing requirements is a valid public purpose.

***Contribution Limits for Commissioner of Agriculture***

Effective upon becoming law, the bill repeals s. 106.082, F.S., relating to campaign contribution limitations for candidates for the office of Commissioner of Agriculture, thus subjecting Commissioner of Agriculture candidates to the \$500 limit applicable to all other candidates.

***Telephone Solicitation***

Effective upon becoming law, the bill provides for a shorter sponsorship disclaimer for electioneering communication telephone calls and exempts these calls from obtaining written approval of the candidate the call supports. Furthermore, any electioneering communication phone call paid for with public money must state the name of the government entity paying for the phone call.

***Florida Elections Commission***

The bill provides that the Commission is the head of the agency, rather than the executive director.

***Candidates for Circuit Judge***

Effective upon becoming law, candidates for circuit judge shall be listed on the ballot in alphabetical order rather than determining ballot position for these offices by lot.

***Effective Date***

If approved by the Governor, these provisions take effect on January 1, 2009, except as otherwise provided.

*Vote: Senate 36-2; House 113-0*

**CS/SB 1588 — Implementation of Amendment 1**

by Finance and Tax Committee and Senator Haridopolos

CS/SB 1588 implements Amendment 1 to the State Constitution, which was approved by the voters in January 2008, and makes technical corrections to Chapter 2007-321, L.O.F.. It also imposes an additional limitation on the maximum millage that may be levied by local governments other than school districts in FY 2008-2009.

**Section 1.** Amends s. 193.114, F.S., to include on the tax rolls submitted by the property appraisers to the Department of Revenue data that have been identified by the department and the Revenue Estimating Conference as necessary to improve the ability to forecast revenues or estimate impacts of proposed changes in property tax laws. This applies to 2009 and later tax rolls.

**Section 2.** Amends s. 193.1142, F.S., to authorize the executive director of the Department of Revenue to require additional data to be provided on assessment rolls, and to require data to be provided in a specified format.

**Section 3.** Amends subsection (8) of s. 193.155, F.S., to clarify the rules under which a Save-Our-Homes differential may be transferred to a new homestead. It provides that if a husband and wife both owned and permanently resided on a homestead each is considered to have received it, even if only one or the other had applied for the exemption on the previous homestead. It provides that the full allowable differential may be transferred if all persons who qualify for the homestead exemption in the new homestead also qualified for and received the exemption in the old homestead and no additional person qualifies for the exemption in the new homestead. It allows the transfer of differential proportionate to ownership shares contained on the title to the property. It specifies how the transferable assessment differential is calculated for property with an assessment reduction for living quarters of parents or grandparents. It allows a person to abandon a homestead even though it remains his or her primary residence, and for that residence to be assessed under this subsection.

This section requires the Department of Revenue to provide a form for applying for assessment under this subsection, and creates responsibilities for property appraisers to supply information necessary for calculating assessment limitations available to be transferred. It allows a person who is qualified to have his or her property assessed under this subsection but who fails to file a timely application to apply to the value adjustment board. It requires the property appraiser to notify a property owner who has applied for assessment under this subsection if the application is disapproved.

**Section 4.** Amends s. 193.1554, F.S., to clarify that any increase in value of nonhomestead residential property that is attributable to combining or dividing parcels shall be assessed at just value, and the just value shall be apportioned among the parcels created.

**Section 5.** Amends s. 193.1555, F.S., to clarify that any increase in value of certain residential and nonresidential property that is attributable to combining or dividing parcels shall be assessed at just value, and the just value shall be apportioned among the parcels created.

**Section 6.** Amends s. 193.1556, F.S., to remove the annual application requirement.

**Section 7.** Amends s. 194.011, F.S., to specifically authorize a taxpayer who objects to the assessment placed on his or her property, including the assessment of homestead property at less than just value under s. 193.155(8), F.S., to appeal the assessment to the value adjustment board. If the taxpayer does not agree with the amount of assessment differential identified by the previous property appraiser the appeal is to the value adjustment board in the previous county.

**Section 8.** Amends s. 196.031, F.S., provides specific instructions for the order in which homestead exemptions are applied to a single parcel to give the maximum benefit of each exemption to the taxpayer.

**Section 9.** Amends s. 196.183, F.S., to provide that the \$25,000 exemption for freestanding property placed at multiple locations must be allocated in equal amounts to each taxing authority levying a tax on the property. It also provides an expanded explanation of what is meant by a "site where the owner of tangible personal property transacts business" by listing examples. It says the property appraiser may allow owners of certain property to qualify for the tangible personal property exemption without filing an initial return. It clarifies that the tangible personal property exemption does not apply in any year a taxpayer fails to timely file a return that is not otherwise waived, and it requires the property appraiser to notify by mail all taxpayers whose requirement for filing an annual tangible personal property tax return was waived in the previous year.

**Section 10.** Amends s. 197.3632, F.S., to require the tax collectors to provide information on non-ad valorem assessment rolls to the executive director of the Department of Revenue.

**Section 11.** Amends s. 200.065, F.S., to clarify that the maximum millage rate is adjusted for "change" in per capita Florida personal income instead of "growth." It clarifies that supermajority votes are based on the membership of the governing body, and provides for administrative adjustments to millage rates when the tax roll changes after the millage rate is calculated. It clarifies the special provision for calculating the millage for a county authorized to levy a public hospital surtax. It says that for certain downtown development authorities, the governing body of the municipality that approves its millage shall be considered its governing body.



**Section 12.** Amends s. 200.185, F.S. to change the calculation of the maximum millage rate that a county, municipality, or special district may levy by a majority vote. It provides that the rolled back rate used for determining the millage rate that can be levied by a majority vote must be calculated as if the tax base had not been reduced by Amendment 1. The millage rate that may be levied by a 2/3 vote or unanimous vote of the membership of the governing body is not changed. The bill also clarifies that the maximum millage rate is adjusted for "change" in per capita Florida personal income instead of "growth." It clarifies that supermajority votes are based on the membership of the governing body, and provides for administrative adjustments to millage rates when the tax roll changes after the millage rate is calculated. It clarifies the special provision for calculating the millage for a county authorized to levy a public hospital surtax. It says that for certain downtown development authorities, the governing body of the municipality that approves its millage shall be considered its governing body.

**Section 13.** Authorizes the executive director of the Department of Revenue to adopt emergency rules for the purpose of implementing this act, and says those rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules.

**Section 14.** Requires the property appraisers to accept applications for assessment under s. 193.155(8) until May 1, 2008.

**Section 15.** Directs the Department of Revenue to report to the Legislature on tax notification issues arising from recent changes in property tax law.

**Section 16.** Provides for appropriation of funds to fiscally constrained counties.

**Section 17.** Provides that, except as otherwise provided, this act shall take effect upon becoming a law and shall apply to the 2008 and subsequent tax rolls.

If approved by the Governor, these provisions take effect upon becoming law and shall apply to the 2008 and subsequent tax rolls.

*Vote: Senate 40-0; House 115-1*

### **CS/HB 909 — Property Taxation and Value Adjustment Boards**

by Government Efficiency and Accountability Council and Rep. Nehr and others  
(CS/CS/SB 2080 by General Government Appropriations Committee; Finance and Tax Committee; and Senators Haridopolos and Baker; and SB 822 by Senator Atwater)

This bill codifies many recommendations made in Auditor General Report 2006-007 concerning value adjustment boards (boards). The bill:

- Requires the Department of Revenue to develop a uniform policies and procedures manual for use by boards, special magistrates, and taxpayers in board proceedings, and to make the manual available on the department's website and existing websites of the clerks of circuit courts;
- Provides for 2 citizen members of the board;
- Removes statutory authority for the county attorney to be counsel to the board;
- Provides conditions for private counsel appointed by the board;
- Requires members of the board or the board's private counsel in small counties to attend training provided by the Department of Revenue, and provides that tuitions fees will be waived for them;
- Requires that the recommendations of special magistrates include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser and requires testimony taken by the special magistrate to be preserved;
- Requires the Department of Revenue to provide training for special magistrates with an emphasis on DOR's standard measures of value, including the assessment of tangible personal property. The training must be offered at least once a year in at least five locations throughout the state, and the department may charge tuition to cover the cost of providing training; and
- Amends requirements for public notice of board impacts by adding a column concerning the petitions withdrawn or settled prior to the board's consideration.

The bill addresses other property tax issues. It:

- Clarifies that in determining the highest and best use of a property (one of the eight factors considered in determining the assessed valuation), the property appraiser must take into account the legally permissible use of the property, as well as any zoning changes, concurrency requirements, or permits which would be necessary before the property could actually be used for that highest and best use;
- Provides that there cannot be a minimum acreage requirement for an agricultural assessment;
- Provides that it is the express intent of the Legislature that taxpayers never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment; and
- Requires the Department of Revenue to post information on its website about current and previous millage rates levied by each city and county. This information must also be on the property appraisers' websites.

If approved by the Governor, these provisions take effect September 1, 2008

*Vote: Senate 39-0; House 116-0*

**HB 5065 — Corporate Income Tax/2008 IRS Code**

by Government Efficiency and Accountability Council and Rep. Grant (CS/SB 1586 by Finance and Tax Committee and Senator Haridopolos)

The bill updates references in ch. 220, F.S. (the Florida Income Tax Code), to reflect revisions to the U.S. Internal Revenue Code that are in effect on January 1, 2008. The bill provides exceptions to the adoption of the federal code's temporary increase for expensing depreciable assets and the temporary bonus depreciation deduction. The bill also makes the delinquent date for remitting each quarterly estimated tax payment one day earlier.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-1*



**HB 7009 — Special Appropriations**

by Policy and Budget Council and Rep. Sansom (SB 2500 by Fiscal Policy and Calendar Committee)

Chapter 2008-1, L.O.F., the special appropriations act, includes reductions for the annual period beginning July 1, 2007 ending June 30, 2008.

Total reductions for Fiscal Year 2007-08 are \$512.1 million as follows:

- General Revenue: \$453.5 million
- Trust Funds: \$58.0 million

Total annualized reductions for Fiscal Year 2008-09 are \$324.5 million as follows:

- General Revenue: \$268.4 million
- Trust Funds: \$56.1 million

**Higher Education Appropriations – Reduction of \$39.7 Million in Recurring General Revenue, \$33.3 Million in Nonrecurring General Revenue, and \$16.3 Million in Trust Funds for a total reduction of \$89.3 Million.**

- The reduction plan minimized the student impact within the state's major higher education delivery systems. To minimize the reductions in the main program categories of Public School Workforce Centers, Community Colleges, and State Universities reductions were limited to the removal of the nonrecurring funds that were placed in these categories in Special Session C (not including the funds provided to compensate for the tuition veto) and an additional reduction of 1% General Revenue and 4% Educational Enhancement Trust Funds. These actions limit the cuts to these main program categories to approximately 1.8% of state funds in this round of 2007-08 reductions. When tuition and fee revenues are included in the calculations, Community Colleges and State Universities have cumulative total fiscal year reductions that are close to 3%.
- For Vocational Rehabilitation and Blind Services, no reductions are made in state funds in programs that draw federal matching funds.
- For Financial Aid programs, reductions were limited to adjustments based on lower student participation. These adjustments will not lower the amounts paid to students and almost all financial aid has been distributed to students already.

- By and large the remainder of the higher education programs and categories were reduced by the amount of funds currently held in reserve in the budget. Earlier in the fiscal year the Governor's Office, in consultation with the House and the Senate, held-back the release of 4% of the funds appropriated in almost all categories. This budgetary hold-back put these entities and programs on notice that reductions would be made and these 4% reductions are enacted.

**Pre-K – 12 Education Appropriations – Reduction of \$130.6 Million in Recurring General Revenue, \$117.1 Million in Nonrecurring General Revenue, and \$9.2 Million in Trust Funds for a total reduction of \$256.8 Million.**

- The reduction plan minimized the student impact within the state's public school systems funded within the Florida Education Finance Program (FEFP). For the FEFP, the reductions were limited to the removal of the nonrecurring funds that were placed in the FEFP in Special Session C and an additional reduction of 1% General Revenue and 4% Trust Funds. Since local revenue is not reduced, the per student reduction in the FEFP for this round of cuts is only 1.18%. This is a reduction in the increase over last fiscal year – with total funds still up by 4.53% over 2006-07 which is \$308.60 per student.
- For Voluntary Pre-Kindergarten, the plan adjusts the estimated payout rate to reflect the latest estimates. This allows a \$6.7 million budget reduction without reducing the per student funding amount.
- To maintain federal matching funds, state funds for school lunch were not reduced.
- Certain unobligated items outside of the FEFP were reduced and several non-core programs had a portion or all of their funds made non-recurring.
- By and large the remainder of the preK-12 programs and categories were reduced by the amount of funds currently held in reserve in the budget. Earlier in the fiscal year the Governor's Office, in consultation with the House and the Senate, held-back the release of 4% of the funds appropriated in almost all categories. This budgetary hold-back put these entities and programs on notice that reductions would be made and these 4% reductions are enacted.

**Health Appropriations – Reduction of \$19.5 Million in Annualized Recurring General Revenue**

**4% Release Holdback** – Reduces various appropriation categories by the 4% release holdback in funds.

### **Criminal and Civil Justice Appropriations – Reduction of \$65.6 Million Recurring General Revenue**

**4% Release Holdback** – Reduces various appropriation categories by the 4% release holdback of funds combined with non-recurring trust fund restorations as follows:

- The court's budget is reduced by \$17.3 million in recurring GR.
- A total of \$12.6 million in nonrecurring trust funds is added to the court's budget to mitigate the reductions in the current year.
- The state attorney budgets are reduced by \$13.4 million in recurring GR.
- \$3.4 million in nonrecurring trust funds is added to the state attorney budgets.
- The public defender budgets are reduced by \$7.5 million in recurring GR.
- \$3.8 million in nonrecurring trust funds is added to the public defender budgets.

### **General Government Appropriations – Reduction of \$1.2 Million in Recurring General Revenue**

**Administrative and Program Reductions** – Reductions based on 4% budget release holdback review, historical budget reversions, and historical budget transfer data.

### **Transportation and Economic Development Appropriations – Reduction of \$3.6 Million in Recurring General Revenue**

**Administrative and Program Reductions** – Reductions based on 4% release holdback review and historical reversions.

These provisions became law upon approval by the Governor on March 14, 2008.

*Vote: Senate 27-12; House 77-41*

### **SB 2502 — Implementing the 2007-2008 Special Appropriations**

by Fiscal Policy and Calendar Committee

The bill (Chapter 2008-2, L.O.F.) provides statutory authority necessary to implement and execute the Special Appropriations Act for the 2007-2008 fiscal year. Such statutory changes are temporary and either expire on July 1, 2008, or revert to the original language at that time.

This bill contains three main provisions that:

1. Incorporate by reference the third calculation of the FEFP.

2. Set out legislative intent that reductions in expenditures by school districts in response to the reductions in the special appropriations bill should be made in functions other than classroom instruction.
3. Expand the uses of moneys in the Mediation and Arbitration Trust Fund and the Court Education Trust Fund consistent with the appropriations made in the special appropriations act.

These provisions were approved by the Governor and took effect March 14, 2008.

*Vote: Senate 38-0; House 118-0*

### **HB 5001 — General Appropriations Act**

by Policy and Budget Council and Rep. Sansom (SB 2900 by Fiscal Policy and Calendar Committee)

The general appropriations act provides moneys for the annual period beginning July 1, 2008 and ending June 30, 2009. House Bill 5001 provides for a total budget of \$66.2 billion including:

- General Revenue: \$25.6 billion
- Trust Funds: \$40.6 billion

The budget is summarized by committee as follows:

- Pre-K – 12 Education Appropriations – \$12.1 billion
  - \$9.1 billion General Revenue
  - \$3.0 billion Trust Funds
- Higher Education – \$6.0 billion
  - \$3.8 billion General Revenue
  - \$2.2 billion Trust Funds
- Health Appropriations – \$23.4 billion
  - \$7.1 billion General Revenue
  - \$16.2 billion Trust Funds
- Criminal and Civil Justice Appropriations – \$5.0 billion
  - \$4.3 billion General Revenue
  - \$.7 billion Trust Funds



- General Government Appropriations – \$4.5 billion
  - \$.5 billion General Revenue
  - \$4.0 billion Trust Funds
- Transportation and Economic Development Appropriations – \$11.7 billion
  - \$.5 billion General Revenue
  - \$11.2 billion Trust Funds

### **Pre-K – 12 Education Appropriations Conference Budget -Fiscal Year 2008-09**

The total Pre-K – 12 Education budget is \$21.5 billion for 2008-09. This is made up of \$12.1 billion in state budget plus \$9.4 billion local effort.

**Florida Education Finance Program (FEFP)** – Minimizes the student impact within public schools. It also makes a series of adjustments designed to maintain funding in the base student allocation.

- FEFP is \$18.4 billion, or \$6,997 per student. Reduction of (\$332.3) million, or -1.77%.
- Per student reduction is (\$130.85), or -1.84%.
- Despite these cuts, the FEFP per student amount is still higher than 2006-07 by \$179.02, or 2.63% over 2006-07.

**Voluntary Pre-Kindergarten (VPK)** – Adds \$10.6 million to the base budget for VPK program funding, with \$356.1 million provided.

- However, student enrollment growth results in a base student allocation of \$2,628 (down from \$2,677), a -1.83% reduction.
- Despite this reduction, VPK base student funding is still higher than in 2006-07.

**State Board of Education** – All categories, except salaries and benefits, are reduced by at least -10% in General Revenue. Salaries and benefits are cut by approximately 4%, with 19 positions cut.

**A++ Innovation Programs and Reading Grants** – Funding partially restored from funds previously in Assessment and Evaluation and new non-recurring General Revenue.

- A++ programs funded at \$6 million.
- Reading Grants are funded at \$12.5 million.

**The budget focuses resources on current operations, with no new programs created or funded. The budget also gives districts added fiscal flexibility. A few other key issues include:**

- Lower RLE and DLE – Provides millage rate reductions for Required and Discretionary Local Efforts.
- 0.25 mills – Moved 0.25 mills from fixed capital outlay authority to the FEFP, so this adds \$365 million in district funding flexibility.
- \$65 Facilities Discretionary Policy – Authorizes additional flexibility by making it easier for districts to be eligible to use capital outlay revenue up to \$65 per student to purchase property and casualty insurance and certain motor vehicles for 2008-09 only.
- Class Size – Stays at school level one more year and class size reduction allocation still increased by \$168.4 million.
- School for the Deaf and Blind – Makes reductions of -1.83%; equal to the FEFP reductions.
- Reading allocation in FEFP – Funded at \$111.5 million.
- Merit Award Plan (MAP) – Teacher bonus paid to eligible teachers at \$32.1 million.
- School Recognition – Reduced per student award to \$85, instead of \$100. Also, lowered the required school advisory council payments to \$5 per student instead of \$10.
- Excellent Teaching – Made changes to save the main certification bonus and funded at \$55.3 million. So, teachers will still get bonuses of \$4,500. Mentoring bonuses are not restored, but authority to provide them is maintained.
- Mentoring – Still have \$12.9 million in mentoring funding for local groups.

### **Higher Education Conference Budget - Fiscal Year 2008-09**

The total Higher Education budget in the Conference Report is \$6.6 billion for 2008-09. This is made up of \$5.0 billion in state funds plus \$1.6 billion in student tuition and fees.

#### **Community Colleges**

Community Colleges receive a reduction of -0.8% (\$13.3 million) compared to Fiscal Year 2007-08 funding. This comparison includes the 6% tuition increase authorized in the budget.

The budget includes \$295,000 for the colleges involved in the State College System Pilot Project and \$292,500 in recurring funds to implement the new baccalaureate programs approved by the State Board of Education in February.

### **State Universities**

State Universities receive a reduction of -0.6% (\$19.1 million) compared to 2007-08 funding. This comparison includes the 6% tuition increase authorized in the budget.

For Medical Schools, the budget includes \$3.3 million for the final year of funding for the FAU/UM Medical Partnership, increased funding for the phase-in of the new medical schools with UCF at \$4.7 million and FIU at \$6.2 million, and additional funding for existing medical schools with UF at \$4.5 million and USF at \$1.7 million. The budget also restores \$4.4 million for FSU medical clinics.

### **Workforce Education**

Public School Workforce programs receive a reduction of -5% (\$28.9 million) compared to Fiscal Year 2007-08 funding. This comparison includes the 6% tuition increase authorized in the budget.

The Ready to Work program is funded at \$11 million, with \$7 million from recurring General Revenue and \$4 million from prior year reappropriations.

### **Vocational Rehabilitation and Blind Services**

To avoid any federal match impacts, the budget reductions for Vocational Rehabilitation and Blind Services are limited to less than -1.5%.

### **Private Colleges and Universities**

Budget reductions for Historically Black Colleges and Universities (HBCU) are limited to -3%. Florida Resident Access Grants (FRAG) and Access to Better Learning and Education (ABLE) grants have award reductions of -5.4%. (This results in maximum award amounts of \$2,837 for FRAG and \$1,182 for ABLE grants.) Most other programs receive -6.2% reductions.

### **Student Financial Aid**

In Bright Futures, funding for enrollment and tuition increases were provided, as well as \$375 awards for college related expenses for Florida Academic Scholars. The budget also includes a workload increase for the Children or Spouses of Deceased or Disabled Veterans Program. Most other programs receive -3% General Revenue reductions.

### **Board of Governors**

All categories receive -10% reductions, except salaries and benefits which were reduced by -4% and -2 positions.

### **Health Appropriations Conference Budget - Fiscal Year 2008-09**

- General Revenue - \$7,147,600,000
- Trust Fund - \$16,225,090,008
- Total Budget - \$23,372,690,008

### Agency For Health Care Administration

- **Medicaid Price Level and Workload – \$338.5 million General Revenue** – Provides increased funds for Medicaid workload because of changes in caseloads and utilization of services and price level increases in reimbursement rates for institutional facilities, rural health clinics, federally qualified health centers, county health departments, prescription drugs, and other services. The Medicaid caseload for FY 2008-09 is projected to be 2.2 million people.
- **KidCare Enrollment Increase – \$28.7 million** – Provides additional funding for increased enrollment in the Florida KidCare program. This is projected to fund an additional 38,400 children during the fiscal year.
- **Transfer Funding for Personal Care Services from Agency for Persons with Disabilities to Medicaid State Plan – \$26.6 million** – Transfers funding from APD to AHCA, to allow personal care services to be provided under the Medicaid state plan in lieu of the APD waiver.
- **Medicaid Aged and Disabled** – Eliminates recurring funds of \$355.6 million for the optional MEDS AD program and provides \$355.6 million in non-recurring funds to continue the program through June 30, 2009. The non-recurring state matching funds of \$152.7 million is provided from tobacco settlement trust funds from the Lawton Chiles Endowment Fund.
- **Medically Needy** – Eliminates recurring funds of \$349.5 million for the optional Medically Needy Program except for pregnant women and children and provides \$349.5 million in non-recurring funds to continue the program through June 30, 2009. The non-recurring state matching funds of \$148.1 million is provided from tobacco settlement trust funds from the Lawton Chiles Endowment Fund.
- **Reduce Nursing Home Reimbursement Rates – (\$163.6 million)** – Reduces the projected Medicaid nursing home expenditures by 6.5%.
- **Impact to Hospice Rates from Reducing Nursing Home Rates – (\$15.2 million)** – Hospice reimbursement rates are calculated as a percentage of nursing home rates. Therefore as nursing home rates are reduced, hospice rates receive a correlating reduction.
- **Reduce Hospital Inpatient Reimbursement Rates – (\$154.3 million)** – Reduces the projected Medicaid hospital inpatient expenditures by 7.3%.
- **Reduce Hospital Outpatient Reimbursement Rates – (\$36.4 million)** – Reduces the projected Medicaid hospital outpatient expenditures by 7.3%.
- **Reduce Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) Reimbursement Rates – (\$6.2 million)** – Reduces the projected Medicaid ICF/DD expenditures by 2.5%.

- **Reduce Medicaid HMO Reimbursement Rates – (\$145.1 million)** – Reduces the projected Medicaid HMO expenditures by 6.5%.
- **Reduce County Health Department Reimbursement Rates – (\$9.3 million)** – Reduces the projected Medicaid County Health Department expenditures by 6.5%.
- **Pharmacy Ingredient Cost Adjustments (\$9.7 million)** – Lowers the Average Wholesale Price (AWP) component in the pharmacy reimbursement methodology from AWP minus 15.4% to AWP minus 16.4%; and lowers the Wholesale Acquisition Cost (WAC) pricing component in the pharmacy reimbursement methodology from WAC plus 5.75% to WAC plus 4.75%.
- **Expand Nursing Home Diversion– (\$26.7 million)** – Expands nursing home diversion by 4,000 slots. Savings are achieved by providing individuals eligible for nursing home care services in an alternative less costly setting.
- **Prior Authorization of Elective Cesarean Sections – (\$3.2 million)** – Establishes a prior authorization process for elective cesarean sections. Data indicates that over 40% of babies born in Miami-Dade County and Monroe are delivered by Cesarean Section. The primary growth in Cesarean Sections is in the "elective" category.
- **Freeze Florida Healthy Kids Capitation Rates – (\$15.5 million)** – Freezes the Florida Healthy Kids capitation reimbursement rates to their September 30, 2008 level.
- **Reduce Florida Healthy Kids Corporation Administration Expenditures – (\$1.5 million)** – Reduces the projected Florida Healthy Kids Corporation administration expenditures by 5%.
- **Reduce MediPass Case Management Fee – (\$6.7 million)** – Reduces the \$3 per member per month fee to \$2 per member per month for physicians participating in the MediPass program.
- **Increase Managed Care Enrollment – (\$5.7 million)** – Requires Medipass recipients in counties with two or more managed care plans to enroll in a managed care plan during their eligibility redetermination period.
- **Eliminate Payment for Preventable Hospital Errors – (\$215,647)** – Eliminates payments to hospitals for preventable hospital errors based on the federal program established under Medicare.
- **Reduce Prepaid Mental Health Plan Reimbursement Rates – (\$9.5 million)** – Reduces the projected Medicaid prepaid mental health plan expenditures by 4%.
- **Reduce Medicaid Reimbursement for Non-Emergency Transportation – (\$2.9 million)** – Reduces the projected non-emergency transportation expenditures by 4%.
- **Reduce Freestanding Dialysis Center Reimbursement Rates – (\$1.9 million)** – Reduces the reimbursement rates for freestanding dialysis centers from \$125 per visit to \$95 per visit.

- **Increase Managed Care Enrollment – (\$5.7 million)** – Requires Medipass recipients in counties with two or more managed care plans to enroll in a managed care plan during their eligibility redetermination period.
- **Eliminate Contract with Teaching Nursing Home – (\$625,000 General Revenue)** – Eliminates a contract that AHCA has with the Miami Jewish Home for the Aged. The facility was funded with recurring general revenue to supplement their comprehensive multidisciplinary program of geriatric education and research.
- **Eliminate Contract with Patient Safety Corporation – (\$750,000 General Revenue)** – Eliminates supplemental funding from AHCA to the Patient Safety Corporation.
- **Eliminate Expenditures for the Family Café – (\$200,000 General Revenue)** – Eliminate AHCA's participation in this program. The Family Café is sponsored by a not-for-profit corporation. It is a meeting that is held each year (usually in Orlando) to present to the families of individuals with disabilities what services are available to them.

#### **Agency For Persons With Disabilities**

- **Serving Persons with Disabilities – \$9.6 million** – Provides \$4.3 million of non-recurring general revenue funds and \$5.3 million of non-recurring operations and maintenance trust funds to provide additional services through the Home and Community Based Services Waiver.
- **Changes to the Medicaid Federal Participation Rate – \$14.6 million** – Provides funds for the decline in the federal medical assistance percentage (FMAP).
- **Transition Clients from the Institutions to Community Settings – \$5.1 million** – Provides funding to transition 60 clients from the Gulf Coast institution to community settings.
- **Complete Client Assessments – \$3.1 million** – Provides funds to complete assessments on home and community services waiver clients by June 30, 2009.
- **Staff Augmentation – \$844,842** – Provides for information technology infrastructure.
- **Provider Rate Reduction – (\$43.5 million)** – Reduces provider rates except those for personal care assistance by approximately 6.5%.
- **Transfer Personal Care Assistance (PCA) for Children to ACHA – (\$20.4 million)** – Transfers funds from APD to AHCA so that children will receive personal care assistance services through the Medicaid state plan.
- **Savings from Personal Care Assistance Transfer – (\$12.4 million)** – Savings resulting from reducing the Personal Care Assistance hourly rate to \$15.
- **Administrative Reductions – (\$0.4 million)** – Reduces, contracts, group home management, and community development programs.

## **Department Of Children And Families**

- Capital Improvements to Domestic Violence Centers – \$3.0 million – Provides nonrecurring tobacco settlement trust funds from the Lawton Chiles Endowment Fund for capital improvement grants to domestic violence centers.
- Maintenance and Repairs of State Institutions – \$8.2 million – Provides nonrecurring tobacco settlement trust funds from the Lawton Chiles Endowment Fund for maintenance and repairs to state-owned mental health institutions. In accordance with the Capital Improvement Plan developed by DCF, the projects selected to receive funding from this appropriation are as follows:
  - Florida State Hospital - \$4.9 million
  - Northeast Florida State Hospital - \$2.3 million
  - North Florida Evaluation and Treatment Center - \$778,730
  - West Florida Community Care Center - \$131,566
- Changes to the Medicaid Federal Participation Rate – \$2.2 million – Provides funds for the decline in the federal medical assistance percentage (FMAP).
- Community Based Medicaid Administrative Claiming – \$29.7 million – Funds community mental health service expansion using nonrecurring Community Based Medicaid Administrative Claiming (CBMAC).
- Cash Assistance Caseload Increase – \$17.8 million – Funds an increase in Cash Assistance from the Temporary Assistance for Needy Families Block Grant (TANF) based on the most recent Cash Assistance Estimating Conference.
- Title IV-E Demonstration Waiver – \$4.4 million – Provides additional federal funding for an increase in child welfare services for children.
- Children's Zones – \$3.6 million – Funds a pilot program to provide a comprehensive, community-based, coordinated and targeted system of strategies and services to revitalize communities, support parents and provide comprehensive care for all children within the pilot zone.
- Administrative Reductions – (\$36.2 million) – Reduces administrative functions in the department by 15% and 201 positions.
- Community Based Care for Children – (\$18.4 million) – Reduces services to children in the child welfare system by 2.65 %.
- Sheriffs' Protective Investigation Contracts – (\$2.4 million) – Reduces grants to sheriffs who conduct protective investigations by 5%.
- Special Projects Fund Shift – (\$16.1 million) – Fund shifts all general revenue funded special projects to non-recurring trust fund cash.
- Forensic Facility Closing –(\$3.9 million) – Provides for the closing of the 100-bed South Florida Evaluation and Treatment Center Annex on September 30, 2008, and transfers 47

forensic beds to the Treasure Coast Forensic Treatment Center and 25 beds to South Florida Evaluation and Treatment Center.

- Substance Abuse Services Reduction – (\$3.1 million) – Reduces substance abuse services to adults by \$3.1 million.
- Substance Abuse Services Fund Shift --(\$1.2 million) Redirects \$1.2 million from recurring to nonrecurring TANF.
- Florida SACWIS Solutions – (\$2.4 million) – Fund shifts all SACWIS project development funds from recurring GR to nonrecurring trust fund cash.

### **Department Of Elder Affairs**

- Senior Centers – \$10.0 million – Provides nonrecurring tobacco settlement trust funds from the Lawton Chiles Endowment Fund for a matching grant program to construct, repair and maintain Florida's Senior Centers.
- Changes to the Medicaid Federal Participation Rate – \$1.8 million – Provides funds for the decline in the federal medical assistance percentage (FMAP).
- Byrd Alzheimer's Center (\$13.5 million) – Eliminates funds to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute.
- Community Care for the Elderly Program – (\$1.6 million) – Reduces by 5% the Community Care for the Elderly Program that provides services to frail, homebound elders to help them remain in their home and in the community.
- Home Care for the Elderly – (\$476,473) – Reduces by 5% the Home Care for the Elderly program that provides a basic subsidy to provide support and maintenance of elders in their own homes as an alternative to nursing home care.
- Alzheimer's Disease Initiative (\$595,861) – Reduces the Alzheimer's Disease Initiative projects that provide respite services to families with persons with Alzheimer's.
- Telehealth Support Project (\$250,000) – Eliminates the Telehealth Support Project that provides web based and telephone services to caregivers of person's with Alzheimer's disease.
- Sunshine for Seniors (\$158,000) – Eliminates the Sunshine for Seniors Program that assists low income elders with obtaining prescription drugs from pharmaceutical assistance programs as this duplicates other programs.

### **Department Of Health**

- Access to Health Care – \$25 million – Provides \$5 million (non-recurring) to Shands Healthcare System and \$20 million (non-recurring) to Jackson Memorial Hospital to provides medical services to the uninsured and underinsured.



- Women, Infant and Children Program – \$35.6 million – Provides additional federal funding for an increase in services provided through the WIC Nutritional Services program.
- Child Nutrition Program – \$12.4 million – Provides additional federal funding for an increase in services provided through the Child Nutrition program .
- Capital Improvement Plan for County Health Departments – \$57.7 million – Provides non-recurring funds for county health department buildings as follows: Flagler \$.2m; Hillsborough \$7.5m; Palm Beach \$4m; Broward \$3.6m; Pinellas \$10m; Miami-Dade \$6.4m; Hernando \$14.2m; and Jackson \$10.8m. Of this total, \$31.4 million is from non-recurring tobacco settlement trust funds from the Lawton Chiles Endowment Fund.
- Capital Improvement Plan for Children's Medical Services Building – \$982,200 – Provides nonrecurring tobacco settlement trust funds from the Lawton Chiles Endowment Fund for the CMS building in Brevard County.
- Rural Hospitals – \$3.0 million – Provides non-recurring funds for the rural hospital capital improvement grant program.
- Tobacco Use – \$6.6 million – Provides funds (including \$5 million non-recurring for infrastructure) to be used to implement the Comprehensive Statewide Tobacco Education and Prevention Program in accordance with s. 27, Art. X of the State Constitution.
- Early Steps Program – \$3.0 million – Provides budget authority to spend non-recurring federal funds for clients in the Early Steps Program.
- Developmental Services Part C – \$3.6 million – Provides non-recurring TANF funds for the developmental evaluation and intervention program.
- Ounce of Prevention – \$1.9 million – Provides non-recurring TANF funds for the Ounce of Prevention Program.
- Changes to the Medicaid Federal Participation Rate – \$.7 million – Provides funds for the decline in the federal medical assistance percentage (FMAP).
- A.G. Holly Hospital – (\$.6 million) – Reduces the general revenue funding for A.G. Holly Hospital.
- Area Health Education Centers – (\$1.2 million) – Reduces the general revenue funding for Area Health Education Centers.
- County Health Departments – (\$10.7 million) – Reduces general revenue funds to the county health departments for services.
- Administration – (\$1.5 million) – Reduces general revenue funding for administration and information technology functions.

### **Department Of Veterans' Affairs**

- Transition CNA services to State Operations – Provides 210 positions and transfers \$7.1 million from contracted services to replace outsourced Certified Nursing Assistant services with state employees in three Veterans' Nursing Homes in order to maintain compliance with state and federal laws.
- Transition Food Services to State Operations– Provides 36 positions and transfers \$1.2 million from contracted services to state operations to replace outsourced food service employees with state employees in three Veterans' Nursing Homes.
- Fixed Capital Outlay - Maintenance and Repairs – \$1.2 million – Provides non-recurring funds for repairs, maintenance and upgrades to the Veterans' Domiciliary and Nursing Homes.
- Fund Shift Expenses -(\$236,405) – Reduces general revenue funds and redirects expenditures for expenses to trust funds.
- Information Technology (\$119,283) – Reduces expenses and OCO related to information technology services.
- Administrative Reductions (\$144,313) – Reduces expenses and OCO in Executive Direction and Veterans' Benefits and Assistance.

### **Criminal and Civil Justice Appropriations Conference Budget – Fiscal Year 2008-09**

#### **Budget Reductions:**

- Reduced operational funding in the Department of Corrections general revenue appropriations by \$44.4 million or -2.0 %.
- Reduced general revenue funding for the Department of Legal Affairs by \$5.62 million.
- Reduced operational funding in the Parole Commission by \$1.38 million.
- Reduced state court system operational funding in general revenue by \$17.8 million or -4.2%. When additional trust funds were added to the state court system, a reduction of \$6.9 million or -1.6% in all funds was made.
- State Attorneys general revenue was reduced by \$14.4 million or -4.3%, but when additional trust funds were added, the state attorneys saw a reduction of \$2.2 million or -0.6%.
- Public Defenders general revenue was reduced by \$7.2 million or -4.2% and with additional trust funds, they saw a reduction of \$1.2 million or -0.6%.
- Reduced secure and low-risk bed capacity in the Department of Juvenile Justice in general revenue by \$18.1 million.

- Reduced CINS/FINS services in the Department of Juvenile Justice in general revenue by \$1.9 million.
- Reduced day treatment services in the Department of Juvenile Justice in general revenue by \$2.2 million.

**Budget Highlights:**

- Provided the Department of Corrections with an overall operational funding increase in general revenue of \$40.63 million.
- Provided \$85 million in general revenue and 1,395 FTE to fund the increased inmate population as projected for FY 2008-09 by the Criminal Justice Estimating Conference and to fund new facilities opening during FY 2008-09.
- Provided \$30 million to fund the Department of Corrections' increased health care costs.
- Provided \$305.1 million in fixed capital outlay funding for 10,224 new prison beds to be constructed over the next three years.
- Provided \$6.5 million for grant funding to small counties for detention services in the Department of Juvenile Justice.
- Provided increased funding for the Missing Children Information Clearinghouse unit in the Department of Law Enforcement.
- Provided increased funding for the Sexual Offender / Predator Unit in the Department of Law Enforcement.
- The conference report provided a \$7 million fund-shift from general revenue to the Department of Law Enforcement's Operating Trust Fund to continue to fund services.

**General Government Appropriations Conference Budget -Fiscal Year 2008-09**

**Environment and Natural Resources**

- Florida Forever - \$300 million in bonds for land acquisition and conservation of our unique natural resources.
- Everglades Restoration - \$50 million for the Comprehensive Everglades Restoration Plan (CERP); the Lake Okeechobee Estuary Recovery Plan; and the Caloosahatchee River and St. Lucie River watersheds. The state funding is matched dollar-for-dollar by the South Florida Water Management District.
- Drinking and Wastewater Revolving Loan Programs - \$67.7 million for the drinking water revolving loan program and \$117.8 for the wastewater revolving loan program. These programs provide low interest loans to local governments for building safe drinking water and wastewater facilities.

- Water Resource Protection and Restoration - This includes \$66.5 million for statewide water restoration and wastewater projects, \$18 million for Total Maximum Daily Load requirements; \$10 million for the Disadvantaged Small Community Wastewater Grant Program, \$15 million for the Southern Use Caution Area of the state, \$7.7 million for Alternative Water Supply, and \$9.2 million for lake restoration projects.
- Florida Recreational Development Assistance Program (FRDAP) - \$24.5 million for grants to local governments to construct baseball fields, bike paths, and playgrounds for public outdoor recreation.
- Solid Waste Grants - \$9.4 million in grants to small local governments for managing solid waste and recycling operations, and \$2 million for the Innovative Waste Reduction grants program.
- Mulberry/Piney Point Phosphate Clean-up - \$21.7 million to continue cleanup efforts of the contaminated phosphate sites.
- Land Reclamation - \$7.2 million for the Non-mandatory Land Reclamation program that restores eligible phosphate lands mined before July 1975.
- Beach Restoration - \$21.9 million to restore and protect Florida's beaches on both the Gulf and Atlantic coasts.
- Derelict Vessel Removal - \$1.6 million for the removal of damaged vessels obstructing the waterways.
- Wildfire Suppression Equipment - \$6 million to protect our state forests and increase the safety of firefighters and the public.
- Aquaculture - \$1.3 million for projects recommended by the Aquaculture Review Council and \$1.5 million for oyster planting and restoration of oyster reefs.
- Mobile Irrigation Labs - \$500,000 for agriculture water conservation initiatives in partnership with the water management districts.
- Agriculture Research - \$350,000 for research projects to develop measures to eradicate diseases in honey bees, and \$2 million for research projects associated with citrus disease.
- Sterile Medfly Release Program - \$418,458 to prevent outbreaks of the Mediterranean fruit fly infestation on agricultural products.
- Necropsy Lab - \$3.8 million to construct an animal diagnostic laboratory for disease surveillance and control.

### **Consumer Protection and Regulation**

- Hotels and Restaurant Inspections - \$435,028 and six additional inspectors and support staff for improving the safety of hotels and restaurants.

- Regulatory Compliance and Enforcement Investigations - \$348,720 and five positions to provide for more efficient and timely investigations of licensed and unlicensed activities of professions regulated by the Department of Business and Professional Regulation.
- Strategic Markets Research and Assessment - \$337,958 and 3 positions to analyze and report on Florida's markets and financial industries and protect consumers from fraud.
- Financial and Cash Management System - \$300,000 and 3 positions to develop a strategic plan for a successor financial and cash management system for the state.
- Money Services Businesses - \$763,848 and 3 positions for the examination of money services businesses.

### **Technology and Security**

- CAMS - \$51.3 million for continuing the implementation of a new automated Child Support Management System (CAMS).
- REAL System - \$4 million for the Office of Financial Regulation's continued implementation of the Regulatory Enforcement and Licensing System, designed to integrate licensing, investigation, examination, legal, and complaint functions.
- Document Management System - \$2.5 million for the Department of Business and Professional Regulation to continue the development and implementation of a department-wide document management system, designed to improve agency licensure and regulation processes.
- Applications Management System - \$2.9 million and 12 positions to support the transition of the Department of Business and Professional Regulation's Single Licensing System Services from and out-sourced contract to in-house support.
- PeopleFirst and MyFloridaMarketPlace Systems - \$500,000 for a feasibility study of the state's personnel and purchasing systems. The contracts end in 2010 and 2011.
- E911 Emergency Equipment Grants - \$25 million for counties to apply for grants to replace, update and enhance their emergency communication systems.
- Statewide Law Enforcement Radio System - \$6.8 million for improving and enhancing the Statewide Law Enforcement Radio System.

### **Other Major Issues**

- Fiscally Constrained Counties - \$10 million to offset the reductions in ad valorem revenue experienced by fiscally constrained counties.
- State Building Repairs and Construction - \$3.3 million for state building deficiencies; \$715,275 to correct fire, safety, health, and environmental deficiencies; and \$14 million for building construction and road paving.

**Reductions:**

- Maximize Recurring Trust Fund Balances – Fund shifted \$18.4 million from recurring general revenue and replaced with recurring trust fund revenues.
- Fee Adjustments to Support Programs – Replaced \$9.5 million in recurring general revenue by increasing fee revenues in the agriculture and environmental areas of the budget. This includes an increase in the vessel registration fee to continue to support law enforcement operations. In addition, \$28.9 million is generated from a surcharge on phosphate rock severed to clean-up the Mulberry and Piney Point sites and reclaim mined lands. An equal amount will be reduced from future collections.
- Administrative and Efficiency Reductions – Reduced 156 positions, \$8 million general revenue and \$13.3m trust funds.
- Program Reductions – Reduced 35 positions, \$2 million general revenue and \$11.7 million.

**Transportation and Economic Development Appropriations Conference Budget - Fiscal Year 2008-09**

Total budget of \$11.7 billion, \$457.5 million in general revenue, and \$11.3 billion in trust funds.

**Department of Military Affairs**

- Provided continuation funding for
  - National Guard Tuition Assistance Program at \$1.7 million
  - Forward March Program at \$500,000
  - About Face Program at \$1,500,000, and
  - Youth Challenge Program at \$650,000.
- \$400,000 for the Family Readiness Program.
- \$3.1 million continues the renovations of Florida's Readiness Centers.
- \$33.7 million for Fixed Capitol Outlay Projects at the Camp Blanding Training Site provided through National Guard Federal Cooperative Agreements.

**Department of State**

- \$ 600,000 for Historic Preservation Grants.
- \$ 500,000 for Historic Museum Grants.
  - \$ 6 million for Arts and Cultural Program Operating Grants, which include 8 different types of grant programs.
  - \$1.5 million for Library Cooperative Grant Program.

- Continued \$26.7 million in recurring funding for State Aid to Libraries. This represents a \$4 million reduction; however, in Fiscal Year 2009-10 the recurring funding will increase to \$24.9 million.
- Funded an additional \$4.5 million for Election Activities, from both state and federal sources (includes state matching funds which will draw an additional \$6.5 million in federal funding).
- Funded \$2.2 million to repair the Miami Seawall, a state property with historical significance.

**Department of Community Affairs**

- Emergency Management Performance Grants - \$9.2 million.
- Federal Interoperability Communications Grant - \$27 million.
- \$4 million for the Pre-disaster Mitigation Program.
- Residential Construction Mitigation Program - \$3.5 million.
- Disaster Preparedness Initiatives (Shelters, EOCs, LiDAR, and Special Needs Shelter generators) - \$62.5 million.
- Repetitive Flood Loss Programs - \$11 million.
- \$620 million in hurricane-related recovery funds.
- \$303 million for Housing Programs, including:
  - State affordable housing program - \$20.5 million
  - Local affordable housing program (SHIP) - \$166.4 million
  - State Apartment Incentive Loan Program (SAIL) – additional \$72.5 million
  - Homeownership Assistance Program - \$20.5 million
  - Housing Preservation Rehabilitation Pilot Program - \$10 million
  - Extremely Low Income program - \$5 million
  - Community Contribution Tax Credit Program – 2.5 million, and
  - Homelessness Program - \$5.9 million
- Florida Communities Trust (Florida Forever Program) - \$66 million.
- Small Cities Community Developmental Block Grants - \$35 million.
- Weatherization Grants for Low Income Persons - \$6.3 million.
- Regional Planning Councils – \$2.4 million.
- Front Porch Florida - \$1.7 million.

**Department of Transportation**

- Economic Development Transportation Projects - \$36.8 million.
- Road Ranger Program - \$11 million.
- Transportation Infrastructure Pilot Program - \$10 million.
- Small County Resurfacing Assistance Program (SCRAP) - \$25 million.
- Small County Outreach Program - \$43.1 million.
- County Incentive Grant Program - \$43.5 million.
- Department of Transportation Work Program Total – \$7.1 billion.

**Department of Highway Safety and Motor Vehicles**

- \$3.3 million is provided for Implementation of REAL ID.
- Continues Domestic Security Grant funding at \$2.9 million.
- Florida Highway Patrol –
  - Continues funding for Trooper Overtime Pay at \$6.8 million
  - Price Level Increases for Operation of Motor Vehicles at \$1.7 million.

**Office of Tourism, Trade and Economic Development**

- Economic Incentives Programs - \$25.5 million for the QTI (Qualified Targeted Industries Tax Incentives), QDC (Qualified Defense Contractors Tax Incentives), Brownfields, and other economic development programs.
- \$11.9 million for Enterprise Florida.
- \$35.5 million for Visit Florida.
- \$5 million for Film Incentives.
- \$200,000 provided for the Hispanic Business Initiative Fund Outreach Program.
- \$2.75 million for the Black Business Investment Board and the Black Business Loan Program.
- \$1.0 million provided for Military Base Protection and Defense Related Grants.
- \$36.8 million funded for Economic Development Transportation Projects, including \$14.5 million for Space and Aerospace infrastructure.
- \$2.1 million funded for other economic development initiatives.
- \$5.0 million provided for Space Florida.
- 15.3 million for Space, Defense and Rural Infrastructure.



- \$26.5 million for the Quick Action Closing Fund.

#### **Agency for Workforce Innovation**

- In the Early Learning Program:
  - Continued the Non-Custodial Parent Program at \$1.4 million and HIPPY (Home Instruction Program for Pre-School Youngsters) at \$1.4 million.
- In the Workforce Program:
  - Continued funding for the Military Families Employment Program at \$700,000.
  - Provided \$1.5 million to continue the existing Banner Centers.
  - Funded an additional \$506,734 to provide services to an increasing number of Displaced Homemakers and \$250,000 to meet employment training needs of food stamp recipients.
  - Provided \$1.3 million for Space Workforce Transition.

If approved by the Governor, these provisions take effect July 1, 2008, or upon becoming law, whichever occurs later, except as otherwise provided.

*Vote: Senate 32-8; House 75-44*

#### **HB 5003 — Implementing the 2008-2009 General Appropriations Act**

by Policy and Budget Council and Rep. Sansom (SB 2902 by Fiscal Policy and Calendar Committee)

This bill implements appropriations for FY 2008-2009. It makes one-year changes to substantive laws in order to prevent conflicts between the statutes and the budget so that the Legislature's budget decisions can be fully implemented. The bill:

- Implements Specific Appropriations 6, 7, and 81 through 83 of the General Appropriations Act for FY 2008-2009 adopting by reference the document "Public School Funding – The Florida Education Finance Program," for the purpose of displaying the calculations used by the Legislature consistent with the requirements of Florida Statutes in making appropriations for the Florida Education Finance Program in FY 2008-2009.
- Requires that funds appropriated for forensic mental health treatment services be allocated to the areas of the state having the greatest demand for services and treatment capacity; provides that funds available through the Community-Based Medicaid Administrative Claiming Program shall be allocated in proportion to contributed provider earnings; provides that administrative earnings used in lieu of general revenue funds shall be unchanged from the allocation of these funds for FY 2007-2008.

- Requires all public and private agencies and institutions participating in child welfare cases to enter certain information into the Florida Safe Families Network (FSFN) in order to maintain the accuracy and usefulness of the automated child welfare case management system; and directs the Department of Children and Family Services to work with the Office of the State Courts Administrator and the Statewide Guardian Ad Litem Office to allow a judge, magistrate, or guardian ad litem to access FSFN information concerning cases to which they are assigned, by the date of the network's release during FY 2008-2009.
- Requires the Department of Health to enter into an agreement with a private contractor to finance, design, and construct a hospital, of no more than 50 beds, for the treatment of patients with active tuberculosis and the operations of the facility beginning July 1, 2008.
- Requires the Agency for Health Care Administration to study the effects of the minimum nursing home staffing ratios and the relationship to Medicaid reimbursement and quality of care provided to residents. A report is due to the Legislature by February 1, 2009. The agency may not impose sanctions against a nursing home for failure to meet the staffing ratios or for failure to impose a moratorium on new admissions, as long as the certified nursing assistant ratio is not below 2.6 hours per resident per day and the licensed nurse ratio is not below 1.0 hours per resident per day.
- Authorizes the Department of Corrections and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of each department. The payment may not exceed 1 percent of the construction costs, less any building impact fees paid to the local government.
- Allows the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population and the additional positions are approved by the Legislative Budget Commission.
- Authorizes the Department of Legal Affairs to spend funds from Specific Appropriations 1301 and 1302 on the same programs and in the same method as was done in FY 2007-2008.
- Allows a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.
- Specifies that the Department of Corrections must comply with the following reimbursement limitations for inmate medical care.
  - If no contract exists between the DOC and a health care provider or hospital regarding services, payment may not exceed 110 percent of the Medicare allowable rate.

- Current contracts between the DOC and a health care provider or hospitals will continue at the current contracted rate, however, if the contract expires or is subject to renewal during FY 2007-2008, the payments may not exceed 110 percent of Medicare allowable rate.
- If the department enters into a new contract, the payments may not exceed 110 percent of the Medicare allowable rate.
- Authorizes the Department of Legal Affairs to transfer cash remaining after required disbursements from Attorney General case numbers L01-6-1004, L03-6-1002, and L01-6-1009 from FLAIR account 41-74-2-601001-41100100-00-181076-00 to the Operating Trust Fund to pay salaries and benefits.
- Allows the Chief Justice of the Supreme Court to reimburse justices of the Supreme Court for travel expenses, including travel, per diem, and subsistence allowances, associated with travel to Tallahassee.
- Permits the assignment of an employee between agencies.
- Allows the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.
- Allows the Executive Office of the Governor to transfer funds appropriated for the payment of human resource management assessments between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.
- Continues the employer contribution into the health insurance saving accounts for FY 2007-08.
- Requires the Department of Management Services to notify the President of the Senate, the Speaker of the House of Representatives, the Executive Office of the Governor and the Division of Bond Finance as to the disposition of all state owned buildings prior to the sell, lease or release within the Florida Facilities Pool.
- Limits the use of state owned motor vehicle and aircraft to "official state business." This section requires individuals traveling on state aircraft for purposes other than state business to reimburse the state for all costs.
- Requires the Department of Revenue to disburse child support payments to obligees electronically. This section also requires the State Disbursement Unit to deposit any payments into a stored-value account if the obligee does not designate a personal account.
- Requires the Department of Revenue to disburse Title IV-D case child support payments electronically. This section also requires the State Disbursement Unit to deposit Title IV-D payments into a stored-value account if the obligee does not designate a personal account.

- Authorizes the Department of Revenue to extend the Child Support State Disbursement Unit contract (C3636) for 66 months.
- Allows fiscally constrained counties to apply to the Department of Revenue for participation in the distribution of funds to offset the reductions in ad valorem tax revenue resulting from revisions of Article VII of the State Constitution.
- Allows facilities management bonds to be funded with bond proceeds.
- Allows the Department of Financial Services to spend \$998,820 of prior funding for salaries and related expenses to support 10 positions appropriated to administer the Florida Hurricane Damage Mitigation Program.
- Allows a portion of the funds transferred from the Florida Catastrophe Trust Fund for the Hurricane Loss Mitigation Program to be used to install emergency power generators in special-needs hurricane evacuation shelters.
- Authorizes the funds from the sale of property by the Department of Highway Safety and Motor Vehicles in Palm Beach County to be deposited into the Highway Safety Operating Trust Fund.
- Requires the Department of Transportation to transfer funds to the Office of Tourism, Trade, and Economic Development in an amount equal to \$36,750,000 for the purpose of funding economic development transportation projects. Requires the Department of Transportation to reduce reserve funds prior to deferring projects or project phases in the five year work program.
- Allows a portion of the building permit surcharge fees deposited in the Operating Trust Fund to be transferred to the Grants and Donations Trust Fund in support of regional planning councils, civil legal assistance, and Front Porch Florida Initiative in the Department of Community Affairs.
- Authorizes the Department of Transportation to expend funds to pay for administrative expenses incurred by multi-county transportation/expressway authorities when such expenses are in furtherance of the duties and responsibilities of the authority in the development of improvements to the state highway system.
- Expands the allowable uses to moneys in the Internal Improvement Trust Fund and provides for the transfer of these funds to the Ecosystem Management and Restoration Trust fund for grants and aids to local governments for the drinking water facility construction state revolving loan program.
- Provides authorization to grant community contribution tax credits for projects that provide homeownership opportunities for low-income and very-low-income households and increases the tax credit cap to \$13 million annually.

- Requires the Department of Environmental Protection to award \$9.4 million in solid waste management grants in equal amounts to counties with populations of fewer than 100,000, and to award \$2 million for Innovative Grants.
- Authorizes moneys in the General Inspection Trust Fund to be appropriated for certain programs operated by the Department of Agriculture and Consumer Services.
- Allows the Executive Office of the Governor to transfer funds appropriated for the Florida Forever Act between fixed capital outlay categories and between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.
- Provides that individual alternative water supply projects may be appropriated as in Specific Appropriation 1778, separately from the funds distributed pursuant to ss. 403.890 and 373.1961(3), F.S.
- Provides that interest earnings accumulated in the Water Protection and Sustainability Program Trust fund shall be transferred to the Ecosystem Management and Restoration Trust fund for grants and aids to local governments for water projects.
- Expands the allowable uses to moneys in the Land Acquisition Trust Fund and provides for the transfer of these funds to the Ecosystem Management and Restoration Trust fund for grants and aids to local governments for water projects.
- Extends the repeal by one year for the removal of free product and other source removal which expedites the replacement of tanks as required by federal law pursuant to s. 376.3071, F.S.
- Expands the allowable uses to moneys in the Save Our Everglades Trust Fund and provides for projects pursuant to approval by the Department of Environmental Protection and the water management district as specified in s. 373.026(8)(b), F.S.
- Authorizes the Department of Agriculture and Consumer Services to extend, revise, and renew current contracts relating to the Florida Agriculture Promotion Campaign.
- Authorizes transfers from the Budget Stabilization Fund and the Lawton Chiles Endowment Fund to address certified deficits in the General Revenue Fund.
- Clarifies that certain transfers from the Chiles Endowment Fund should be treated as reductions in contributions to the Fund.
- Provides a legislative determination that the authorization and issuance of state debt is in the best interest of the state and should be implemented.
- Reenacts s. 215.32, F.S., to allow the transfer of trust fund cash balances to the General Revenue Fund.

Reduces the salaries of members of the Legislature by 5 percent for FY 2008-2009.

If approved by the Governor, these provisions take effect July 1, 2008, unless otherwise specified.

*Vote: Senate 33-7; House 74-43*

## **TRUST FUND BILLS**

### **SB 2128 — Administrative Trust Fund/Fish and Wildlife Conservation Commission**

by Senators Alexander and Lawson

This bill (Chapter 2008-21, L.O.F.) re-creates the Administrative Trust Fund within the Fish and Wildlife Conservation Commission without modification. Re-creation is effective July 1, 2009, which is the current termination date of the fund. The changes extend the life of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.

*Vote: Senate 36-0; House 112-0*

### **SB 2130 — Federal Grants Trust Fund/Fish and Wildlife Conservation Commission**

by Senators Alexander and Lawson

This bill (Chapter 2008-22, L.O.F.) re-creates the Federal Grants Trust Fund within the Fish and Wildlife Conservation Commission without modification. Re-creation is effective beginning July 1, 2009, which is the current termination date of the fund. The changes extend the life of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.

*Vote: Senate 36-0; House 112-0*

### **SB 2132 — Grants and Donations Trust Fund/Fish and Wildlife Conservation Commission**

by Senators Alexander and Lawson

This bill (Chapter 2008-23, L.O.F.) re-creates the Grants and Donations Trust Fund within the Fish and Wildlife Conservation Commission without modification. Re-creation is effective beginning July 1, 2009, which is the current termination date of the fund. The changes extend the life of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.

*Vote: Senate 36-0; House 112-0*

## **OTHER BILLS**

### **CS/CS/SB 1286 — Fish and Wildlife Conservation Commission**

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senator Saunders

The bill reenacts the Fish and Wildlife Conservation Commission (FWC) and its divisions as required by the Florida Government Accountability Act. The bill increases various vessel registration fees. The bill authorizes vessel registration fees and recreational hunting and fishing license fees to be adjusted every five years based on changes in the Consumer Price Index, unless otherwise prescribed by general law. The bill repeals the Federal Law Enforcement Trust Fund, the Waterfowl Advisory Council, Florida Panther Technical Advisory Council, and the Nongame Wildlife Advisory Council. The trust fund and councils are no longer utilized by the agency.

Finally, the bill directs the Office of Program Policy Analysis and Government Accountability and the FWC to conduct a review of several programs to determine if any cost-saving benefits or efficiencies may be gained through downsizing, consolidating or outsourcing select activities. The findings and recommendations are due to the Legislature by January 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 35-0; House 111-8*

### **CS/CS/SB 1294 — Environmental Protection**

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senator Saunders

The bill reenacts the Department of Environmental Protection as required by the Florida Government Accountability Act and amends the department's organizational structure. Beginning July 1, 2008, the bill authorizes a \$1.38 surcharge on the phosphate severance tax to provide funding for the continued cleanup of the Mulberry and Piney Point hazardous sites and to continue the state's commitment to reclaim phosphate-mined lands. The bill provides for the severance tax rate to roll back and for the industry to receive an offset on future tax collections equal to the amount paid for the surcharge. The bill increases certain Environmental Resource Permitting and Drinking Water fees. The bill requires the Department of Environmental Protection to review the fees at least once every five years based on changes to the Consumer Price Index.

The bill transfers the primary responsibilities of the Invasive Plant Control program to the Fish and Wildlife Conservation Commission and transfers the permitting component for aquatic plant species to the Department of Agriculture and Consumer Services. The bill provides clarifying language relating to defining the types of waste that can be placed in a landfill located in the



Southern Water Use Caution Area of the state. The bill retains the Environmental Regulation Commission and authorizes it to employ independent counsel and contract with technical consultants. The bill requires dry cleaning facilities to register and show proof of registration prior to purchasing dry-cleaning solvents.

Finally, the bill repeals the Land Use Advisory Committee which has been inactive since 1979, and allows the Committee on Landscape Irrigation & Florida-Friendly Design Standards to meet once more before January 2011.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.

*Vote: Senate 36-1; House 68-44*

### **CS/CS/SB 1702 — Agriculture**

by General Government Appropriations Committee; Agriculture Committee; and Senator Alexander

The bill reenacts the Department of Agriculture and Consumer Services and its divisions as required by the Florida Government Accountability Act. The bill eliminates the Caribbean Fruit Fly Technical Committee and the Exotic Pest of Citrus Council. This committee and council are no longer utilized by the agency.

The bill increases certain fees to support program operations for wildfire protection, food safety inspections, and consumer protection. The bill expands the use of the Agricultural Emergency Eradication Trust Fund to be used for the promotion, advancement, and protection of agriculture in the state. The bill eliminates the administration, purchase, and distribution of the brucellosis vaccine by the department for domestic livestock and, finally, the bill revises the deadline by which the Florida Citrus Commission sets the annual citrus excise tax rate.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 113-2*

### **CS/SB 1888 — State Employees**

by General Government Appropriations Committee and Senator Carlton

The bill resolves the collective bargaining issues at impasse between the State of Florida and the bargaining representatives for state employees for FY 2008-2009.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 108-10*

**CS/SB 1892 — State Data Center System**

by General Government Appropriations Committee and Senator Carlton

The bill is the result of a study, conducted for the Senate by Gartner, Inc., on the feasibility of consolidating state data centers. The Data Center Consolidation Feasibility Study indicated that annual savings of \$17 million could be achieved if Florida consolidated data centers. The bill establishes the policy groundwork for gradual consolidation of approximately 67 state data center facilities over an eleven year period. The bill requires the Agency for Enterprise Information Technology to develop a plan for consolidation and specific consolidation proposals annually. In addition, the bill requires the Agency for Enterprise Information Technology to establish operational policies for the data center system.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-0*

**HB 5043 — Financial Services**

by Jobs and Entrepreneurship Council and Rep. Reagan and others (CS/SB 1824 by General Government Appropriations Committee and Senator Alexander)

The bill modifies the percentage distributions of revenues from the surplus lines premium tax. The bill increases the distribution to the General Revenue Fund and correspondingly decreases the distribution to the Insurance Regulatory Trust Fund within the Department of Financial Services. The bill reallocates a portion of securities regulation fees from the General Revenue Fund to the Regulatory Trust Fund within the Office of Financial Regulation. The bill establishes a task force, to be headed by the Chief Financial Officer, to develop a strategic plan for a successor state financial and cash management system. The bill establishes a Strategic Markets Research and Assessment Unit within the Department of Financial Services.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-2; House 116-0*

**HB 5045 — Workers' Compensation Medical Services and Supplies**

by Jobs and Entrepreneurship Council and Rep. Reagan and others

The bill transfers the Workers' Compensation Medical Services Unit from the Agency for Health Care Administration to the Division of Workers' Compensation within the Department of Financial Services. The transfer serves to further consolidate Workers' Compensation functions in the Department of Financial Services.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-2; House 119-0*

**HB 5047 — Department of Business and Professional Regulation**

by Jobs and Entrepreneurship Council and Rep. Reagan and others

The bill revises the procedure for authorizing the Department of Business and Professional Regulation to privatize selected services for its regulatory boards through the Management Privatization Act. The bill also modifies the unlicensed activity reporting and budget request requirements for the Board of Architecture and Interior Design and removes duplicative fire safety code inspection responsibilities from the Division of Hotels and Restaurants in the department. Finally, the bill requires reports for selected performance activities of the Division of Hotels and Restaurants and the Florida Division of Land Sales, Condominiums and Mobile Homes.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 115-0*

**HB 5049 — Mortgage Broker Licenses**

by Jobs and Entrepreneurship Council and Rep. Reagan and others

The bill requires that the Office of Financial Regulation make available an electronic mortgage broker licensing examination no later than December 31, 2008. The bill reduces the fees for the electronic version of the test and the mortgage broker application fee.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

**HB 5051 — Department of Business and Professional Regulation**

by Jobs and Entrepreneurship Council and Rep. Reagan (CS/SB 1820 by General Government Appropriations Committee and Senator Alexander)

The bill revises the permit fees paid for the promotion of professional boxing and mixed martial arts events to the Florida Boxing Commission. The bill increases boxing event fees from a range of \$50 to \$250 to \$1,800 and reduces mixed martial arts event fees from \$5,000 to \$1,800. The equalization of both event fees is revenue neutral for the Commission's operations.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-1*

**HB 5057 — Insurance Capital Build-up Incentive Program**

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Reagan (CS/CS/SB's 2860 and 1196 by General Government Appropriations Committee; Banking and Insurance Committee; and Senators Atwater, Geller, Fasano, Garcia, Jones, Gaetz, and Wilson)

The bill provides that, through September 1, 2008, insurers may apply for surplus notes of up to \$25 million in the amount equal to the new capital contributed by the insurer. The bill further provides that through June 1, 2009, insurers may apply for notes of up to \$25 million in the amount equal to one-half of the new capital contributed by the insurer. The bill revises the minimum writing ratio for net written premium to surplus. For the first three years, the bill requires insurers to write at least 15 percent of its net or gross written premium for new policies for policies taken out of Citizens Property Insurance Corporation (Citizens). The bill requires an insurer to maintain a level of surplus and reinsurance sufficient to cover in excess of its 1 in 100 years probable maximum loss. The bill requires Citizens to transfer \$250 million to the General Revenue Fund for the issuance of additional surplus notes if the combined surplus of all Citizens accounts exceeds \$1 billion in December 2008.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 116-1*

**HB 5059 — State Agency Law Enforcement Radio System Trust Fund**

by Government Efficiency and Accountability Council and Rep. Grant (CS/SB 1830 by General Government Appropriations Committee and Senator Alexander)

The bill expands the use of the Statewide Law Enforcement Radio System Trust Fund in the Department of Management Services to include costs for providing technical assistance to state and local law enforcement agencies in the development of regional law enforcement communications systems.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

**HB 5061 — Revenue Administration**

by Government Efficiency and Accountability Council and Rep. Grant (CS/SB 1838 by General Government Appropriations Committee and Senator Alexander)

The bill expands the use of the Certification Program Trust Fund within the Department of Revenue. The bill authorizes the department to continue to provide aerial photography and non-property ownership maps to counties that have a population of 25,000 or less. For counties with populations greater than 25,000, the bill requires that the department provide aerial photography and maps on a cost recovery basis. The bill authorizes property appraisers to pay a fee established by the department for this service.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 83-35*

### **HB 7019 — Real Property Transfer Returns**

by Government Efficiency and Accountability Council and Rep. Attkisson (CS/SB 1814 by General Government Appropriations Committee and Senator Alexander)

This bill (Chapter 2008-24, L.O.F.) eliminates the information form DR-219 relating to the transfer of an interest in real property within the Department of Revenue. Chapter 201, F.S., requires sellers, buyers, or agents to file a return containing certain information when submitting a deed to the county clerks of court to transfer interest in real property. The form includes information related to these transactions, including sales price of the property, the date of sale, the type of property and whether the sale included any tangible personal property.

The bill eliminates the 1 percent commission retained by the county clerks from the deeds portion of the documentary stamp tax collections.

These provisions were approved by the Governor and take effect June 1, 2008.

*Vote: Senate 37-0; House 118-0*



## **CULTURAL AND HISTORIC RESOURCES**

### **CS/SB 82 — Public Library Grants/State Aid**

by Transportation and Economic Development Appropriations Committee and Senators Fasano, Justice, Lynn, Jones, Gaetz, Bullard, Dockery, and Crist

The state aid to libraries grant program is comprised of three interrelated grants that are based on local expenditures: (1) operating grants; (2) multicounty grants; and (3) equalization grants. Senate Bill 82 amends the state aid to libraries grant program by revising eligibility criteria for multicounty and equalization grants. The bill revises the determination for and amount of multicounty base grants and changes the process for calculating equalization grants. The criteria used for awarding multicounty library grants found in s. 257.172, F.S., is amended to:

- Restrict multicounty grants to systems that include at least one county that is eligible for an equalization grant (i.e., a county with limited financial resources). This change has no immediate effect because at present all such systems contain at least one eligible county.
- Establish a multicounty base grant of \$50,000 for systems serving two counties, effective July 1, 2008. No additional funds are requested for this purpose; this base grant would come from the state aid program.
- Increase the multicounty base grant for systems serving three or more counties from \$250,000 to \$350,000. No additional funds are requested for this purpose; this base grant would come from the state aid appropriation.

The criteria used for awarding equalization library grants established by s. 257.18, F.S., are modified to:

- Add requirements that award equalization grants only to counties that received an equalization grant in FY 2007-08 and have been continuously eligible since that period.
- Determine the need for an equalization grant by using the county's operating millage or per capita income rather than by using the county's expenditures for library services.
- Establish a three-year phase out from the equalization grants for counties that become ineligible.
- Limit the amount of equalization that can go to any single county.
- Limit the portion of state aid that goes to equalization grants, with implementing language that protects those counties most dependent on equalization funding.

Finally, a requirement that the Chief Financial Officer issue warrants to political subdivisions eligible for certain funding is deleted from s. 257.22, F.S.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-1*

### **SB 1558 — State Song**

by Senators Hill and Wilson

The bill designates the song "Florida, Where the Sawgrass Meets the Sky" as the official anthem of the State of Florida, and designates the revised lyrics version of the song "Old Folks at Home" as the official song of the State of Florida.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 83-31*

### **CS/HB 337 — Management of Historic Pensacola Properties**

by Schools and Learning Council and Rep. Ford and others (CS/SB 1014 by Higher Education Committee and Senator Gaetz)

Upon agreement by all parties to the existing management contracts for the various state-owned properties managed by the Historic Pensacola Preservation Board of Trustees prior to July 1, 2001, those existing contracts would be rescinded upon execution of a contract between the Board of Trustees of the Internal Improvement Trust Fund and the University of West Florida for the management of those properties.

The university is required to provide for the management of these state-owned properties and may contract with the direct-support organization authorized by s. 267.1732, F.S. The contract must provide that all proceeds derived from the management of these properties must be used for the purposes of advancing historic preservation, historic preservation research, and historic preservation education.

The Board of Trustees of the Internal Improvement Trust Fund, rather than the Department of State, would have the authority to convey ownership of artifacts, documents, equipment and other tangible personal property to the university. While the university may sell or transfer such personal property if its direct-support organization recommends it to the university president, and if it is determined that the object is no longer appropriate for the purpose of advancing historic preservation, the department must provide prior approval for sale, exchange, or transfer of any tangible personal property that has intrinsic historical or archaeological value relating to the history, government, or culture of the state.



If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 107-2*

## **CS/HB 987 — Cultural and Historical Programs**

by Economic Expansion and Infrastructure Council and Rep. Culp and others (CS/SB 2660 by Governmental Operations Committee and Senators Lawson and Wilson)

The bill transfers responsibility for the Historical Museum Grants program and the Museum of Florida History (museum) from the Division of Historical Resources to the Division of Cultural Affairs. The authority for these programs would be deleted from ch. 267, F.S., and moved to ch. 265, F.S.

The Historical Museums Grants-in-Aid program is incorporated into the department's grant management system, OASIS (Online Arts Services and Information System). The bill transfers the management from the Division of Historical Resources to the Division of Cultural Affairs by establishing the museum and grant program within the Division of Cultural Affairs statute, ch. 265, F.S., entitled "Memorials, Museums and Fine Arts," and adds definitions essential to the operation of historical museums. These definitions will now appear in both chapters. Several existing sections in ch. 267, F.S., have also been incorporated into ch. 265, F.S., to ensure the museum continues to meet accreditation standards of the American Association of museums, as well as all necessary authority and rights as originally provided in ch. 267, F.S. These provisions include powers and duties of the division, and state policy in regards to historic properties, objects of historical or archaeological value, and publications. Those provisions will also remain in ch. 267, F.S.

The bill provides for the incorporation of the museum's existing citizen support organization into s. 265.703, F.S., along with the existing exemption to protect the anonymity of financial donors to the museum.

The bill also gives authority to the Division of Cultural Affairs to publish, collect, and encourage writing of documents relating to Florida history and to charge for such publication. Revenue collected from this endeavor is to be deposited into the Grants and Donations Trust Fund or into the citizen support organization account subject to provisions in the annual letter of agreement with the department. This authority for publication will also remain with Division of Historical Resources, in s. 267.081, F.S.

Currently, s. 267.0731, F.S., identifies the Museum of Florida History as the depository for films or videotapes produced for the Great Floridian Program. The bill amends the statute to provide that the Department of State will be the depository, which permits flexibility within the department for deposits. The bill amends s. 272.129, F.S., to permit the Legislative Research Center and Museum at the Historic Capitol to authorize a citizen-support organization to support

the center and museum. The citizen support organization is authorized to raise funds, apply for and receive grants, and collect donations and rental fees on behalf of the center and museum.

The bill repeals s. 267.174, F.S., and thereby, abolishes the Discovery of Florida Quincentennial Commemoration Commission.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 113-0*

## **INFRASTRUCTURE OPERATIONS**

### **CS/CS/SB 704 — Administrative Procedures**

by Transportation and Economic Development Appropriations Committee; Judiciary Committee; and Senators Bennett and Gaetz

This bill revises provisions in the Administrative Procedure Act (APA), codified in ch. 120, F.S., relating to unadopted agency rules. The bill creates incentives for agencies to adopt rules and for affected persons to challenge unadopted rules by:

- Creating requirements for agency adoption of policy statements as rules; and
- Modifying provisions relating to the award of costs and fees in rule challenges.

The bill also modifies provisions of the APA concerning the incorporation by reference of materials into agency rules. In addition to technical or administrative refinements to ch. 120, F.S., the bill makes the following significant changes:

- Provides additional requirements for the use of material that is being incorporated by reference in rules;
- Requires electronic publication of the Florida Administrative Code (FAC);
- Provides for material incorporated by reference to be filed in electronic form, unless doing so would constitute a violation of federal copyright law;
- Provides that if an agency head is a board or other collegial body created under Department of Business and Professional Regulation or Department of Health, then the agency head must conduct at least one of the requested public hearings itself;
- Provides an award of attorney's fees to the petitioner in an unadopted rule challenge if, prior to the final hearing, the agency initiates rulemaking and the agency knew or should have known that the agency statement was an unadopted rule, but provides no attorney's fees if the agency initiates rulemaking in response to notice prior to the filing of an unadopted rule challenge;

- Provides for the granting of a stay in an unadopted rule challenge when certain conditions are met;
- Appropriates non-recurring funds of \$50,000 in FY 2008-2009 and \$401,000 in FY 2009-2010 from the Records Management Trust Fund to implement electronic publication of the Florida Administrative Weekly;
- Requires a temporary space charge fee increase to cover the cost of implementing system changes required for electronic publication;
- Authorizes one full-time-equivalent position and appropriates \$22,399 in recurring Salaries and Benefits from the Records Management Trust Fund; and
- Allows the Department of State to carry forward unencumbered cash balance in the Records Management Trust Fund at the end of FY 2008-2009.

If approved by the Governor, these provisions take effect July 1, 2008, except as otherwise expressly provided in the bill.

*Vote: Senate 40-0; House 116-0*

## **PERSONNEL AND BENEFIT SYSTEMS**

### **CS/CS/HB 967 — Florida Public Task Force on Workplace Safety**

by Policy and Budget Council; Government Efficiency and Accountability Council; and Reps. A. Gibson and Cusack (CS/CS/SB 652 by General Government Appropriations Committee; Governmental Operations Committee; and Senator Lynn)

The bill creates the Florida Public Task Force on Workplace Safety, within the University of South Florida Safety Florida Consultation Program, to issue recommendations regarding innovative ways by which the state may effectively ensure that agencies and local governments comply with Occupational Safety and Health Administration standards. The Task Force must issue its report and recommendations by January 1, 2009.

The University of South Florida Safety Florida Consultation Program would be responsible for the administration and staffing of the task force, travel expenses, and per diem for task force members. These costs are estimated to be \$100,000, which the bill appropriates on a nonrecurring basis from the Worker's Compensation Administration Trust Fund in the Department of Financial Services to the University of South Florida.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 117-1*

## **CS/SB 2422 — Local Government Finance**

by Governmental Operations Committee and Senators Alexander and Baker

The decline in the value of debt and mortgage-backed securities that began in 2007 affected homeowners, financial institutions, and institutional investors alike. Governments in Florida were no different and a large pooled asset fund, the Local Government Surplus Funds Trust Fund managed by the State Board of Administration (board) on behalf of local governments, was no different. That fund had small holdings of such securities from four investment funds whose underlying assets became impaired as mortgage delinquencies, credit impairments, and foreclosures climbed.

The bill brings additional safeguards to the management of funds in this intergovernmental pool. Principal among them is the requirement for more widespread disclosure of securities holdings when there is a credit downgrade or an impairment of the underlying assets. In such circumstances the board is authorized to make a one-time partitioning of the impaired assets into a separate trust account (HB 7097 creates this trust fund) until such time as they return to par value, have their credit rating restored, return to performing status, or can be liquidated. The legislation places a premium on disclosure and communications among all of the investing parties. To that extent the board is required to inform all of the investors of the objectives of the fund along with its risks and conditions of participation. The investors, in turn, must acknowledge to the board that they understand these provisions and consent to them.

Because these funds are invested for liquidity, their access by the investing local governments is a primary concern. The legislation establishes a separate Participant Advisory Council to provide input to the board when liquidity impairments present themselves. It also requires an annual financial audit of the pooled funds account by the Auditor General and periodic reporting to the Joint Legislative Auditing Committee.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 114-0*

## **CS/HB 7097 — Creation/Fund B Surplus Funds Trust Fund/SBA**

by Policy and Budget Council; Government Efficiency and Accountability Council; and Rep. Domino

This trust fund is linked to CS/SB 2422 and will act as a repository of distressed securities that may be subsequently impaired in the Local Government Surplus Funds Trust Fund. Securities transferred to this trust fund will be separated from the unimpaired ones until they can regain investment-grade status, return to par value, or be liquidated. This new trust fund is exempt from the periodic trust fund expiration provisions of s. 19, Art. III, State Constitution.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-1; House 115-0*

### **CS/HB 165 — Agency Inspectors General**

by Government Efficiency and Accountability Council and Rep. Bean (CS/CS/SB 498 by General Government Appropriations Committee; Governmental Operations Committee; and Senator Bennett)

This bill requires that agency inspectors general comply with standards published by the Association of Inspectors General, and requires that a final audit or investigation report contain the response of a contracting entity that is the subject of the audit or investigation. Inspectors general are required to submit to their agency heads all complaints relating to their duties or alleged misconduct of their employees, and agencies under the direction of the Governor must also submit such complaints to the Chief Inspector General.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 35-0; House 118-0*

### **CS/CS/HB 887 - Career Service System**

by Policy and Budget Council; Government Efficiency and Accountability Council; and Rep. Coley and others (CS/SB 2202 by Judiciary Committee and Senator Dean)

The Career Service System is the name given to the civil service personnel management system for many public employees occupying non-managerial positions in State of Florida agencies. Its provisions were last amended by the 2001 Legislature as part of a reallocation of position titles and job protections.

The bill amends the notice and due process provisions of these statutes to provide for additional notice to employees when a transfer of more than fifty highway miles is indicated. The Department of Management Services is directed to develop objective measures for the retention of employees during a period of layoffs. Deadlines for the appeal of grievances alleging extraordinary circumstances and the respective time frames for the filing of exceptions to recommended and final orders are also extended.

A Career Service employee serving a probationary period in a position to which he or she is promoted may be returned to the prior or comparable position, if vacant and available, before dismissal, provided the action is not for cause. Such action does not create a right to remove, or "bump," another employee from an occupied position as a result.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 40-0; House 109-0*

## **HB 5063 — Florida Retirement System**

by Government Efficiency and Accountability Council and Rep. Grant (CS/CS/SB 2002 by General Government Appropriations Committee and Governmental Operations Committee)

It has been the recent custom for the Florida Legislature to enact the annual employer payroll contribution rates for the Florida Retirement System (FRS) in specific legislation that accompanies the General Appropriations Act.

The bill sets the rates for employer contributions to this plan for FY 2008-2009 and it does so by keeping the same rates in place as are currently in force. The table displaying these rates is contained in s. 121.71, F.S.

In addition, the bill provides that participants in the community college and university optional retirement annuity programs may elect during the 2009 calendar year to transfer their participation to the FRS. A member so doing will be responsible for the entire cost of the transfer and will have to exchange the annuity account, and other personal funds if so required, to indemnify the FRS for the full cost of the transfer.

Participants in faculty practice plans in state university health sciences disciplines are deemed to be members of those plans for retirement purposes and may no longer carry dual eligibility for pension benefits in those plans and the FRS.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

## **TRUST FUND BILLS**

### **CS/SB 2102 — Trust Funds/Agency for Health Care Administration**

by Health and Human Services Appropriations Committee and Senator Peadar

The bill (Chapter 2008-9, L.O.F.) terminates the Florida Organ and Tissue Donor Education and Procurement Trust Fund and the Resident Protection Trust Fund within the Agency for Health Care Administration and replaces them with the Health Care Trust Fund. The bill repeals or amends cross references regarding the terminated trust funds and requires the remaining revenues and balances to be transferred to the Health Care Trust Fund.

The bill codifies into statute the following trust funds administered by the Agency for Health Care Administration: Administrative Trust Fund; Grants and Donations Trust Fund; Health Care Trust Fund; Medical Care Trust Fund; Public Medical Assistance Trust Fund; Quality of Long-Term Care Facility Improvement Trust Fund; and the Refugee Assistance Trust Fund.

The bill revises the date for the reversion of encumbered balances remaining undisbursed in the Tobacco Settlement Trust Fund from December 31 to September 30 in accordance with chapter 216, F.S.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

### **SB 2104 — Administrative Trust Fund/APD**

by Senator Peadar

This bill (Chapter 2008-10, L.O.F.) re-creates the Administrative Trust Fund within the Agency for Persons with Disabilities without modification, effective July 1, 2008. This fund was created effective July 1, 2005, by Chapter 2005-21, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**SB 2106 — Tobacco Settlement Trust Fund/APD**

by Senator Peaden

This bill (Chapter 2008–11, L.O.F.) re-creates the Tobacco Settlement Trust Fund within the Agency for Persons with Disabilities without modification, effective July 1, 2008. This fund was created effective July 1, 2005, by chapter 2005-142, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**SB 2108 — Federal Grants Trust Fund/APD**

by Senator Peaden

This bill (Chapter 2008-12, L.O.F.) re-creates the Federal Grants Trust Fund within the Agency for Persons with Disabilities without modification, effective July 1, 2008. This fund was created effective July 1, 2005, by chapter 2005-22, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**SB 2110 — Operations and Maintenance Trust Fund/APD**

by Senator Peaden

This bill (Chapter 2008-13, L.O.F.) re-creates the Operations and Maintenance Trust Fund within the Agency for Persons with Disabilities without modification, effective July 1, 2008. This fund was created effective July 1, 2005, by chapter 2005-23, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**SB 2112 — Social Services Block Grant Trust Fund/APD**

by Senator Peaden

This bill (Chapter 2008-14, L.O.F.) re-creates the Social Services Block Grant Trust Fund within the Agency for Persons with Disabilities without modification, effective July 1, 2008. This fund was created effective July 1, 2005, by chapter 2005-24, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*



**SB 2114 — Welfare Transition Trust Fund/DCFS**

by Senator Peaden

The bill (Chapter 2008-15, L.O.F.) re-creates the Welfare Transition Trust Fund within the Department of Children and Family Services without modification, effective July 1, 2008. The Welfare Transition Trust Fund was created on July 1, 2004, by chapter 2004-364, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**CS/SB 2116 — Trust Funds/DCFS**

by Health and Human Services Appropriations Committee and Senator Peaden

The bill (Chapter 2008-16, L.O.F.) codifies into statute all of the trust funds administered by the Department of Children and Family Services; terminates the Child Advocacy Trust Fund and the Refugee Assistance Trust Fund within the department and provides for the disposition of the cash balances in these funds; and revises the date for the reversion of encumbered balances remaining in the Tobacco Settlement Trust Fund from December 31 to September 30.

The bill redirects court fees designated for children's advocacy centers from the Child Advocacy Trust Fund to the Grants and Donations Trust Fund; and redirects revenues to the General Revenue Fund that had been deposited into a Substance Abuse Trust Fund, which was terminated in 2006.

The bill redirects a portion of the funds generated from forfeiture proceedings from the Substance Abuse Trust Fund to the General Revenue Fund.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 116-0*

**SB 2118 — Welfare Transition Trust Fund/Department of Health**

by Senator Peaden

This bill (Chapter 2008-17, L.O.F.) re-creates the Welfare Transition Trust Fund within the Department of Health without modification, effective July 1, 2008. This fund was created effective July 1, 2004, by chapter 2004-363, L.O.F.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**SB 2120 — Trust Funds/Department of Veterans' Affairs**

by Senator Peaden

The bill (Chapter 2008-18, L.O.F.) codifies into statute all of the trust funds administered by the Department of Veterans' Affairs: Federal Grants Trust Fund; Grants and Donations Trust Fund; Operations and Maintenance Trust Fund; and the State Homes for Veterans Trust Fund. The bill provides for the sources and uses of the trust funds and the disposition of balances in the trust funds.

The bill also specifies an additional use of funds in the Grants and Donations Trust Fund for the benefit of veterans who are residents of the Veterans' Domiciliary Home or Veterans' Nursing Home that allows funds to be expended for goods and services offered or available to all residents.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

**CS/SB 2122 — Trust Funds/Department of Health**

by Health and Human Services Appropriations Committee and Senator Peaden

The bill (Chapter 2008-19, L.O.F.) terminates the Florida Center for Nursing Trust Fund in the Department of Health and provides for the transfer of the balance of funds to the Grants and Donation Trust Fund. The bill revises the reversion date of encumbered balances remaining undisbursed in the Tobacco Settlement Trust Fund from December 31 to September 30 in accordance with chapter 216, F.S. The bill removes the scheduled termination date of the Welfare Transition Trust Fund.

The bill codifies into statute the following trust funds administered by the Department of Health: Brain and Spinal Cord Injury Program Trust Fund; County Health Department Trust Fund; Donations Trust Fund; Florida Drug, Device and Cosmetic Trust Fund; Emergency Medical Services Trust Fund; Epilepsy Services Trust Fund; Maternal and Child Health Block Grant Trust Fund; Nursing Student Loan Forgiveness Trust Fund; Planning and Evaluation Trust Fund; Preventive Health Services Block Grant Trust Fund; Radiation Protection Trust Fund; Rape Crisis Program Trust Fund; and United States Trust Fund.

The bill continues to exempt voluntary contributions to the Florida Center for Nursing from the general revenue service charge required by s. 215.20(1) F.S. The bill also specifies limits on the uses of funds in the Rape Crisis Trust Fund.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

## **SB 2124 — Trust Funds/Department of Elderly Affairs**

by Senator Peadar

The bill (Chapter 2008-20, L.O.F.) codifies into statute the following trust funds administered by the Department of Elderly Affairs: Administrative Trust Fund; Tobacco Settlement Trust Fund; Federal Grants Trust Fund; Grants, Donations Trust Fund; and Operations and Maintenance Trust Fund. The bill provides for the sources and uses of the trust funds and the disposition of balances in the trust funds.

The bill also revises the date for the reversion of encumbered balances remaining undisbursed in the Tobacco Settlement Trust Fund from December 31 to September 30 in accordance with chapter 216, F.S.

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 112-0*

## **OTHER BILLS**

### **HB 5085 — Health Care**

by Policy and Budget Council and Rep. Sansom

The bill provides statutory changes to conform to the FY 2008-2009 General Appropriations Act. Specifically, the bill:

- Amends s. 400.179, F.S., to authorize the transfer of leasehold licensee fees from the Health Care Trust Fund to the Grants and Donations Trust Fund;
- Amends s. 409.017, F.S., to authorize the Agency for Health Care Administration to procure a vendor to retrospectively and prospectively maximize federal revenues through administrative claims for federal matching funds for state provided educational services;
- Amends s. 409.904, F.S., to repeal obsolete language related to the Meds AD program; and to provide that the Meds AD program and the Medically Needy program, except for coverage for pregnant women and children, will expire June 30, 2009;
- Creates s. 409.906(26), F.S., to allow the Agency for Health Care Administration to pay for all services provided to a Medicaid recipient by an anesthesiologist assistant licensed under ss. 458.3475, F.S., or 459.023, F.S., at a reimbursement level no less than 80 percent of the reimbursement that would be paid to a physician providing the same service;
- Amends s. 409.908, F.S., as follows:
  - Eliminates the requirement that Medicaid will not pay coinsurance and deductibles for services that are not provided by Medicaid;

- Limits Medicaid payments for hospital Medicare Part A coinsurance to the Medicaid per diem rate less any amount paid by Medicare, but only up to the Medicare coinsurance amount;
- Requires Medicaid payment for all deductibles and coinsurance for portable X-ray Medicare Part B services provided in a nursing home;
- Reduces the Average Wholesale Price (AWP) component in the pharmacy reimbursement methodology from AWP minus 15.4 percent to AWP minus 16.4 percent; and reduces the Wholesale Acquisition Cost (WAC) pricing component in the pharmacy reimbursement methodology from WAC plus 5.75 percent to WAC plus 4.75 percent; and
- Requires the Agency for Health Care Administration to set rates for hospitals, nursing homes, community intermediate care facilities for the developmentally disabled, county health departments, and prepaid health plans in a manner that results in no automatic cost-based statewide expenditure increase for two fiscal years beginning July 1, 2009, and requires the establishment of a work group to evaluate alternate payment methods and provide a report to the Legislature by November 1, 2009;
- Amends s. 409.911, F.S., to update the years of audited data used in determining Medicaid and charity care days for each hospital in the Disproportionate Share program from 2000, 2001 and 2002 to 2002, 2003, and 2004; and to change the fiscal year that the audited data is used to distribute funding through the Disproportionate Share program from FY 2006-2007 to FY 2008-2009;
- Amends s. 409.9112, F.S., to continue the prohibition of the distribution of funds through the Regional Perinatal Intensive Care Disproportionate Share program in FY 2008-2009;
- Amends s. 409.9113, F.S., to allow for disproportionate share payments to statutorily defined teaching hospitals and family practice teaching hospitals in FY 2008-2009; and allows the distribution of funds for statutorily defined teaching hospitals to be distributed as provided in the General Appropriations Act;
- Amends s. 409.9117, F.S., to continue the prohibition of the distribution of funds through the Primary Care Disproportionate Share program in FY 2008-2009;
- Amends s. 409.912(4)(b), F.S., to allow Medicaid-eligible children in Hillsborough County receiving child welfare services in the HomeSafeNet system to receive behavioral health care services through the specialty prepaid plan operated by community-based lead agencies;
- Amends s. 409.912(39)(a), F.S., to reduce the Average Wholesale Price (AWP) component in the pharmacy reimbursement methodology from AWP minus 15.4 percent to AWP minus 16.4 percent, and reduce the Wholesale Acquisition Cost (WAC) pricing component in the pharmacy reimbursement methodology from WAC plus 5.75 percent to WAC plus 4.75 percent;

- Creates s. 409.912(53), F.S., to require the Agency for Health Care Administration to notify the Legislature before implementing programs authorized under the federal Deficit Reduction Act of 2005;
- Creates s. 409.91206, F.S., to allow the Governor, the President of the Senate, and the Speaker of the House of Representatives to convene workgroups to propose alternatives for cost-effective health and long-term care reforms, including, but not limited to, reforms for Medicaid;
- Amends s. 409.9122, F.S., to require recipients in the MediPass program in counties with two or more managed care plans, to be assigned to a managed care plan if they fail to make a choice during the annual choice period;
- Amends s. 409.9124, F.S., to eliminate the requirement that managed care per-member per-month rate averages do not exceed the amount in the General Appropriations Act for the fiscal year in which the rates are in effect;
- Amends s. 409.913, F.S., to exclude independent laboratory services and school-based services from the Medicaid explanation of benefits;
- Repeals s. 409.9061, F.S., to eliminate the authorization of a statewide laboratory services contract for Medicaid recipients; and
- Repeals s. 430.83, F.S., to eliminate the Sunshine for Seniors Program.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 26-13; House 77-42*

## **HB 5087 — Agency for Persons with Disabilities**

by Policy and Budget Council and Rep. Sansom

Amends s. 393.0661, F.S., as follows:

- Revises the Tier 2 waiver system to specify that client service needs include moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services.
- Prohibits the expansion of additional services in the Tier 4 Family and Supported Living waiver until July 1, 2009.
- Provides for a phased-in reduction in the geographic differential percentage rate for residential habilitation services that are applied to Medicaid residential habilitation service rates in Miami-Dade, Broward, Palm Beach and Monroe counties through July 1, 2010.
- Directs the Agency for Persons with Disabilities to adjust a client's cost plan to reflect the amount of expenditures for the previous fiscal year plus 5 percent effective January 1,

2009 and provides a mechanism for adjustment if the client was not served the entire fiscal year.

- Amends s. 393.071, F.S. to enable the agency to deposit client fees in the Operations and Maintenance Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 25-15; House 116-1*

### **CS/SB 1864 — Medical Research**

by Health and Human Services Appropriations Committee and Senator Peadar

This bill eliminates the annual appropriation to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-2; House 88-31*

**CS/CS/SB 370 — Personal Care Attendant Program**

by Health and Human Services Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senators Wise and Lynn

This bill combines the existing personal care attendant program for individuals who are disabled as the result of a traumatic spinal cord injury with a program for persons who have severe and chronic disabilities of all kinds. The bill names the new program the James Patrick Memorial Work Incentive Personal Attendant Services Program.

The bill requires the Florida Endowment Foundation for Vocational Rehabilitation (FEFVR also known as the Able Trust) to enter into an agreement with the Florida Association of Centers for Independent Living (FACIL or the association) no later than October 1, 2008, to administer the program. The program is funded through monies deposited with the FEFVR pursuant to the Tax Collection Enforcement Diversion Program and the Motorcycle Specialty License Plate program. The bill limits administrative expenses paid to the FACIL based on the number of clients it serves. Total administrative costs paid to FACIL may not exceed 12 percent on top of the funds allocated for direct client payments.

The bill provides for a memorandum of understanding between the FEFVR and the association, specifying that the contract agreement between the two entities covers the period between July 1, 2008, and the execution date of the final agreement.

The bill deletes current requirements relating to the recruitment, screening, selection of personal care attendants and of eligible participants, and the development of an implementation plan. The bill also adds psychologists to the list of professionals who can determine the need for personal care attendant services.

The bill provides that all persons who are enrolled in the personal care attendant program authorized in s. 413.402, F.S., or each person enrolled in the pilot personal care attendant program in Lake, Orange, Osceola, and Seminole Counties as authorized in Specific Appropriation 340, chapter 2006-25, L.O.F., on June 30, 2008, are automatically eligible for and enrolled in the revised program.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*

## **CS/SB 988 — Transitional Services/Young Adults/Disabilities**

by Health Policy Committee and Senators Wise and Lynn

This bill requires the Department of Health to establish the Health Care Transition Services Task Force for Young Adults with Disabilities. The statewide task force is to be composed of 14 individuals with expertise in the needs of youth transitioning from the pediatric to adult health care system. The Deputy Secretary of Children's Medical Services in the department or his or her designee will be the chairperson of the task force, and the department will provide staff support to the task force.

The task force must convene by August 31, 2008, to obtain input from key stakeholders and youth who have chronic special health care needs and disabilities to assess the need for health care transition services, to identify barriers that impede access, and to develop a statewide plan to:

- Promote the development of health care transition services;
- Identify common or comparable performance measures for the program;
- Collect and disseminate information concerning best practices in health care transition services; and
- Identify existing and potential funding sources.

The task force shall present a final report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-0; House 118-0*

## **SB 1092 — Alzheimer's Disease/Medicaid Waiver Program**

by Health Policy Committee

The bill extends the repeal date for the Alzheimer's Disease Medicaid home and community-based-services waiver program so that the program is automatically eliminated at the close of the 2010 Legislative Session, rather than the 2008 Legislative Session.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an evaluation of comparable Medicaid home and community-based-services waiver programs to determine their comparative cost effectiveness and ability to delay or prevent institutionalization of Medicaid recipients. The bill requires the OPPAGA to coordinate with relevant experts to determine which waiver programs should be included in the evaluation in order to make reasonable comparisons. The evaluation must also



include a review of the flexibility provided to states by the federal Deficit Reduction Act (DRA) of 2005, in regard to Medicaid home and community-based services. The findings and recommendations of the evaluation shall be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 109-0*

### **CS/HB 1193 — Maternal and Child Health Programs/WIC**

by Healthcare Council and Rep. Rivera (CS/CS/CS/SB 2652 by Health and Human Services Appropriations Committee; Governmental Operations Committee; Health Policy Committee; and Senators Garcia and Crist)

The bill requires the Department of Health (department) to submit a plan for approval by the U.S. Department of Agriculture, Food and Nutrition Service, for the implementation of an electronic benefit transfer (EBT) system for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in Florida by January 1, 2009.

By July 1, 2010, the department is required to implement the EBT system, with the assistance of the Department of Children and Families (DCF), to disseminate WIC benefits. The system must be compatible with the existing EBT system for benefits provided by the DCF and Workforce Florida, Inc. The department shall reimburse the DCF for any costs associated with any assistance provided.

In addition, the bill requires the department to use item-level averages in setting allowable reimbursement levels for WIC-only stores. The bill prohibits the department from discontinuing a WIC-eligible generic product unless the product no longer meets the nutritional guidelines of the WIC program.

The bill restricts the funding of the WIC program to the federal grant funds, but the department is authorized to seek a budget amendment to request additional trust fund authority if the department exceeds federal grant funds.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-1*

### **SB 1456 — Inmates/Medical Assistance Eligibility/Medicaid**

by Senators Wilson and Dockery

This bill requires Medicaid eligibility to be suspended, rather than terminated, for any individual who is an inmate in the state's correctional system, county detention facility, or a municipal detention facility, and who was eligible for and received Medicaid benefits under ch. 409, F.S.,

immediately prior to being incarcerated. The bill further provides that upon release from incarceration, an individual shall continue to be eligible for Medicaid benefits until such time as the person is determined to no longer be eligible.

The bill clarifies that Medicaid benefits may not be used to pay for medical care, services, or supplies provided during the inmate's incarceration, but also provides that nothing prevents the inmate from receiving medical assistance for inpatient hospital services outside the premises of the correctional institution, to the extent that federal financial participation is available for the cost of such services.

The bill requires that, to the extent permitted under federal law, the time during which a person is an inmate shall not be included in any calculation of when the person must recertify his or her eligibility for medical assistance in accordance with this act.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 117-0*

### **HB 7053 — OGSR/Florida Kidcare Program Public Records Exemption**

by Government Efficiency and Accountability Council and Rep. Gardiner (CS/SB 1090 by Governmental Operations Committee and Health Policy Committee)

Pursuant to a review under the Open Government Sunset Review Act, this bill revives and readopts the public records exemption for any information identifying a Florida Kidcare program applicant or enrollee held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, or the Florida Healthy Kids Corporation.

The bill amends the current exemption: to improve the statutory structure of the exemption; to permit access to confidential and exempt information by another governmental entity in the performance of its official duties and responsibilities; to include a "willful and knowing" standard to determine whether a violation of the section has occurred; and to remove the phrase "notwithstanding any other law to the contrary" to simplify the administration of the exemption. The bill also clarifies that an enrollee's legal guardian, who is not a program applicant, is authorized to obtain confirmation of Kidcare coverage, dates of coverage, name of the child's health plan, and the amount of premium being paid.

The bill also repeals the sunset requirement pertaining to this public records exemption in chapter law and repeals a conflicting public records exemption relating to information maintained by the Florida Healthy Kids Corporation.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 115-0*

## **HEALTH CARE PRACTITIONERS**

### **CS/HB 607 — Orthotics, Prosthetics, and Pedorthics**

by Healthcare Council and Rep. Cretul and others (CS/CS/SB 1696 by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Baker)

This bill substantially revises ch. 468, part XIV, F.S., relating to the practice of orthotics, prosthetics, and pedorthics. The bill adds new definitions and modifies existing definitions to clarify current scope of practice of orthotists, prosthetists, pedorthists, orthotic fitters, and orthotic fitter assistants to more accurately reflect industry practices. The bill modifies the professional and educational requirements of the members of the Board of Orthotists and Prosthetists and expands the definition of consumer members of the board.

The bill requires registration of residents (persons who practice orthotics or prosthetics under the supervision of a licensed orthotist or prosthetist in order to attain required orthotics or prosthetics experience). Each initial applicant for registration, examination, or licensure is required to submit fingerprints for a complete criminal history check by the Florida Department of Law Enforcement and the Federal Bureau of Investigation. Licensure renewal applicants are required to submit information for a statewide criminal history check.

The bill modifies minimum educational requirements for applicants for examination in orthotics or prosthetics to include certain advanced degrees in orthotics and prosthetics in lieu of a bachelor's degree as evidence of meeting these educational requirements and allows the board to require, by rule, mandatory courses as a pre-licensure requirement.

The bill repeals the authorization for the board to issue temporary licenses. The bill allows, effective January 1, 2009, a licensed orthotist, prosthetist, or pedorthist to delegate duties to support personnel, excluding patient evaluation, treatment formulation, or the final fitting of a device prior to patient use. Other delegated duties must be performed under the supervision of a licensed orthotist, prosthetist, or pedorthist. The bill requires support personnel performing these activities to wear identification so that the public is aware that they are not a licensed professional.

The bill establishes requirements for practitioners and resident identification and creates additional grounds for discipline. The bill also exempts from licensure persons engaged exclusively in the fabrication of orthoses, pedorthic devices, or prostheses who have no patient contact.

The bill expands the title protection for certain licensed or registered orthotists, prosthetists, prosthetist-orthotist, orthotic fitter, orthotic fitter assistants, pedorthists, prosthetic residents, and orthotic residents.

If approved by the Governor, except as otherwise expressly provided in this act, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 114-0*

### **CS/SB 736 — Certification of Clinical Nurse Specialists**

by Health Regulation Committee and Senators Saunders, Lynn, and Justice

The bill provides an additional avenue to state certification for an applicant seeking certification as a clinical nurse specialist. The additional avenue is available to a registered nurse who holds a master's degree in a clinical nursing specialty area for which no private certification exists. The nurse must show proof that he or she holds a master's degree as a clinical nurse specialist in a specialty area for which no certification exists and that he or she has completed 1,000 hours of clinical experience in that specialty, with a minimum of 500 hours of clinical practice after graduation. The applicant for certification as a clinical nurse specialist must submit an affidavit to the Board of Nursing affirming the required hours of clinical experience. If a nurse falsifies the affidavit, she or he is subject to discipline.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 119-0*

### **CS/HB 803 — Licensure of Psychologists**

by Healthcare Council and Rep. Brisé and others (CS/SB 1478 by Health Regulation Committee and Senator Margolis)

Effective January 1, 2009, the Board of Psychology (Board) must close the application file of any applicant who fails to pass the psychology licensure examination and the Florida law and rules portion of the examination or who fails to submit evidence of completion of the postdoctoral, supervised experience within a timeframe no longer than 24 months. The Board must implement a procedure for applicants to request an extension beyond the 24-month timeframe. An individual who completes the required postdoctoral training residency may continue to practice under supervision if she or he does so in a manner prescribed by board rule, has a current application on file, and no final order of denial has been issued.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 39-0; House 119-0*

## **HB 989 — Physician Assistants/Formulary**

by Rep. Bogdanoff and others (SB 1106 by Senator Saunders)

The bill deletes antipsychotics and parenteral preparations from the formulary of drugs that physician assistants are prohibited from prescribing. Physician assistants would still be prohibited from prescribing controlled substances as defined in ch. 893, F.S., general anesthetics, and radiographic contrast materials.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 110-0*

## **CS/CS/SB 1360 — Pharmacy Technicians**

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peadar

The bill revises the requirements for pharmacy licensure by endorsement by deleting the requirement that an applicant must have obtained a passing score on the licensure examination not more than 12 years prior to applying for licensure.

The bill requires the Board of Pharmacy to adopt rules for the registration application process and registration systems administration process so that the rules can be in place upon full implementation of the bill.

The bill changes the regulatory provisions for pharmacy technicians. Effective January 1, 2010, pharmacy technicians must be registered. The Board of Pharmacy must register pharmacy technician applicants who are at least 17 years of age, have completed an approved application form, have submitted the required fees, and otherwise meet registration requirements. A person whose license to practice pharmacy has been suspended, denied, or restricted, is prohibited from registering as a pharmacy technician.

Effective January 1, 2011, an applicant to become a registered pharmacy technician must also have completed an approved pharmacy technician training program. The bill specifies that a registered pharmacy technician registered before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under a licensed pharmacist's supervision or who has received certification as a pharmacy technician from the national Commission for Certifying Agencies is exempt from the requirement to complete an initial training program for purposes of registration.

Pharmacy technician students obtaining practical training and persons licensed as pharmacy interns are exempted from the registration requirements. The bill specifies registration renewal requirements for pharmacy technicians. Grounds for discipline against an applicant for registration as a pharmacy technician or a registered pharmacy technician are specified.

Effective January 1, 2010, it will be unlawful for a person who is not registered as a pharmacy technician, or who is not otherwise exempt, to perform the functions of a registered pharmacy technician or hold herself or himself out as a pharmacy technician.

If approved by the Governor, these provisions, except as otherwise expressly provided in the bill, take effect upon becoming a law.

*Vote: Senate 39-0; House 115-2*

### **CS/SB 1694 — 911 Emergency Dispatchers/Denise Amber Lee Act**

by Governmental Operations Committee and Senators Aronberg, Fasano, and Margolis

The bill may be cited as the "Denise Amber Lee Act." The bill creates a voluntary certification of 911 emergency dispatchers. The bill requires the Department of Health to establish, by rule, educational and training criteria for certification and requirements for certificate renewal. The requirements must include, at a minimum:

- Completion of an appropriate 911 emergency dispatcher training program that is equivalent to the most recently approved emergency dispatcher course of the Department of Education and consisting of not less than 208 hours;
- Completion and documentation of at least 2 years of supervised full-time employment as a 911 emergency dispatcher since January 1, 2002;
- Certification under oath that the applicant is not addicted to alcohol or any controlled substance and that the applicant is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties; and
- Submission of an application and fees.

The department is authorized to suspend or revoke a certificate at any time if it is determined that the certificate holder does not meet the qualifications. A certificate holder is allowed to request inactivation of his or her certification and may renew the inactive certification for a fee. The department must establish, by rule, a procedure for the initial certification of 911 emergency dispatchers who have documentation of at least 5 years of supervised full-time employment as a 911 emergency dispatcher since January 1, 2002.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 117-0*

### **CS/SB 2366 — Medical Faculty Certificates**

by Higher Education Committee and Senators Diaz de la Portilla, Constantine, and Lynn

This bill adds the Florida International University and the University of Central Florida to the list of medical schools or teaching institutions where a physician who is not licensed to practice in Florida may be issued a medical faculty certificate that would authorize the physician to practice medicine in conjunction with a full-time faculty position. The number of medical faculty certificates that could be issued at each university would be limited to 15 per year.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 117-0*

### **CS/CS/SB 2598 — Impaired Medical Practitioners/Treatment Programs**

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Atwater

The bill provides additional rule-making authority to the Department of Health (department) for treatment programs for impaired health care practitioners to require the consultants and providers to meet specified criteria in order to participate in the program.

The bill expands the list of persons who may be retained by the department to work as a consultant for the impaired practitioners' treatment program to include an entity employing a medical director who must be a practitioner or recovered practitioner who holds a Florida license as a medical physician, osteopathic physician, physician assistant, anesthesiology assistant, or nurse.

The bill authorizes the impaired practitioner treatment program consultants to contract to provide services to students enrolled in schools for licensure as allopathic physicians or physician assistants, osteopathic physicians or physician assistants, nurses, or pharmacists, if the school requests such services. The department is not responsible under any circumstances for paying the costs of care provided by the approved treatment providers, and the department is not responsible for paying the costs of the consultants' services provided for students. The bill provides immunity from civil liability, under specified circumstances, to the medical and osteopathic schools for the referral of a student to a consultant or for disciplinary actions that adversely affect the status of the student.

The bill designates an impaired practitioner consultant, a consultant's officers or employees, and persons acting at the direction of the consultant for emergency intervention, when the consultant is unable to perform the intervention, agents of the department or other state agency for purposes of sovereign immunity and the waiver of sovereign immunity for actions taken within the scope of the contract with the department or other state agency. Contracts with the consultants must provide for the indemnification of the state by the consultant for any liabilities incurred up to the

limits set out in ch. 768, F.S. The bill specifies other requirements for the contract. The bill also requires the Department of Financial Services to defend any claim, suit, action, or proceeding against the consultant for acts or omissions arising out of the consultant's duties under the contract.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 118-0*

### **CS/CS/SB 2760 — Dentistry**

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peadar

The bill creates a new avenue for a person to apply to take the examination to practice dentistry in this state. An applicant is entitled to take the dental licensure examination if the applicant has:

- An active health access dental license in this state; and
  - Has at least 5,000 hours within 4 consecutive years of clinical practice experience providing direct patient care in a health access setting;
  - Is a retired veteran dentist of any branch of the United States Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting; or
  - Has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting;
- Not been disciplined by the board, except for citation offenses or minor violations;
- Not filed a report of a malpractice claim pursuant to s. 456.049, F.S.; and
- Has not been convicted or pled guilty or nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

The bill defines "health access settings" to mean programs and institutions of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, nonprofit community health centers, Head Start centers, federally qualified health centers, and clinics operated by accredited colleges of dentistry in this state if such community service programs and institutions immediately report to the Board of Dentistry (board) specified practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such settings.



The bill also creates examination requirements, an application process, license renewal requirements, and license revocation requirements for a health access dental license. The bill requires the board to grant a health access dental license to practice dentistry in health access settings to an applicant if the applicant meets certain educational and practice standards, files the appropriate application, and pays appropriate fees. The bill provides an individual with a health access dental license the ability to take the Florida dental license examination if these conditions are met. The bill specifies that the failure of an individual with a health access dental license to limit the practice of dentistry to health access settings is the unlicensed practice of dentistry. The bill requires the board to adopt rules to administer the application process, renewal requirements, and revocation requirements for a health access dental license created under this act, and provides a sunset date of January 1, 2015, for the health access dental license statute. Any health access dental license issued before January 1, 2015, remains valid, without effect from repeal.

The bill requires a licensed dentist who uses the services of a dental laboratory to furnish the laboratory a written prescription that, in addition to existing requirements, must include the license number of the dentist and a specification of materials to be contained in each work product. The bill requires the laboratory to disclose to the prescribing dentist in writing, the materials used and all certificates of authenticity for each product with the point of origin of manufacture and the address and contact information of the dental laboratory.

The bill requires dental laboratory owners, or at least one employee of each lab, to complete 18 hours of continuing education biennially beginning on or after July 1, 2010. The bill specifies the types of courses, the objective of continuing education for dental technicians, and the areas that must be addressed in the continuing education courses. A dental laboratory that is physically located within a dental practice operated by a dentist licensed under this chapter is exempt from these requirements and a dental laboratory in another state or country which provides service to a dentist licensed under ch. 466, F.S., is not required to register with the state and may continue to provide services to such dentist with a proper prescription.

The bill limits the board's authority to require a dental hygienist applicant for examination who graduated from a nonaccredited dental college or school to complete additional coursework to only those situations in which the applicant has failed the initial examination.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 40-0; House 118-0*

## HEALTH CARE FACILITIES AND SERVICES

### **CS/CS/SB 686 — Nursing Facilities**

by Judiciary Committee; Health Regulation Committee; and Senator Bennett

The bill authorizes nursing homes with a standard license to offer certified nursing assistant training. The Agency for Health Care Administration (Agency) is authorized to adopt rules for the approval, suspension, or termination of a certified nursing assistant training program.

The bill revises the provisions related to a nursing home reporting adverse incidents to the Agency by clarifying that one of the reportable events is an event that is reported to a law enforcement agency regarding a resident, other than a request for transportation. In addition, the bill eliminates the requirement for a risk manager of a nursing home to notify the Agency of an incident, prior to investigation and a determination that it is a reportable adverse incident. Compliance with federal reporting requirements and reporting of an adverse incident to the Agency within 15 calendar days after its occurrence remain unchanged.

The bill provides that, if additional surveys of a licensed nursing facility have been conducted due to cited deficiencies and those deficiencies are overturned as the result of administrative action, the most recent survey must be considered a licensure survey for purposes of scheduling future surveys.

Finally, a nursing home may allocate a licensed nurse's time between certified nursing assistant duties and licensed nursing duties for purposes of compliance with minimum staffing requirements without seeking agency approval for the allocation.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 109-0*

### **CS/HB 1059 — Exemptions/Tax on Sales, Use and Other Transactions**

by Healthcare Council and Rep. Llorente (CS/CS/SB 1962 by Finance and Tax Committee; Health Regulation Committee; and Senators Rich, Margolis, Joyner, Lynn, and Bullard)

This bill requires a member of a nonprofit cooperative hospital laundry to discontinue participation in the cooperative within 90 days after the member loses its tax exempt status under s. 501(c)(3) of the Internal Revenue Code. The bill also protects from revocation a nonprofit hospital laundry cooperative's certificate of exemption from sales tax for providing laundry supplies and services to a business that is not a member of the cooperative if the laundry supplies and services are provided pursuant to a declared emergency and a written emergency plan of operation that has been executed by the members of the cooperative.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 35-4; House 117-0*

### **CS/CS/SB 1488 — Health Care Consumer's Right to Information Act**

by Banking and Insurance Committee; Health Regulation Committee; and Senator Dean

This bill creates the "Health Care Consumer's Right to Information Act" to provide health care consumers with reliable and understandable information about health care charges.

The bill requires a health care provider (allopathic physicians, osteopathic physicians, and podiatric physicians) or health care facility (hospitals, ambulatory surgical centers, and mobile surgical facilities) to automatically furnish to an uninsured patient a reasonable estimate of charges for any planned nonemergency medical service and information on the facility's discount or charity policies for which the uninsured patient may be eligible. The estimate must be written in language that is comprehensible to an ordinary layperson.

The bill requires health care facilities not operated by the state to provide the estimate of reasonably anticipated charges within 7 days after the person notifies the facility and the facility confirms that the person is uninsured. The estimate may be the average charge for the diagnosis-related group or average charge for that procedure. If requested, the facility must also notify the person upon a revision of the estimate.

The bill requires the facility to place a notice in the reception area where the discount or charity care discount policy is available and a facility that fails to provide the estimate and information is subject to a \$500 fine for each time the facility fails to do so.

The Agency for Health Care Administration must publish on its website for public access, undiscounted charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, or preventative procedures.

If approved by the Governor, these provisions take effect January 1, 2009.

*Vote: Senate 37-0; House 115-0*

### **CS/SB 2326 — Certificates of Need/General Hospitals**

by Health and Human Services Appropriations Committee and Senator Peadar

This bill modifies the certificate-of-need (CON) requirements for general hospitals. The Agency for Health Care Administration's (Agency) review criteria are limited to consideration of the need for the hospital; the availability, accessibility, and the extent of utilization of existing hospitals in the service district of the applicant; the extent to which the proposed hospital will enhance access to health care for residents of the service district; the extent to which the proposal

will foster competition that promotes quality and cost-effectiveness; and the applicant's past and proposed provision of health care services to Medicaid patients and the medically indigent.

The application for a CON for a general hospital is revised to require a detailed description of the proposed general hospital project; a statement of its purpose and the needs it will meet; the proposed project's location and the primary service area (location from which 75 percent of the discharges will be drawn) and secondary service area (location from which the remainder of the discharges will be drawn), identified by zip codes. If after the CON is approved, the primary service area materially changes, the Agency must revoke the CON unless the Agency determines that the changes will enhance access to hospital services in the service district. The application must include a statement of intent that, within 120 days after the final order or resolution of all appeals, the applicant will provide satisfactory proof of its financial ability to operate. The Agency must establish documentation requirements for an applicant to show anticipated provider revenues and expenditures, the basis for financing the anticipated cash-flow requirements, and the applicant's access to contingency financing.

If an applicant or substantially affected person requests a public hearing [for any CON application], and the Agency determines that the proposed project involves issues of great local public interest sufficient to warrant a public hearing, the Agency must attend that public hearing.

Except for a competing applicant, in order to be eligible to challenge an Agency decision or intervene in an administrative hearing on a general hospital CON application, an existing hospital must submit a detailed written statement of opposition to the Agency and to the applicant within 21 days after the application is determined complete and made available to the public. A challenge by an existing hospital that is not a competing applicant is limited in scope to the issues raised in the detailed written statement of opposition unless the administrative law judge expands the scope of the issues to be heard at the hearing.

An administrative hearing for a CON application for a general hospital must commence within 6 months after the administrative law judge has been assigned. A continuance may only be granted upon a finding of extraordinary circumstance by the administrative law judge.

The bill requires a party appealing a final order that grants a general hospital CON to post a \$1 million bond in order to maintain the appeal, and if the appealing party loses, to pay the appellee's attorney's fees and costs, up to \$1 million. The attorney's fees and costs are calculated from the beginning of the original administrative action. The Agency may not be liable for any other party's attorney's fees and costs unless the court finds that the Agency improperly rejected or modified findings of fact in a recommended order or that the Agency's action which precipitated the appeal was a gross abuse of the Agency's discretion.

The requirement for an architect's certification of final payment for a completed CON project that involves construction is repealed.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-0*

### **CS/HB 7083 — Health Care Fraud and Abuse**

by Policy and Budget Council; Healthcare Council; and Rep. Garcia (CS/CS/CS/SB 1374 by Health and Human Services Appropriations Committee; Banking and Insurance Committee; Health Regulation Committee; and Senator Jones)

This bill addresses health care fraud and abuse primarily by home health agencies, nurse registries, and durable medical equipment and medical supply providers. It also authorizes nurse registries to refer appropriately licensed professionals to provide home infusion therapy.

The bill requires applicants for an initial home health agency license to submit additional business and financial information including: a business plan that details the proposed home health agency's methods to obtain patients and recruit and maintain staff, provides evidence of contingency funding and documentation related to accreditation, and demonstrates financial ability to operate with projected operating margins limited to less than 15 percent for any month in the first year of operation, ownership interests. The AHCA may not issue an initial license for a home health agency if the applicant shares common controlling interests with another licensed home health agency that is located within 10 miles of the applicant and is in the same county. A licensure application may not be transferred to another home health agency or controlling interest before the license is issued and an initial licensure application must be submitted if a licensed home health agency seeks to relocate to a different geographic service area. The AHCA may accept the submission of a non-provisional accreditation survey to satisfy the periodic licensure survey requirements, if certain conditions are met.

The bill prohibits certain fraudulent conduct by home health agencies and nurse registries related to patient services and referrals. Administrative fines are increased for class I through IV deficiencies.

The bill limits the number of home health agencies that an administrator may manage and a director of nursing may serve. With certain exceptions, a home health agency may not operate for longer than 30 days without a director of nursing. Both the home health agency and the director of nursing must notify the AHCA upon the termination of the director of nursing and the home health agency must notify the AHCA within 10 business days after a new director of nursing is hired. A home health agency that fails to notify the AHCA is subject to fines and may have a moratorium placed on its license or its license revoked for operating without a director of nursing beyond 30 days.

The AHCA must develop rules related to oversight responsibilities by the director of nursing for services provided by the home health agency's staff; reporting requirements; a quality assurance program; and conditions for unannounced licensure inspections.

The bill defines a change in ownership for purposes of Medicaid provider enrollment. If a change of ownership occurs, both the transferor and the transferee are liable for all moneys owed to the AHCA before the effective date of the change of ownership. If the transferor fails to notify the AHCA of the change of ownership or the transferee fails to submit a Medicaid provider enrollment application at least 60 days prior to the proposed effective date of the change of ownership, both the transferor and transferee are liable for all moneys due to the AHCA even though a liability was not identified prior to the effective date of the change of ownership. The AHCA's approval of the transferee's Medicaid provider enrollment application is contingent upon a written payment plan for any outstanding liabilities.

The bill specifies the Medicaid provider enrollment effective date for a provider that requires a Medicare certification survey, a change of ownership, and a provider of emergency medical services transportation or emergency services and care.

The bill requires the AHCA to limit the network of durable medical equipment and medical supply providers (DME provider) in Medicaid for dates of service after January 1, 2009. After this date, a DME provider, with certain exceptions, must meet specified requirements related to accreditation, physical location, inventory, surety bond, and background screening in order to obtain reimbursement under the Medicaid program.

The AHCA is required to review prior authorization procedures for home health agency visits that are in excess of 60 visits over the lifetime of a Medicaid recipient and to report to the Legislature by January 1, 2009, on the feasibility and costs of accessing the Medicare system to disallow Medicaid payment for home health services that have already been paid for by Medicare for recipients who are dually eligible for Medicaid and Medicare.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 118-0*

## **PUBLIC HEALTH**

### **CS/CS/SB 564 — Automated External Defibrillators**

by Judiciary Committee; Health Regulation Committee; and Senators Constantine, King, Lynn, and Baker

The bill revises the requirements for the use of an automated external defibrillator (AED) in cases of cardiac arrest. Under the bill, any person who uses an AED is encouraged, rather than required, to obtain appropriate training. Any person or entity in possession of an AED is encouraged to notify the local emergency medical services medical director of the location of the AED, rather than register the existence and location of the AED with the local emergency medical services medical director.

The bill also revises requirements under which a person who acquires an AED may obtain immunity from civil liability for harm resulting from the use of an AED. The bill provides that the immunity applies to a person who acquires the AED *and* makes the device available for use. Furthermore, the bill eliminates a requirement that those who acquire and make available an AED must notify the local emergency medical services medical director of the most recent placement of the device. Finally, an employer or principal who acquired an AED may still enjoy immunity if he or she did not provide appropriate training to his or her employee or agent provided that the device is equipped with audible, visual, or written instructions on its use.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 118-0*

### **CS/SB 646 — HIV/AIDS Educational Requirements**

by Health Regulation Committee and Senator Margolis

The bill revises the HIV/AIDS educational course requirements for employees and clients of specified licensed health and social services facilities. Employees and clients of the facilities will only need to complete the HIV/AIDS course once rather than every two years. An employee of one of these facilities who has completed the course is not required to repeat the course upon changing employment to another licensed facility.

These requirements for HIV/AIDS training do not apply to any employee who is licensed or certified as an acupuncturist, medical physician, physician assistant, anesthesiology assistant, osteopathic physician, chiropractic physician, podiatric physician, optometrist, nurse, advanced registered nurse practitioner, pharmacist, dentist, dental hygienist, occupational therapist, nursing home administrator, respiratory therapist, dietitian/nutritionist, physical therapist, or physical therapy assistant. However, these employees must comply with the HIV/AIDS educational requirements for the employee's profession.

The bill requires nurse registries to require every applicant for a contract to complete an application form, which includes proof of completion of a continuing educational course on modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS with an emphasis on appropriate behavior and attitude change. The course must include information on current Florida law and its effect on HIV/AIDS testing and reporting.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 111-0*

**CS/SB 1318 — Onsite Sewage Treatment and Disposal Systems**

by Community Affairs Committee and Senators Gaetz and Lynn

The bill revises the membership of the Research Review and Advisory Committee and the Technical Review and Advisory Panel established by the Department of Health for the purposes of onsite sewage treatment and disposal system regulation to include a representative from local government who is knowledgeable about domestic wastewater treatment.

The bill also provides an exemption from certification requirements for certain persons who are working under the direct responsible charge of an engineer licensed under ch. 471, F.S. This exemption applies to persons determining proper placement and installation of onsite wastewater treatment and disposal systems and who have successfully completed a department-approved soils morphology course.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 115-0*

**CS/CS/SB 1648 — HIV Testing/Informed Consent**

by Health Policy Committee; Health Regulation Committee; and Senators Saunders and Lynn

The bill modifies three of the exceptions to the requirement that informed consent be obtained from a person before a human immunodeficiency virus (HIV) test is performed on the person. The three exceptions that are modified in the bill relate to cases in which a significant exposure to the HIV has occurred involving medical and nonmedical personnel providing treatment, assistance, or care. The bill authorizes HIV testing without consent, if consent cannot be timely obtained or if the individual who is the source of the significant exposure is incapable of providing consent. The bill requires the HIV testing to be conducted only after appropriate medical personnel under the supervision of a licensed physician documents in the medical record of the exposed personnel that a significant exposure has occurred and the testing is done in accordance with written protocols based on the Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and, in the physician's medical judgment, the information is medically necessary to determine the course of treatment.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 117-0*



**CS/CS/SB 2630 — Organ and Tissue Donation**

by Health and Human Services Appropriations Committee; Governmental Operations Committee; and Senators Oelrich, Gaetz, and Lynn

This bill modernizes the law for the organ and tissue donation program by establishing an online donor registry and revising provisions to more closely track the revised Uniform Anatomical Gift Act. The organ and tissue donor registry is named the Joshua Abbott Organ and Tissue Registry.

The bill modifies the list of persons who may make an anatomical gift and the persons whose objections prevent a gift from being made or accepted. Two classes of persons are added to the list of person who may make an anatomical gift, an adult grandchild of the decedent and a close personal friend. A member of one of the classes is no longer prohibited from making an anatomical gift if another member of the same class objects and a spouse may make an anatomical gift notwithstanding an objection by an adult son or daughter.

The bill also modifies the suggested form to authorize a designated health care surrogate to make a health care decision for an anatomical gift without the principal having executed an anatomical gift declaration.

The bill requires the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles to contract for the operation of an organ and tissue donor registry and education program. The bill specifies the duties of the contractor and the sources of funds for the registry and education program.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-0; House 114-0*

**CS/SB 2610 — Public Records/Organ and Tissue Donor Registry**

by Governmental Operations Committee and Senator Oelrich

This bill makes information which identifies a donor in the organ and tissue donor registry confidential and exempt from the public records law and the constitutional provisions related to public records. However, information in the registry may be disclosed to organ, tissue, and eye procurement organizations for the purpose of ascertaining or effectuating the existence of an anatomical gift and to persons engaged in bona fide research under specified conditions.

This public records exemption is set to be repealed on October 1, 2013, subject to legislative review and reenactment. The bill provides a statement of the public necessity for the public records exemption.

If approved by the Governor and CS/CS/SB 2630 is approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 116-0*

### **HB 7049 — Drugs, Devices, and Cosmetics**

by Healthcare Council and Rep. Bean and others (CS/CS/SB 2756 by Judiciary Committee; Health Regulation Committee; and Senator Peaden)

This bill reorganizes the Florida Drug and Cosmetic Act to consolidate regulatory provisions for all regulated permits and activity, and provides for consistent terminology throughout the act.

The bill also modifies definitions for terms used in the regulation of the manufacture and wholesale distribution of prescription drugs. The definition of authenticate is modified to specify that a wholesale distributor is not required to open a sealed, medical convenience kit to authenticate a pedigree paper for a prescription drug contained in the kit and that the authentication of a prescription drug in a sealed, medical convenience kit is limited to verifying the transaction and pedigree information received.

Up to two intracompany transfers are authorized in the definition of the normal distribution chain for purposes of providing a direct purchase pedigree statement upon the wholesale distribution of a prescription drug that was purchased directly from the manufacturer of the prescription drug and distributed to a chain pharmacy warehouse or person authorized by law to purchase prescription drugs for the purpose of administering or dispensing the drug.

The bill changes the timing for receiving a pedigree paper in the prohibited acts for purposes of administrative or criminal penalties to authorize receipt of a pedigree paper prior to or simultaneously with the receipt of the prescription drug.

The bill specifies that an active pharmaceutical ingredient in bulk form must be labeled with the name and place of business of the manufacturer, repackager, or distributor; and contain an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, otherwise the drug is misbranded.

The bill establishes new permits, with fees, and authorizes activities for a third party logistics provider and a health care clinic establishment. The third party logistics provider permit is available to a contracted distribution facility, which does not take title to the prescription drug, for a prescription drug manufacturer or prescription drug wholesale distributor. The health care clinic establishment permit, which becomes effective on January 1, 2009, allows a business entity with a qualifying practitioner, who is a licensed health care practitioner or a veterinarian authorized to prescribe and administer a prescription, to purchase prescription drugs.

An exemption from the requirement to obtain a nonresident prescription drug manufacturer permit is provided for a manufacturer to distribute limited quantities of a prescription drug active pharmaceutical ingredient to a prescription drug manufacturer for research and development purposes only, as provided in rules adopted by the Department of Health. A temporary transit storage facility, which may store a prescription drug for no longer than 16 hours when a wholesale distributor is temporarily unable to complete the delivery of the prescription drug to a recipient, is exempted from the permitting requirements.

The bill also corrects a glitch in the eligibility criteria for a limited prescription drug veterinary wholesale distributor.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 119-0*



## **STATE COLLEGE SYSTEM**

### **CS/CS/SB 1716 — The Florida College System**

by Higher Education Appropriations Committee; Higher Education Committee; and Senators Oelrich, Gaetz, and Lynn

#### *The Florida College System*

This bill creates the Florida College System comprised of public postsecondary educational institutions that grant 2-year and 4-year academic degrees at the undergraduate level. The bill permits a community college to change the institution's name and use the term "college," if it has been granted the authority to award baccalaureate degrees or the local board of trustees and the State Board of Education approve the name change. If the State Board of Education approves the name change, the college must enter into an agreement with the State Board to:

- Maintain the college's primary mission of responding to community needs for postsecondary education;
- Maintain an open door policy;
- Provide outreach to underserved populations;
- Provide remedial education; and
- Comply with the statewide articulation agreement that relates to 2-year and 4-year public degree-granting institutions.

#### *The Florida College System Task Force*

The Florida College System Task Force is established within the Division of Community Colleges in the Department of Education to make recommendations regarding the transition of community colleges to baccalaureate-degree granting colleges and the criteria for establishing and funding state colleges. The Commissioner of Education, who would serve as the chairman of the task force, must appoint 11 members to the task force, including seven community college presidents, one state university president, two presidents of private postsecondary baccalaureate-degree-granting institutions, and one member at large. The community college presidents appointed to the task force may not include the presidents appointed to participate in the State College Pilot Project. The task force must:

- Recommend a program-approval process for new baccalaureate degree programs at a community colleges and at state colleges;

- Recommend a new funding model for these institutions;
- Identify statewide needs for baccalaureate degrees;
- Monitor the State College Pilot Project; and
- Recommend priorities and criteria for baccalaureate programs that may be offered by these institutions without specific approval by the State Board of Education.

By March 2, 2009, the task force must submit a report and recommendations to the Governor, State Board of Education, and Legislative leaders. A recommendation from the task force to the Legislature must be passed by a three-fourths vote of the membership. The task force must submit a final report with recommendations before June 30, 2010, at which time the task force would be dissolved.

### ***The State College Pilot Project***

The State College Pilot Project is created to recommend to the Legislature:

- An approval process for the transition of baccalaureate-degree granting community colleges to state colleges in order to meet the state's employment needs;
- Criteria for institutions in the Florida College System to transition to state colleges; and
- A funding model for state colleges.

Nine colleges would participate in the pilot project: Chipola College, Daytona Beach College, Edison College, Indian River College, Miami Dade College, Okaloosa-Walton College, Polk College, Santa Fe College, and St. Petersburg College. The participating institutions must:

- Maintain the institution's primary mission to respond to community needs for postsecondary academic education and career education;
- Maintain an open-door admissions policy for associate-level degree programs and workforce education;
- Provide outreach to underserved populations;
- Provide remedial education;
- Comply with all the provisions of the statewide articulation agreement; and
- Deliver the programs in a cost effective manner.

Participating colleges are prohibited from participating in intercollegiate athletics beyond the 2-year level and from offering graduate degrees or graduate credit.

The participating colleges must require successful completion of the college-level communication and mathematics skills examination (CLAST) as a condition for admission to upper division programs unless the student has been awarded an associate degree from a community college or a state university. A student admitted into the upper division program at these institutions must also take the CLAST unless the student has previously obtained a passing score. The participating institutions must report each student's CLAST score to the Florida College System Task Force, State Board of Education, and the Legislature's Office of Program Policy and Government Accountability for the purpose of a longitudinal analysis of the CLAST.

The task force must collaborate with the Florida College System Task Force to make recommendations to the State Board of Education and the Legislature regarding specific issues that should be addressed in the transition of a community college to a state college, provided that any such recommendation is approved by two-thirds of the participating institutions. The final report of the task force must be issued by January 1, 2009.

### ***College Designations***

The bill renames Broward Community College, Daytona Beach Community College, Indian River Community College, Polk Community College, and Santa Fe Community College as Broward College, Daytona Beach College, Indian River College, Polk College, and Santa Fe College, respectively.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 35-0; House 97-10*

## **TEXTBOOK AFFORDABILITY**

### **HB 603 — Textbook Affordability**

by Rep. Flores and others (CS/SB 2350 by Higher Education Appropriations Committee and Senators Atwater, Haridopolos, Baker, Lynn, and Crist)

This bill requires the State Board of Education (SBE) and the Board of Governors (BOG) to adopt policies by March 1, 2009, to further efforts to minimize the cost of textbooks for community college and state university students. These policies must include:

- Sufficient time for bookstores to confirm textbook availability, including the availability of used books;
- Confirmation, as part of the adoption process, that all required bundled materials would be used;
- Confirmation, as part of the adoption process, of the extent to which the new edition differs substantially from the earlier editions; and

- Ways to provide required textbooks to students who could not otherwise afford them.

The bill prohibits employees of a community college or state university from demanding or receiving any payment or anything of value in exchange for requiring a student to purchase a specific textbook for coursework and instruction. The bill provides exceptions for sample copies, royalties for one's own work, honoraria for review of course materials and supporting materials, and training in the use of course materials. An instructor is prohibited from selling materials that are marked as sample not for resale.

The bill requires community colleges and state universities to post on their websites at least 30 days before the first day of class the books that would be required for each course. The SBE and BOG must adopt policies for textbook notification for classes added after the notification deadline.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 115-0*

## **STATE UNIVERSITIES**

### **SB 186 — University of South Florida Polytechnic**

by Senators Alexander and Baker

This bill designates the Lakeland campus of the University of South Florida (USF) as the "University of South Florida Polytechnic," which would be administered by a separate campus board and executive officer. The campus board would be comprised of four residents of the Polytechnic campus service area appointed by the USF Board of Trustees and one member of the USF Board of Trustees selected by that board. Members of the campus board would have the power to:

- Review and approve an annual legislative budget request to be submitted to the USF Board of Trustees;
- Approve and submit an annual operating plan and budget for review and consultation with the USF Board of Trustees;
- Enter into central support services contracts with the USF Board of Trustees for any services that the Polytechnic campus could not provide more economically, such as payroll processing, accounting, technology, and construction administration; and
- Enter into a central services contract with USF for all legal services.

The bill provides for USF Polytechnic to apply for accreditation from the Commission on Colleges of the Southern Association of Colleges and Schools if separate accreditation is in the



best interest of the campus. The campus board would have to ensure that sufficient student enrollment, faculty and administration were in place before requesting that the USF Board of Trustees apply for separate accreditation for USF Polytechnic.

The USF president would appoint the USF Polytechnic campus executive officer. The campus executive officer may:

- Administer campus operations within the annual operating budget as approved by the campus board;
- Recommend to the campus board an annual legislative budget request; an annual campus operating budget; and appropriate services, terms, and conditions for the annual support services contract; and
- Carry out additional responsibilities assigned by the USF president.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

## **COMMUNITY COLLEGES**

### **CS/CS/SB 696 — Community College Finance**

by Higher Education Appropriations Committee; Higher Education Committee; and Senators Oelrich, Gaetz, and Lynn

#### ***Short-term and Long-term Debt Financing***

The bill revises each community college board of trustees' authority to enter into debt by providing different requirements for short-term and long-term debt.

The bill limits the authority of community college district boards of trustees to enter into short-term financing for the purchase, sale, lease, license, or acquisition of goods, materials, and services required by the community college to five years or less. The financing must be subject to an annual appropriation by the board of trustees.

The boards of trustees may incur long-term debt for a term up to seven years, through the use of promissory notes, installment sales agreements, lease-purchase agreements, certificates of participation (COPS), and other long-term financing arrangements backed by authorized capital improvement and parking fees.

#### ***Capital Improvement Fees***

The bill requires a community college board of trustees to use the Division of Bond Finance to issue long term revenue bonds pledged by capital improvement fees. The division may pledge

capital improvement fees collected by participating community colleges to secure the bonds. The community college district boards of trustees are not required to use the division if the board pledges capital improvement fee revenues for the repayment of debt of less than seven years in duration.

***Community College Operating Revenue***

The bill provides that revenue bonds may not be secured by or paid from, directly or indirectly, tuition, financial aid fees, the Community College Program Fund, or any other operating revenue of a community college.

***Community College Direct-Support Organizations***

The bill requires a community college board of trustees to authorize all debt incurred by a direct support organization. The board of trustees may delegate short-term loans and lease-purchase agreements to the direct support organization if the terms of the agreements are five years or less. Revenues of a community college may not be pledged to debt issued by a direct support organization.

***College Designations***

The bill also renames Daytona Beach Community College as Daytona Beach College and Indian River Community College as Indian River College.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 115-0*

**CS/CS/HB 745 — Tuition Differential, Professional Program Tuition, and Ad Valorem Taxation for Educational Institutions**

by Policy and Budget Council; Schools and Learning Council; and Rep. Precourt and others  
(CS/SB 1768 by Higher Education Appropriations Committee and Senator Lynn)

The bill revises the eligibility criteria for state universities authorized by the Board of Governors to establish an undergraduate tuition differential, not to exceed 30 percent of tuition, to require only that the institution have research and development expenditures of at least \$100 million per year, as reported by the National Science Foundation. Accordingly, these universities would no longer have to meet the 2005 Carnegie Classification as a research university with very high research activity to qualify for the tuition differential.

The bill allows the Board of Governors or their designee to increase the combination of tuition and out-of-state fee for professional programs by a maximum of 15 percent a year, rather than the 10 percent currently in effect.

The bill also clarifies that property owned by educational institutions used exclusively for educational purposes are totally exempt from ad valorem taxation. Mixed use facilities owned by educational institutions, which are predominately used for educational purposes, are to be taxed for ad valorem purposes on a proportionate use basis.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-2; House 117-0*

**CS/HB 7105 — Postsecondary Distance Learning**

by Policy and Budget Council; Schools and Learning Council; and Rep. Pickens  
(CS/CS/SB 1762 by Higher Education Committee; Higher Education Appropriations Committee; and Senator Lynn)

The bill creates the Florida Distance Learning Task Force to study and make recommendations on key distance learning policy issues that will help to increase access to community college and university undergraduate distance learning resources.

The task force is comprised of four representatives from the State University System, four representatives from the Community College System, and the executive director of the Florida Distance Learning Consortium. The task force is charged with submitting a detailed report by March 1, 2009, with recommendations on several key distance learning issues to include:

- Management and promotion of the Distance Learning Catalog.

- Policies that address ways to increase access and cost-effectiveness in developing and delivering distance learning courses.
- A plan for streamlining and expediting the registration process for students enrolling in courses listed in the Florida Higher Education Distance Learning Catalog.
- The future role of the Florida Distance Learning Consortium.

The task force expires July 1, 2009.

The bill also establishes the Florida Higher Education Distance Learning Catalog as a central point of access to distance learning courses, degree programs, and resources offered by the community colleges and state universities.

The bill establishes a per credit hour distance learning course fee, which may be assessed by the community colleges and state universities for distance learning courses listed in the Florida Higher Education Distance Learning Catalog. The distance learning course fee may not exceed the additional costs of the services attributable to the development and delivery of distance learning courses. If a distance learning course fee is assessed, institutions may not assess duplicative fees to cover the additional costs. The community colleges must annually report to the Division of Community Colleges the total amount of revenue generated by the distance learning course fee for the prior academic year and how the revenue was expended.

The bill also requires that institutions must prominently display a link to the Florida Higher Education Distance Learning Catalog on their web site.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 111-0*

### **CS/SB 1774 — Postsecondary Student Fees**

by Higher Education Appropriations Committee and Senator Lynn

The bill amends the current workforce and community college technology fees to be consistent with the state university technology fee authorized to take effect in the fall semester of FY 2009-2010. The changes to the workforce and community college fees will also take effect in FY 2009-2010.

The bill makes technical changes to workforce and community college student fees to clarify that the out-of-state fee for workforce education programs is an amount three times the standard tuition per contact hour. The bill also adds a grandfather provision to address changes made during the 2007C Special Session that could impact a college's activity and service fee.

The bill amends current statutory provisions relating to student financial aid fees:

- To increase from \$250,000 to \$500,000 the threshold under which a community college qualifies to assess a 2 percent surcharge on the student financial aid fee; and
- To increase from \$300,000 to \$600,000 the amount of financial aid fee revenue that may be used for merit, athletic, public service, or other types of non-need based financial aid.

The bill places in statute a requirement for the University of Miami to maintain its current level of services to indigent and charity care patients in order for the university to receive its annual appropriation for the first accredited medical school.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-3*



## **WRONGFUL INCARCERATION**

### **CS/CS/CS/SB 756 — Wrongful Incarceration Compensation**

by Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee; Judiciary Committee; and Senators Joyner, Webster, Dockery, Lynn, and Wilson

This bill creates a program under which a person who was convicted and incarcerated for a felony of which he or she was actually innocent may apply for compensation from the state.

#### ***Petition for a Finding of Wrongful Incarceration and Eligibility for Compensation***

Upon an order vacating a felony conviction and sentence becoming final, a person may petition the original sentencing court for a determination whether he or she qualifies as a "wrongfully incarcerated person." The petition must set forth with particularity verifiable and substantial evidence of actual innocence. Additionally, the petitioner must state that:

- Prior to the person's wrongful incarceration, he or she was never convicted of any felony offense, or a crime committed in another jurisdiction the elements of which would constitute a felony in this state, or a crime committed against the United States which is designated a felony, excluding any juvenile delinquency disposition;
- During the person's wrongful incarceration, he or she was not convicted of any felony offense; and
- During the person's wrongful incarceration, he or she was not also serving a concurrent sentence for another felony for which the person was not wrongfully convicted.

The petition must be filed within 90 days of the order vacating a conviction and sentence, if the person's conviction and sentence is vacated on or after July 1, 2008. For those persons whose convictions and sentences were vacated by an order that became final prior to July 1, 2008, the petition must be filed by July 1, 2010.

#### ***Prosecutor's Response to Petition***

The prosecuting authority in the underlying felony must be provided proper notice of the filing of the petition. The prosecutor has 30 days to respond to the petition by either:

- Certifying to the court that no further criminal proceedings in the case can or will take place, that no questions of fact remain as to the petitioner's wrongful incarceration, and that the petitioner is not disqualified from seeking compensation; or

- By contesting the evidence of actual innocence, the related facts, or the petitioner's eligibility for compensation.

### ***Uncontested Petitions***

If the prosecutor does not contest the petition and the original sentencing court finds by clear and convincing evidence that the petitioner is a wrongfully incarcerated person, the court may certify to the Department of Legal Affairs (department) that the petitioner is also eligible for compensation.

### ***Contested Petitions***

If the prosecutor contests the petition, the court will make a determination of eligibility, limited to the issues of prior felonies and concurrent sentences. If, based on those factors, the court finds by a preponderance of the evidence that the petitioner is ineligible, the court must dismiss the petition.

However, if the petitioner is eligible under those criteria (no prior or concurrent felonies), but the prosecutor contests the evidence of actual innocence or the related facts, the court shall set forth its findings and transfer the petition to the Division of Administrative Hearings (DOAH) for findings of fact and a recommendation to the court.

### ***DOAH Hearing for Contested Petitions***

The petitioner must establish, by clear and convincing evidence before an administrative law judge, his or her status as a wrongfully convicted person who is eligible for compensation. The hearing must be conducted no later than 120 days after the petition is transferred from the court. The prosecutor may appear to contest factual matters, or matters related to the nature, significance, and effect of the evidence of actual innocence. The administrative law judge must enter his or her findings of fact and recommendations to the court within 45 days of the hearing.

The court shall consider the order from the administrative law judge and enter its own order within 60 days. The court may adopt or decline to adopt the findings of the administrative law judge. If the court finds that the petitioner has met his or her burden of proof – based upon the administrative law judge's findings and the court's own assessment of the findings and recommendations – the court's own order shall include a certification to the department that the petitioner is a wrongfully incarcerated person who is eligible for compensation.

### ***Application for Compensation***

Within two years of the original sentencing court's order finding the person to be a wrongfully incarcerated person who is eligible for compensation, the person must initiate an application for compensation with the department. The bill sets forth the required documentation that must



accompany the application and allows the department to adopt rules as necessary to carry out the program. It also provides time limitations for each step of the review, approval, and payment process.

### ***Purchase of an Annuity***

Upon determination that the requirements of the program are satisfied, the department is directed to notify the Chief Financial Officer to draw a warrant from the General Revenue Fund or another source designated by the Legislature for the purchase of annuity based on the total amount of compensation determined by the department. The annuity must:

- Be for a term of not less than 10 years;
- Provide that the annuity may not be sold, discounted, or used as security for a loan or mortgage by the applicant; and
- Contain beneficiary provisions for the continued disbursement of the annuity upon the wrongfully incarcerated person's death.

### ***Compensation for Wrongful Incarceration***

A person who is found to be a wrongfully incarcerated person who is eligible for compensation is entitled to receive:

- Monetary compensation in the amount of \$50,000 for each year of wrongful incarceration. This amount will be prorated as necessary to account for a portion of a year. For those persons found to be wrongfully incarcerated after December 31, 2008, the Chief Financial Officer may adjust the annual rate of compensation for inflation.
- A tuition and fee waiver for up to 120 hours of instruction at any career center, community college, or state university.
- Immediate administrative expunction of the criminal record resulting from the wrongful incarceration.
- Fines, costs, and attorney's fees imposed and paid by the wrongfully incarcerated person and associated with the wrongful conviction and incarceration.

The cap on total compensation under the program is \$2 million.

Prior to receiving the first payment, the claimant must execute a release and waiver releasing the state or any agency, or any political subdivision, from any and all liability for present and future claims arising out of the factual situation in connection with the person's wrongful incarceration.

### ***Limitations on Relief for Wrongful Incarceration***

A wrongfully incarcerated person may not submit an application for compensation under this program if the person has a lawsuit pending against the state or any agency in state or federal court arising out of the facts in connection with the person's wrongful incarceration. The person may not submit an application for compensation under this program if the person is the subject of a pending claim bill. Conversely, the person may not pursue recovery under a claim bill once an application is filed. The bill expresses that the program is intended to be the sole redress for the person's wrongful incarceration.

### ***Waiver of Sovereign Immunity***

The bill includes a statement declaring that any compensation paid under the act does not constitute a waiver of any defense of sovereign immunity or an increase in the limits of liability on behalf of the state or any person subject to the provisions of s. 768.28, F.S.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-1; House 116-0*

## **FAMILY LAW**

### **CS/SB 1474 — Dissolution of Marriage**

by Judiciary Committee and Senators Joyner and Wilson

This bill allows a court to enter an interim order during the pendency of a dissolution of marriage proceeding to allow an interim partial distribution of marital assets and liabilities if good cause is shown. The bill defines "good cause" as "extraordinary circumstances that require an interim partial distribution."

The bill provides that all real *or personal* property titled jointly by the parties as tenants by the entirety is presumed to be a marital asset. Under current law only real property held by the parties as tenants by the entirety is considered a marital asset. The bill provides that this presumption can be overcome by clear and convincing evidence that the property is nonmarital.

The bill abolishes special equity claims and provides that such claims are to be asserted as claims for unequal distribution of marital property or claims of enhancement in value or appreciation of nonmarital property. Special equity is a vested interest that a spouse acquires because of contributions made by that spouse which are more than the normal marital duties, and, according to some practitioners, the term special equity is synonymous with unequal distribution.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

## **REAL PROPERTY, PROBATE, AND TRUST LAW**

### **CS/SB 464 — Transfer Fee Covenants/Real Property**

by Judiciary Committee and Senator Aronberg

The bill creates a section of the Florida Statutes to reflect legislative intent regarding Florida's public policy against transfer fee covenants. It provides that Florida's public policy favors the marketability of real property and the transferability of interests in real property free of title defects and unreasonable restraints on alienation.

The bill prohibits transfer fee covenants recorded on or after July 1, 2008. Transfer fee covenants are defined as the payment of a transfer fee to the person declared in the covenant or their successors or assigns upon a transfer of interest in real property. The bill also describes 10 exceptions to the definition.

The bill clarifies s. 689.01, F.S., to provide that corporations may execute real estate conveyance contracts using the corporation's lawfully authorized agent. The bill makes conforming changes to s. 692.01, F.S.

This bill is a product of the Real Property, Probate, and Trust Law Section of The Florida Bar (RPPTL) in response to a "transfer fee rights" scenario described and analyzed in a May/June 2007 issue of *Probate and Property*, by the Real Property and Trust and Estate Law Section of the American Bar Association. The scenario described allows property owners to reserve a future interest in the appreciation of the value of the real property. The scenario begins with an agreement that purports to attach to title to the land and burdens future owners for 99 years. Future sales of the property provide for 1 percent of the sale price to be divided among the original covenantor, the company that licensed the use of the system of transfer fee rights, and the real estate broker. These scenarios are sometimes referred to as "transfer fee covenants."

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*

### **CS/HB 435 — Trust Administration**

by Safety and Security Council and Rep. Hukill and others (CS/SB 2164 by Judiciary Committee and Senator Jones)

The bill amends s. 736.0703, F.S., to allow a person to create a trust and allocate various responsibilities among more than one trustee. It provides that except in cases of willful misconduct by the directed trustee of which the excluded trustee has actual knowledge, an excluded trustee is not liable, individually or as a fiduciary, for any consequence that results from compliance with the exercise of the power. The excluded trustees are relieved from any obligation to review, inquire, investigate, or make recommendations or evaluations with respect

to the exercise of the power. The trustee or trustees having the power to direct or prevent actions of the trustees shall be liable to the beneficiaries with respect to the exercise of the power as if the excluded trustees were not in office and shall have the exclusive obligation to account to and to defend any action brought by the beneficiaries with respect to the exercise of the power.

The bill amends s. 736.0802(10), F.S., to remove the requirement on a trustee to seek prior court approval to pay costs or attorney's fees to defend against an allegation of breach of trust. It also requires a trustee to provide written notice to qualified beneficiaries that attorney's fees and costs may be paid from the trust.

The bill revises time limitations for the bringing of legal claims by a beneficiary against a trustee for breach of trust. The bill provides that all claims by a beneficiary against a trustee are barred upon the later of:

- Ten years after the date that the trust terminates, the trustee resigns, or the fiduciary relationship between the trustee and the beneficiary otherwise ends if the beneficiary had actual knowledge of the existence of the trust during the 10-year period; or
- Twenty years after the date of the act or omission of the trustee that is the basis of the complaint; or
- Forty years after the date the trust terminates, the trustee resigns, or the fiduciary relationship between the trustee and the beneficiary otherwise ends.

Statutes of repose can be extended by 30 years upon a showing of clear and convincing evidence by the beneficiary that a trustee actively concealed facts supporting a cause of action. The failure of the trustee to take corrective action is not a separate act or omission and does not extend the period of repose.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 108-0*

## **JUDICIAL SALES**

### **CS/HB 773 — Judicial Sales/Real or Personal Property**

by Safety and Security Council and Rep. Dorworth and others (CS/SB 2248 by Finance and Tax Committee and Senator Baker)

The bill permits the clerk of court to conduct judicial sales of real or personal property by electronic means. The clerk of court shall provide public access to the sale by computer terminals at a designated location, and must accept an advance proxy bid from the plaintiff of any amount up to the plaintiff's maximum allowable credit. The bill gives the clerk of court authority to receive electronic deposits and payments related to the property sale. If the clerk requires

advance electronic deposits, these deposits are not subject to the fee under s. 28.24(10), F.S.; however, the required portion of an advanced deposit for a winning bid is subject to that fee.

The bill permits any clerk of court to conduct electronic tax deed sales in lieu of public outcry. All other procedures provided for such sales in ch. 197, F.S., must be complied with, and the clerk must provide access to the sale by computer terminals open to the public at a designated location. The clerk may require bidders to advance sufficient funds to pay the deposit required in s. 197.542(2), F.S., and the required advance deposit made by the winning bidder is subject to the fee under s. 28.24(10), F.S., upon acceptance of the bid.

The bill specifies that the language of the bill shall not be construed to prevent a charter county from conducting electronic tax deed sales.

If approved by the Governor, these provisions take effect July 1, 2008

*Vote: Senate 39-0; House 113-1*

## **PUBLIC RECORDS**

### **CS/CS/SB 766 — Public Records/Judicial and Administrative Officials**

by Governmental Operations Committee; Judiciary Committee; and Senators Rich, Joyner, Deutch, Lawson, Dean, and Wilson

The bill expands the agency personnel information exempt from disclosure under the public records law to include the home addresses and telephone numbers of special magistrates, general magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers. Under current law, this information is exempt for district, circuit, and county court judges and justices of the Florida Supreme Court. The bill also exempts the home addresses, telephone numbers, and places of employment of the spouses and children of special magistrates, general magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers, as well as the names and locations of schools and day care facilities attended by their children. The bill also requires that special magistrates, general magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers make reasonable efforts to protect the information from being accessible through other means available to the public.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

## **HB 7033 — Public Records/Complaint of Discrimination**

by Government Efficiency and Accountability Council and Rep. Gardiner (CS/SB 2484 by Judiciary Committee and Senator Posey)

This bill revises an existing public-records exemption for complaints and related records held by agencies in the executive branch which concern allegations of discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring and other personnel practices. The bill expands the exemption to provide the same confidential-and-exempt status to discrimination complaints and related records held by *any* agency as defined under ch. 119, F.S. In this manner, the bill applies the public-records exemption for discrimination complaints to the broad array of governmental and quasi-governmental organizations, as well as private corporations acting on behalf of public agencies, which are currently governed by the public records law but are not within the executive branch of state government. The bill retains the qualification in existing law that the discrimination-complaint records are confidential and exempt until a probable cause finding is made, the investigation is no longer active, or the record becomes part of the official record of any hearing or court proceeding.

Because the definition of "agency" under s. 119.011(2), F.S., includes units of local government, this bill would apply the exemption for discrimination complaints and related records to them. The revised public-records exemption – which relates to discrimination in hiring and other personnel practices – would, therefore, be supplemental to a public-records exemption that currently applies to local government under s. 119.0713(1), F.S., and appears to cover discrimination complaints generally, as well as discrimination in housing rentals or sales, brokerage services, and housing finance.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 114-0*

## **MILITARY AFFAIRS**

### **CS/SB 274 — POW-MIA Flag**

by Military Affairs and Domestic Security Committee and Senators Dean, Gaetz, Haridopolos, Baker, and Lynn

The bill directs the Department of Environmental Protection to purchase and display POW-MIA flags year-round at each of the state parks where the United States flag is displayed.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 114-0*

### **CS/HB 843 — Family Readiness Program**

by Government Efficiency and Accountability Council and Rep. Patronis and others  
(CS/SB 2522 by Transportation and Economic Development Appropriations Committee and Senators Fasano and Lynn)

The bill amends s. 250.5206, F.S., to make the following persons eligible for need-based financial assistance under the Family Readiness Program:

- Florida residents who are members of the Florida National Guard and United States Reserve Forces, including the Coast Guard Reserves, who are on active duty serving in the Global War on Terrorism and who are federally deployed or participating in state operations for homeland defense; and
- Family members of such servicemembers who are Florida residents and are designated benefits beneficiaries or are otherwise dependents of such servicemembers.

The bill also requires the Department of Military Affairs to include servicemembers in addition to families served under this program in its annual report to the Governor and the Legislature.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 114-0*

## **VETERANS' AFFAIRS**

### **CS/HB 687 — Service-Disabled Veteran Business Enterprises**

by Government Efficiency and Accountability Council and Rep. Proctor and others  
(CS/CS/SB 108 by Governmental Operations Committee; Military Affairs and Domestic Security Committee; and Senators Fasano, Bennett, Baker, and Dockery)

The bill names this act the "Florida Service-Disabled Veteran Business Enterprise Opportunity Act." The bill states the Legislature's intent to rectify the economic disadvantage of service-disabled veterans by providing opportunities for business enterprises owned by them.

The term "service-disabled veteran" is defined as a veteran who is a permanent Florida resident and who has a service-connected disability of 10 percent or greater as determined by the U. S. Department of Veterans Affairs or who has been terminated from military service by reason of disability by the U. S. Department of Defense.

The term "service-disabled veteran business enterprise" is defined as an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees;
- Has a total net worth of \$5 million or less;
- Is organized to engage in commercial transactions;
- Is domiciled in Florida;
- Is at least 51 percent owned by one or more service-disabled veterans; and
- Is controlled and managed on a daily basis by one or more service-disabled veterans or, in the case of a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

State agencies are required to award a competitive contract for the procurement of commodities or contractual services to a certified service-disabled veteran business enterprise if the bid, proposal, or reply of the business is equal to other competitors with respect to all relevant considerations including price, quality, and service.

The bill further requires that in the case of competing certified service-disabled veteran business enterprises or businesses that are entitled to this or another vendor preference, if the bids or proposals are equal with respect to all relevant considerations including price, quality, or service then the business having the smallest net worth shall receive the award.

Political subdivisions of the state are encouraged to offer similar considerations but are not required to do so.



A certification procedure for service-disabled veteran business enterprises and a requirement for a biennial recertification are provided in the bill. Provisions of the Administrative Procedure Act relating to application, denial, and revocation procedures apply to the certification process. The bill further provides for a one year revocation of certification if a business fails to report any event as required by the act that significantly affects certification eligibility, including, but not limited to, change in ownership or management. During the revocation period, an owner may not reapply for certification as an owner of another business enterprise. However, the owner may still continue to bid on state contracts but is ineligible for any preferences under this act until recertified.

Duties are assigned to the Department of Veterans' Affairs (DVA) including:

- Assisting the Department of Management Services in establishing a certification procedure which shall be reviewed biennially and updated as necessary;
- Identifying eligible service-disabled veteran business enterprises and encouraging them to apply for certification; and
- Providing information to service-disabled veteran business enterprises regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center.

Duties are also assigned to the Department of Management Services (DMS) including:

- With assistance from DVA, establish a certification procedure which shall be reviewed biennially and updated as necessary;
- Grant, deny, or revoke the certification of service-disabled veteran business enterprises; and
- Maintain an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions, and the public.

The Florida Small Business Development Center is directed to include in its report under s. 288.705, F.S., the percentage of certified service-disabled veteran business enterprises using the statewide contracts register.

Rulemaking authority is granted to DMS and DVA to administer the act.

The bill amends s. 288.705, F.S., to correct a reference to the Agency for Workforce Innovation as well as to include the reporting requirement given to the Small Business Development Center.

If approved by the Governor, these provisions take effect November 11, 2008.

*Vote: Senate 38-0; House 114-0*

### **CS/HB 861 — Veterans' Affairs Direct-Support Organization**

by Healthcare Council and Rep. Reagan and others (CS/SB 1462 by Military Affairs and Domestic Security Committee and Senators Dean, Baker, and Lynn)

The act is named the "Sergeant First Class Paul R. Smith Memorial Act."

The bill creates s. 292.055, F.S., which authorizes the Department of Veterans' Affairs to establish a direct-support organization in order to provide assistance, funding, and support for the department in carrying out its mission. The bill defines the direct-support organization as an organization that is:

- A Florida corporation not for profit;
- Incorporated under chapter 617, F.S.;
- Exempted from filing fees;
- Approved by the Department of State;
- Organized and operated exclusively to obtain funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the benefit of the Department of Veterans' Affairs, Florida's veterans, and congressionally chartered veterans service organizations that have subdivisions that are incorporated in Florida; and
- Determined by the Department of Veterans' Affairs to be operating in a manner consistent with the goals of the department and in the best interest of the state.

The organization shall be governed by a board of at least five directors appointed by the executive director of the department. The bill allows veteran service organizations to recommend board of directors nominees to the department's executive director.

The bill provides for a board membership term in office of three years except in the initial appointments where some members' terms are shortened in order to develop a staggered term expiration schedule. The bill allows members to be reappointed when their terms expire. The executive director of the department or his or her designee shall serve as an ex officio member of the board.

Board membership qualifications include current state residency and being highly knowledgeable of military and veterans' issues. A majority of the board must be veterans as defined in s. 1.01(14), F.S. The executive director of the department shall have the authority to

remove a board member for cause with the approval of a majority of the board of directors. The executive director shall appoint a replacement for any vacancy that occurs.

The bill requires that the direct-support organization operate under a written contract with the department. The contract, at a minimum, must provide for:

- Annual certification by the department that the organization is complying with the terms of the contract in a manner consistent with the purposes of the department and in the best interests of the state. Such certification shall be reported in the minutes of an official meeting of the organization;
- Reversion of moneys and property held by the organization, if it is no longer approved to operate for the department or if the organization or the department ceases to exist; and
- The disclosure of the material provisions of the contract including the distinction between the department and the direct-support organization to donors and all promotional and fund raising publications.

The direct-support organization is authorized to use department property, facilities, and personnel under contractually prescribed conditions for such use. The bill prohibits such use if the organization does not provide equal employment opportunities.

Department approval is required for any transaction or agreement between the direct-support organization and any other direct-support organization or entity. In addition, a fiscal year is specified for the organization, an IRS tax exempt status is required, and the organization is required to provide for an annual financial audit in accordance with s. 215.981, F.S.

The bill repeals s. 292.04, F.S., thereby abolishing the Florida Commission on Veterans' Affairs. Section 265.002, F.S., is amended relating to the administration of the Florida Medal of Honor Wall to reflect the disestablishment of the commission and to transfer commission functions to the department. Section 337.111, F.S., is amended relating to contracting for veterans monuments and memorials at Department of Transportation rest areas to also reflect disestablishment of the commission. Members of the organization's board of directors will serve on a statutory committee that approves proposed installation of such monuments and memorials.

Section 320.08058, F.S., is amended to revise the distribution formula for the proceeds of sales of the "Florida Salutes Veterans" specialty license plate. The bill authorizes 20 percent of the proceeds to be distributed to the direct-support organization for a period not to exceed 24 months after the organization's incorporation. Any remaining fees must be deposited in the State Homes for Veterans Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 113-0*

**CS/HB 863 — Veterans' Affairs Direct-Support Organization Public Records**  
by Health Care Council and Rep. Reagan and others (CS/SB 1464 by Governmental Operations  
Committee and Senator Dean)

The bill provides for a public records exemption granting requested anonymity to donors or prospective donors to a direct-support organization assisting the Department of Veterans' Affairs. The bill also creates an exemption for that portion of a meeting at which such confidential and exempt information is discussed.

The provisions of this bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2013, unless reviewed and reenacted by the Legislature.

The bill provides a legislative finding that protecting the identity of donors and prospective donors to the direct-support organization authorized to assist the Department of Veterans' Affairs is a public necessity. The finding asserts that the exemption honors the request for anonymity by donors and prospective donors thereby assisting the direct-support organization in performing its fundraising mission. The bill also provides a public necessity for the meetings exemption.

If approved by the Governor, these provisions take effect July 1, 2008, if HB 861, or similar legislation establishing a direct-support organization for the Department of Veterans' Affairs, is adopted in the same legislative session or an extension thereof and becomes law.

*Vote: Senate 39-0; House 113-0*

**CS/HB 1027 — Funding for State Veterans' Homes**

by Economic Expansion and Infrastructure Council and Rep. Kreegel and others (SB 1606 by  
Senators Baker, Storms, Gaetz, Haridopolos, and Lawson)

The bill amends s. 320.089, F.S. Under the provisions of this bill, the first \$100,000 in general revenue from the sales of National Guard, U. S. Reserve, Pearl Harbor Survivor, and Combat Wounded Veteran, special license plates will continue to be distributed to the Grants and Donations Trust Fund within the Department of Veterans' Affairs. Proceeds from the sales of Operation Iraqi Freedom and Operation Enduring Freedom plates are redirected from Department of Transportation general revenue and included with this group of special plates.

Further, up to \$100,000 of additional proceeds from the sales of all such plates shall be distributed to the State Homes for Veterans Trust Fund. Such funds are to be used solely for the construction, operation, and maintenance of state domiciliary and nursing homes for veterans.

The bill amends s. 320.02, F.S., to permit applicants registering or renewing registration of a motor vehicle to make a voluntary contribution of \$1 to the state homes for veterans. Such contributions are to be distributed quarterly to the State Homes for Veterans Trust Fund and

administered by the Department of Veterans' Affairs. In addition, the bill in effect waives a fee that would otherwise be charged the department as an applicant for the voluntary contribution checkoff as required by s. 320.023, F.S.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 39-0; House 114-0*



## **HOTELS AND RESTAURANTS**

### **CS/SB 276 — Food Donation by Public Food Service Establishment**

by Judiciary Committee; and Senators Rich, Haridopolos, Jones, King, Dean, Hill, Geller, Fasano, Aronberg, Gaetz, Wise, Baker, Joyner, Siplin, Deutch, Saunders, Ring, Bullard, Dockery, and Wilson

The bill (Chapter 2008-25, L.O.F.) amends provisions of law that currently limit liability for canned or perishable food distributed free of charge by expanding the definition of "perishable food" to include foods that have been prepared at a licensed public food service establishment.

The bill provides that this act may be cited as the "Jack Davis Florida Restaurant Lending a Helping Hand Act."

These provisions were approved by the Governor and take effect July 1, 2008.

*Vote: Senate 36-0; House 116-0*

### **CS/CS/CS/SB 2016 — Public Lodging and Food Service Establishments**

by General Government Appropriations Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Aronberg

The bill eliminates the requirement that the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) assist the State Fire Marshal in updating the Florida Fire Prevention Code. It also eliminates the division's responsibility to enforce the Florida Fire Prevention Code when it conducts inspections of public lodging and public food service establishments. It eliminates the requirement that the division must immediately notify the local firesafety authority or the State Fire Marshal of any major violation of a fire prevention and control rule adopted under ch. 633, F.S. It also eliminates the authority of the division to impose administrative sanctions for violations of these rules and to refer the violations to the local firesafety authorities for enforcement. However, the division is required to notify local firesafety authorities or the State Fire Marshall of readily observable fire safety violations relating to public lodging or public food service establishments.

The bill decreases the time a public food service manager has to complete the required certification test from 90 days to 30 days after their employment. It requires all public food service establishments to provide the division with proof of service manager certification upon request, including when the establishment is inspected by the division.

The bill eliminates the requirement that each operator of a transient establishment must maintain a current copy of ch. 509, F.S., at all times in the office of the licensed establishment and make the copy available to the public upon request.

The bill eliminates the requirement that public food service establishments must provide potable water and adequate sanitary facilities to their guests. It also eliminates the requirement that each public food service establishment must furnish each guest with two clean individual towels so that two guests will not be required to share a towel that has not first been laundered. The bill requires that these establishments maintain public bathroom facilities in accordance with the Florida Building Code as approved by the local building authority. It also requires that each public food service establishment must provide soap and clean towels or other approved hand-drying devices in the employee bathroom and in any public bathroom. The bill includes rooming houses in the definition of transient and non-transient establishments.

The bill authorizes the division to fine, suspend, or revoke the license of any public lodging establishment or public food service establishment that fails to comply with the requirements of a final order or other administrative action issued against the licensee by the division. It also authorizes the division to refuse to issue or renew the license of any public lodging establishment or public food service establishment that has failed to pay in full all outstanding fines required by any final order or other administrative action issued against the licensee by the division.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 37-0; House 116-0*

## **ALCOHOLIC BEVERAGES AND TOBACCO**

### **CS/HB 951 — Beverage Law**

by Jobs and Entrepreneurship Council and Rep. Schultz and others (CS/SB 2864 by Regulated Industries Committee and Senator King)

The bill prohibits alcoholic beverage importers, primary American sources of supply, and brand owners or registrants from having a financial interest in the business of an alcoholic beverage vendor. It includes importers, primary American sources of supply, and brand owners or brand registrants, or their brokers and sales agents, in the current statutory provisions for "tied house evil" prohibitions, which currently prohibit licensed manufacturers and distributors from giving gifts or loans to retail vendors.

The bill also prohibits these entities from supplying a vendor any outside sign advertising. It includes these entities in the prohibition for beer tastings and cooperative advertising with beer vendors.



The bill defines a brand owner as a person who is not a manufacturer, distributor, importer, primary American source of supply, or brand registrant who owns or controls an alcoholic beverage brand, brand name, or label. It does not prevent an alcoholic beverage vendor from owning an alcoholic beverage brand, name, or label.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-2; House 117-0*

### **CS/CS/HB 1167 — Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act**

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Legg (CS/CS/SB 2640 by General Government Appropriations Committee; Regulated Industries Committee; and Senator Constantine)

Fire-safe cigarettes, also known as reduced ignition propensity cigarettes, are designed to stop burning when left unattended. The bill creates the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act." It provides a performance standard for testing cigarette ignition propensity and prohibits cigarettes from being sold in Florida unless the cigarettes are tested, certified by the State Fire Marshal and marked as required.

The bill provides civil penalties for violations of the requirements and preempts political subdivisions from adopting their own standards. It provides a civil penalty of \$100 per pack of cigarettes, not to exceed \$100,000 during a 30-day period, for knowingly selling at wholesale uncertified cigarettes. It provides a civil penalty of \$100 per pack of cigarettes, not to exceed \$25,000 during a 30-day period, for knowingly selling at retail uncertified cigarettes. It provides a civil penalty of at least \$75,000 and not more than \$250,000 per false certification, for knowingly making a false certification. Any other violation would result in a civil penalty not to exceed \$1,000 for a first offense and may not exceed \$5,000 for subsequent offenses. The bill provides for the seizure and forfeiture of cigarettes that do not meet the performance standards or that are unmarked.

The bill provides for its repeal if a federal reduced cigarette ignition propensity standard that preempts state law is adopted and becomes effective. Effective upon this act becoming law, the bill also preempts any municipal or county ordinance on the subject.

If approved by the Governor, these provisions take effect January 1, 2010, unless otherwise expressly provided in the act.

*Vote: Senate 39-0; House 113-0*

## **PROFESSIONS**

### **SB 458 — Amateur Matches**

by Senator Wise

The bill provides an exemption to the licensing and regulatory requirements of chapter 548, F.S., for amateur pugilistic matches sponsored by the Fraternal Order of Police if the match is limited to amateur participants and is held in conjunction with a charitable event.

Under this bill, the Fraternal Order of Police could conduct amateur boxing matches that would not be sanctioned and supervised by an approved amateur sanctioning organization. These matches would also not have to comply with the health and safety standards of the Florida State Boxing Commission.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 34-1; House 118-0*

### **CS/CS/CS/SB 996 — Cosmetology**

by General Government Appropriations Committee; Higher Education Committee; Regulated Industries Committee; and Senators Wise, Lynn, and Aronberg

The bill redefines the practice of cosmetology including hair stylist services, esthetician services, and nail technician services. The term "esthetician" relates to non-medical, cosmetic facial services. The bill permits a person to obtain a license as a hair stylist, esthetician, or nail technician. A cosmetologist may provide all three of these specialty services. The bill defines the services that each class of license will perform. Persons licensed as a cosmetologist or as a specialist under current law will continue to hold their current license or registration.

The bill increases minimum education requirements. The minimum education hours required, consisting of training from the hair stylist, esthetician, and nail technician curricula for licensure as a cosmetologist will increase from 1,200 to 1,500 hours.

The bill requires 1,000 minimum hours of education for a hair stylist and increases the minimum number of hours required for an esthetician from 260 to 600, and the minimum hours for a nail technician are increased from 240 to 350. The bill permits a student who has enrolled and began his or her education before July 1, 2008, to take the exam to be licensed as a cosmetologist upon completion of 1,200 hours of training.

The bill re-defines the term "salon" to include a place where the practice of one or more cosmetology, hair stylist, esthetician, nail technician, or specialty services is offered or performed for compensation. It requires that applicants for licensure be at least 16 years of age and have a high school degree, a general equivalency diploma, or have passed an ability-to-

benefit test approved by the United States Secretary of Education. The bill permits licensure by endorsement and permits cosmetology and cosmetology specialty services to be performed outside of a licensed salon under certain circumstances. It also permits persons holding a valid cosmetology license in any state to conduct department store demonstrations.

The bill makes it unlawful for any person in the practice of cosmetology to use or possess a device containing a razor blade to remove, scrape, or cut calluses from the hands and feet.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 118-0*

### **HB 797 — Public Accountancy**

by Rep. Holder and others (CS/SB 1206 by Regulated Industries Committee and Senator Jones)

The bill revises the education and licensure requirements for certified public accountants (CPA). The bill provides that an applicant for licensure as a Florida CPA must apply to the Board of Accountancy within the Department of Business and Professional Regulation to take the licensure examination. Current law requires that, to take the licensure examination, the applicant must have a baccalaureate degree with a major in accounting, or its equivalent, and at least 30 semester or 45 quarters hours in excess of those required for a four-year baccalaureate degree. The additional 30 semester or 45 quarters hours is known as the "fifth year" requirement. The bill would permit CPA applicants to take the CPA examination upon completion of the baccalaureate degree (undergraduate) and before completion of the "fifth year" requirement.

The bill requires one year of work experience for applicants who apply for licensure after December 31, 2008. The work experience includes providing advice or service using accounting, attest, compilation, advisory, tax, or consulting skills. The experience must be a substantial part of the applicant's duties, be verified and be under the supervision of a certified public accountant licensed in the United States. The person may be employed in government, industry, academia, or public practice. The board is required to adopt rules for review and approval of the work experience.

The bill requires the board to certify an applicant for a license by endorsement if the person has met the requirements of the act for education, work experience and good moral character.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 114-0*

## RESIDENTIAL TENANCIES

### **HB 1489 — Residential Tenancies**

by Rep. Patterson and others (CS/SB 2716 by Judiciary Committee and Senator Aronberg)

The bill amends the landlord's available remedies in s. 83.595, F.S., to permit landlords to recover liquidated damages or early termination fees if they are provided for in the rental agreement. The liquidated damages or early termination fees are charged when the tenant gives notice of the early termination. The bill provides that this remedy is available only if, at the time the rental agreement was made, the tenant indicated his or her acceptance of liquidated damages or early termination fees by signing a separate addendum to the rental agreement using substantially similar language to that provided in the bill. If acceptance is not indicated, the liquidated damages or early termination fee remedies may not be imposed. The liquidated damages or early termination fee must not exceed two-months' rent, and the tenant must not be required to give more than 60-days' notice in order for an early termination fee to be charged.

In addition to the liquidated damages or early termination fee, the bill provides that the landlord is entitled to recovery of any unpaid rent and other charges accrued through the end of the month in which the landlord retakes possession, as well as charges for damages to the dwelling unit.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 106-0*

## COMMUNITY ASSOCIATIONS AND PROFESSIONAL REGULATION

### **CS/CS/HB 601 — Department of Business and Professional Regulation**

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Hudson and others (CS/CS/SB's 2086 and 2498 by Judiciary Committee; Regulated Industries Committee; and Senators Jones and Bennett)

The bill revises provisions related to jurisdiction of the Department of Business and Professional Regulation (DBPR), including provisions related to condominium associations, homeowners' associations, several professions, and the powers and duties of the Division of Land Sales, Condominiums, and Mobile Homes (division) within the department.

#### ***Condominium Insurance [s. 718.111(11), F.S.]***

The bill revises the insurance rights and obligations of condominium associations and unit owners, including the duty to obtain adequate hazard insurance. The bill provides that adequate hazard insurance is based upon the replacement cost of the property and requires that the full insurable value must be determined at least every 36 months. The bill maintains the current provision that permits three or more communities to obtain insurance for an amount equal to the

probable maximum loss (PML) for a 250 year windstorm event, but requires that the Office of Insurance Regulation review and approve rates and policy forms, that unit owners obtain accurate disclosures, and that hurricane loss models are accurate and appropriately applied to the insured condominium structures.

The bill provides the procedures for a board meeting to establish the amount of deductibles. It specifies the property that must be excluded from the association's insurance coverage, and specifies the provisions that must be contained in every hazard insurance policy issued or renewed on or after January 1, 2009, to an individual unit owner. The bill requires that improvements or additions that do not benefit all of the unit owners must be insured by the unit owner or owners who use the improvement or addition. It also requires unit owners to provide to the condominium association evidence of a currently effective hazard and liability insurance policy no more than once per year. If the unit owner fails to provide the evidence of insurance within 30 days, the association may purchase an insurance policy on behalf of the unit owner, which must be paid by the unit owner. The bill specifies the obligations of the condominium association and the unit owner for reconstruction and repair work and their cost.

***Estoppel Certificates for Condominium Associations [s. 718.116, F.S.]***

The bill amends the provisions related to "estoppel certificates," which the condominium association must provide to the prospective purchaser of a condominium detailing any past-due assessments that may be owed for the condominium unit. The bill provides that the authority to charge a fee must be established by a written resolution adopted by the board in advance of the charge or provided by a written management, bookkeeping, or maintenance contract. The bill provides that the fee must be payable upon the preparation of the certificate. If the certificate is requested for a sale or mortgage of the unit that does not take place, the fee shall be refunded to that payer within 30 days after receipt of a request for a refund. The written request must be made no later than 30 days after the closing date for which the certificate was sought. The written request must be accompanied by reasonable documentation that the sale did not occur. The refund must be paid by the unit owner and is collected in the same manner as an assessment.

***Termination of Condominiums [s. 718.117, F.S.]***

The bill provides that the distribution of any sale proceeds to purchase money lienholders on units must not exceed a unit's share of the proceeds.

***Estoppel Certificates for Homeowners' Associations [s. 720.3087, F.S.]***

The bill amends the provisions related to "estoppel certificates" for homeowners' associations. The bill provides that the authority to charge a fee must be established by a written resolution adopted by the board in advance of the charge or provided by a written management, bookkeeping, or maintenance contract. The bill provides that the fee must be payable upon the preparation of the certificate. If the certificate is requested for a sale or mortgage of the parcel

that does not take place, the fee shall be refunded to that payer within 30 days after receipt of a request for a refund. The written request must be made no later than 30 days after the closing date for which the certificate was sought. The written request must be accompanied by reasonable documentation that the sale did not occur. The refund must be paid by the parcel owner and is collected in the same manner as an assessment.

***Deregulation of Land Sales [ch. 498, F.S.]***

The bill repeals most of the provisions of ch. 498, F.S., to de-regulate the sale of subdivided land by the division.

***Division of Florida Condominiums, Timeshares, and Mobile Homes***

The bill renames the division as the Division of Florida Condominiums, Timeshares, and Mobile Homes. The bill renames the department's Division of Technology, Licensure, and Testing as the Division of Technology. The bill transfers selected powers of the division that are contained in ch. 498, F.S., to ch. 718, F.S.

The bill transfers and renames the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. It also transfers the provisions of the existing trust fund from s. 498.019, F.S. to s. 718.509, F.S.

***Farm Labor Contractor Registration [s. 450.33, F.S.]***

The bill deletes the requirement for farm labor contractors to file a set of their fingerprints with the department.

***Regulation of Professions [ch. 455, F.S.]***

The bill amends several provisions of ch. 455, F.S., to:

- Authorize the department, for the boards under its jurisdiction, to close and terminate license applications two years after the board or the department has notified the applicant of the deficiency;
- Authorize the department to approve applications for professional licenses that meet all statutory and rule requirements for licensure; and
- Provide that the disciplinary guidelines in ch. 455, F.S., apply to the business regulation divisions of the department, i.e., the Division of Alcoholic Beverages and Tobacco, the Division of Florida Condominiums, Timeshares, and Mobile Homes; the Division of Hotels and Restaurants, and the Division of Pari-mutuel Wagering.

***Mold Assessors and Remediators [s. 468.841, F.S.]***

The bill exempts a licensed home inspector from licensure under the mold assessor provisions of ch. 468, F.S., if he or she is acting within the scope of the home inspection license, and they do not hold themselves out for hire to the public as a "certified mold assessor," "registered mold assessor," "licensed mold assessor," "mold assessor," or "professional mold assessor."

***Construction Contracting [s. 489.105(6), F.S.]***

The bill clarifies that the term "contracting" does not include an individual or business entity selling or offering to sell manufactured or factory built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest.

***Real Estate [ss. 475.17 and 475.451(9), F.S.]***

The bill increases the experience requirement for real estate brokers from 12 months to 24 months. The bill also deletes the exception to the experience requirement for the Division of Real Estate's investigators. The bill deletes the requirement for real estate schools to submit course rosters to the department.

***Cosmetology [s. 477.019, F.S.]***

The bill permits cosmetology students to apply to take the licensure examination during their last 100 hours of training. It would also permit students who have completed their training and successfully passed the licensure examination to practice under supervision before receiving a physical copy of the license.

***Electrical and Alarm System Contractors [ss. 489.511 and 489.515, F.S.]***

The bill amends the certification requirements for electrical and alarm system contractors, to permit applicants to take the certification examination before the Electrical Contractor's Licensing Board has reviewed the applicant's experience and training qualifications. The bill authorizes the board to provide by rule the number of times per year the applicant may take the examination. It deletes the provision that an applicant may only take the examination three times. It eliminates the requirement that the applicant submit a new application after failing the examination three times.

***Amateur Mixed Martial Arts [ss. 548.0065 and 548.008, F.S.]***

The bill requires, before licensure, that participants in amateur boxing matches and amateur mixed martial arts matches must have completed the minimum number of events as determined by rule of the Florida State Boxing Commission.

***Timeshares [s. 721.03(1)(c), F.S.]***

The bill includes nonspecific multisite timeshare plans within the exemption for the specified timeshare plans that are exempt from the regulation requirements in s. 721.03(1)(c), F.S., for the regulation of timeshare accommodations or facilities which are located outside the state but offered for sale in this state.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

**CS/CS/HB 679 — Residential Properties**

by Policy and Budget Council; Safety and Security Council; and Rep. Gardiner and others (CS/SB 2504 by Regulated Industries Committee; and Senators Posey and Fasano)

The bill affects condominium and homeowners' associations. The bill requires that condominium associations must, not less than 60 days before a scheduled election, send to unit owners a signed certification from the candidates for the board that attests that the candidate has read and understands, to the best of their knowledge, the governing documents, ch. 718, F.S., and the applicable rules. Newly elected board members must resubmit the certification within 30 days after being elected. The association is required to retain the certification for five years.

The bill permits three or more condominium associations to form an unregulated self-insurance fund to pool and spread the liabilities for deductibles for commercial lines residential property insurance policies. The product would be sold by licensed general lines insurance agents. The bill provides that the fund is not subject to licensure under the Insurance Code, but that it is subject to enforcement by the Office of Insurance Regulation as an unfair insurance trade practice. It requires that the fund be audited by an independent auditor no less frequently than every two years.

The bill exempts swimming pools in homeowners' associations that serve no more than 32 units from supervision by the Department of Health.

The bill provides that members of homeowners' associations have the right to speak on any matter placed on the agenda at a board meeting. Regarding homeowners' associations, the bill also:

- Revises the notice requirements for financial reports regarding reserve accounts;
- Prohibits directors, officers or committee members from receiving any salary or compensation from the association for the performance of their duties, with limited exceptions;
- Permits fines that are \$1,000 or more to become a lien on a parcel;



- Revises proxy voting and elections requirements; and
- Provides additional disclosures to prospective purchasers.

Effective July 1, 2009, the bill creates the Home Court Advantage Dispute Resolution Act to provide for the mandatory pre-suit mediation and arbitration of homeowners' association disputes. The alternative dispute resolution procedures provided in the bill are similar to the mandatory mediation procedures in s. 720.311, F.S., which the bill repeals. The bill requires that specified disputes between an association and a parcel owner or owners must be subject to non-binding arbitration or mediation before the dispute may be filed in court. The bill includes disputes involving fines within the types of disputes that are subject to pre-suit mediation or arbitration.

The bill provides that the aggrieved party who initiates the first formal action of alternative dispute resolution has the option of selecting whether to resolve the dispute by arbitration or mediation. However, the party served with the notice of pre-suit mediation may demand that the dispute proceed under non-binding arbitration. The bill requires that the aggrieved party provide the other party with a notice of the dispute in which the nature of the dispute is detailed with specificity, the relevant governing documents are provided, and the parties are afforded an opportunity to resolve the dispute before the dispute is subject to the alternative dispute resolution procedures in the bill. The parties must share the cost of mediation or arbitration, unless the parties agree otherwise.

If approved by the Governor, these provisions take effect July 1, 2008, unless otherwise provided in the bill.

*Vote: Senate 38-0; House 117-0*

### **CS/HB 995 — Community Associations**

by Safety and Security Council and Rep. Robaina and others (CS/CS/SB 2084 by Community Affairs Committee; Regulated Industries Committee; and Senator Villalobos)

The bill (Chapter 2008-28, L.O.F.) amends provisions relating to the condominium associations and community association managers. It provides for the regulation and licensure of all persons and firms who provide community association management services.

The bill provides for personal liability for monetary damages if officers, directors, or agents of a condominium association do not discharge their duties in good faith. The bill revises the official records, voting, and elections for condominium associations. It provides for the filling of vacancies on the board. The bill provides that a director or officer who is more than 90 days delinquent in the payment of any fee or assessment is deemed to have abandoned the office. The bill also revises the financial reporting and annual budget requirements, including provisions related to the maintenance of reserves.

The bill permits the condominium board of administration to, upon a majority vote of the condominium interests, install hurricane shutters or hurricane protection that complies with or exceeds the applicable building code. It also provides the responsibilities of the association and the unit owners for the maintenance and repair of hurricane shutters or hurricane protection. The bill requires that condominium associations inspect condominium buildings greater than three stories in height at least every five years.

The bill provides that an association may not refuse the request of a unit owner for a reasonable accommodation for the attachment of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep on the mantle or frame of the door of the unit owner.

The bill provides for the appointment of a receiver to conclude the affairs of an association after a natural disaster.

The bill provides that a lien may not be filed by the association against a unit owner until 30 days after the date on which a notice of intent to file a lien is delivered to the unit owner by certified mail, return receipt requested, and by first-class mail.

The bill prohibits "strategic lawsuits against public participation" or "SLAPP suits," and provides legislative findings that such lawsuits are against the public interest. A SLAPP lawsuit occurs when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association. The bill provides for the award to the unit owner of actual damages and treble damages, attorney's fees and costs for a violation of this prohibition.

The bill provides condominium associations with emergency powers during a state of emergency declared by an executive order, proclamation, or rule issued by the Governor. Powers include declaring portions of the condominium property unavailable and determining that the condominium property may be safely inhabited or occupied based on the advice of emergency management officials or the advice of licensed professionals retained by the board.

The bill also revises provisions related to the turnover of control from the developer to the unit owners, including the requirement that the developer provide a turnover inspection report, prepared under seal of a Florida licensed architect or engineer that attests to the required maintenance, useful life, and replacement costs of specified elements.

The bill requires the disclosure of financial or ownership interest of board members in contracts for maintenance, management, products or services between the association and the contracting party.

The bill provides that a hearing held to consider whether a fine may be levied against a unit owner must be held before a committee of other unit owners who are not board members or persons who reside in a board member's household.

The bill provides additional investigative and administrative power to the Florida Division of Land Sales, Condominiums, and Mobile Homes, including the authority to issue cease and desist orders, to sue on behalf of an association against a developer who fails to pay the required restitution and interest within 30 days after the expiration of the appeals period for a final order requiring such payment, and to remove board members who willfully and knowingly violate a provision of ch. 718, F.S. It also requires the division to refer to local law enforcement authorities any person who the division believes has altered, destroyed, concealed, or removed any records, documents, or any other item required to be kept or maintained.

The bill revises the condominium ombudsman's duties to include assisting in the resolution of disputes between unit owners and the association or between unit owners.

The bill renames the Advisory Council on Condominiums as the Community Association Living Study Council (council). The council currently exists year-round with members who serve two-year terms. The bill provides that the council exists for six-month terms every five years starting on October 1, 2008 and is recreated on October 1 every five years. The functions of the council include taking public input on community association living and making recommendations for changes in state laws relating to community association living.

These provisions were approved by the Governor and take effect October 1, 2008.

*Vote: Senate 40-0; House 110-0*

### **CS/HB 1105 — Community Associations**

by Safety and Security Council and Rep. Rivera (CS/SB 2494 by Community Affairs Committee and Senator Margolis)

The bill provides identical requirements for condominiums, cooperatives, and homeowners' associations relating to when a unit or parcel owner petitions the circuit court for the appointment of a receiver in situations when the respective association has failed to fill vacancies on the board sufficient to constitute a quorum. The bill provides that the unit or parcel owner must give notice of his or her intent to file a petition for the appointment of a receiver. It also provides the form for the notice. The notice must be sent, at least 30 days prior to the filing of the petition seeking receivership, by certified mail or personal delivery to the association and every unit or parcel owner. It must also be posted in a conspicuous manner on association property. All unit or parcel owners must be given a written notice of the appointment of a receiver.

The association must pay the salary of the receiver and his or her court costs and attorney's fees. A court-appointed receiver has all powers and duties of a duly constituted board. The receiver

must serve until the association has filled the vacancies on the board sufficient to constitute a quorum and the court relieves the receiver of the appointment.

The bill provides that, if a receiver is appointed for any reason relating to a condominium, cooperative, or homeowners' association, the court must direct the receiver to provide all unit or parcel owners a written notice of his or her appointment. The notice must be mailed or delivered within ten days after the appointment. If the notice is sent by mail, it must be sent to the address used by the county property appraiser.

The bill also provides for the appointment of a receiver during the termination of a condominium after a natural disaster. It provides that the court must direct the receiver to provide to all unit owners a written notice of the receiver's appointment. The notice must be mailed or delivered within ten days after the appointment. Notice by mail to unit owners shall be sent to the address used by the county property appraiser for notice to the unit owners.

The bill provides identical notice requirements for the filing of a lien against a unit or parcel by a condominium or cooperative association, respectively. The lien may not be filed against a condominium unit or cooperative parcel until 30 days after the date on which a notice of intent to file a lien has been served to the owner of the condominium unit or cooperative parcel by certified mail or personal service. Liens against a parcel in a homeowners' association are currently subject to a notice requirement before the filing of a claim of lien against a parcel.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 106-0*

## **TRANSPORTATION ADMINISTRATION**

### **CS/CS/SB 682 — Department of Transportation**

by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senators Bullard, Lawson, Wilson, Storms, and Baker.

The bill makes changes to numerous programs administered by or affecting the Florida Department of Transportation (FDOT). A section-by-section summarization follows:

**Section 1.** Directs FDOT to conduct a study examining transportation alternatives for the Interstate 95 travel corridor considering needs relating to transportation, emergency management, homeland security, and economic development.

**Section 2.** Amends s. 20.23, F.S., to provide for the salary and benefits of the executive director of the Florida Transportation Commission to be established in accordance with the Senior Management Service.

**Section 3.** Corrects a cross-reference to s. 337.403, F.S.

**Section 4.** Amends s. 163.3177, F.S., to better integrate airport planning and adjacent land use in the local government comprehensive planning process.

**Section 5.** Amends s. 163.3178, F.S., to exempt certain seaport-related projects from development-of-regional-impact (DRI) review if the project is within 3 miles of a seaport.

**Section 6.** Amends s. 163.3182, F.S., to provide legislative findings relative to transportation concurrency backlogs and to authorize transportation concurrency backlog authorities to issue bonds. The 25 percent tax increment financing rate for ad valorem tax proceeds may be exceeded upon interlocal agreement of all affected taxing authorities.

**Section 7.** Amends s. 287.055, F.S., to correct a cross-reference.

**Section 8.** Amends s. 316.0741, F.S., to redefine hybrid vehicles in relation to their ability to use high-occupancy-vehicle (HOV) lanes. In the event the operation of an HOV facility degrades, FDOT is authorized to limit or discontinue issuance of certifications which permit hybrids to use that facility.

**Section 9.** Amends s. 316.193, F.S., to reduce the blood alcohol content (BAC) threshold at which enhanced "Driving Under the Influence" (DUI) penalties are triggered from 0.20 to 0.15 percent.

**Section 10.** Amends s. 316.302, F.S. to update references to the most current federal rules, regulations, and criteria governing commercial motor vehicles engaged in intrastate commerce.

**Sections 11 and 12.** Amend ss. 316.613 and 316.614, F.S., relating to exemptions from child restraint and safety belt requirements. The revision raises the weight limit for vehicles exempt from child restraint and safety belt requirements from the current 5,000 pound minimum to 26,000 pounds, effectively reducing the number of vehicles currently exempted from child restraint and safety belt requirements.

**Section 13.** Amends s. 316.656, F.S., to update a reference to the BAC threshold at which enhanced DUI penalties are triggered. The threshold is reduced to 0.15 percent from 0.20 percent

**Section 14.** Amends s. 322.64, F.S., to revoke the commercial driver's license (CDL) of persons failing or refusing a DUI test. A first time offender's CDL is revoked for one year. A subsequent offense results in the permanent revocation of a CDL.

**Section 15.** Prohibits a county, city, or special district from owning or operating an asphalt plant or concrete batch plant. Any unit operating a plant prior to April 15, 2008 is exempted from the prohibition.

**Section 16.** Amends s. 337.0261, F.S., to extend the term of the Strategic Aggregate Review Task Force. The date the task force is to be dissolved is revised from July 1, 2008 to June 30, 2009.

**Section 17.** Amends s. 337.11, F.S., to authorize FDOT to award a monetary stipend to unsuccessful bidders for construction and maintenance contracts to compensate for proposal development costs. The revision also directs FDOT to establish a goal of procuring 25 percent of construction contracts as design-build contracts.

**Sections 18 and 19.** Amend ss. 337.14 and 337.16, F.S., to correct cross-references relating to s. 337.11, F.S.

**Section 20.** Amends s. 337.18, F.S., to revise surety bond recording requirements. As amended, contractors would be required to maintain copies of surety bonds at their principal place of business and at the jobsite rather than in the county public records. Copies of the surety bonds would also remain available from FDOT.

**Section 21.** Amends s. 337.185, F.S., to include maintenance contractors in the process used by construction contractors to arbitrate contract disputes via the State Arbitration Board.

**Section 22.** Amends s. 337.403, F.S., providing additional exemptions to utility companies from utility relocation costs related to transportation projects. Utility companies are exempted from

paying for relocation of a utility to accommodate a transportation project when the utility serves the transportation authority or its tenants exclusively. The revisions also require FDOT to bear the costs of the relocation of underground utilities under certain circumstances.

**Section 23.** Amends s. 337.408, F.S., authorizing FDOT to direct the relocation or removal of public pay telephones if they present an endangerment to life or property. The revisions also allow public pay telephones, including advertising displayed upon them, to be installed within governmental right-of-way limits under certain circumstances.

**Section 24.** Amends s. 338.01, F.S., requiring all new or replacement electronic toll collection systems installed on toll roads in the state to be interoperable with FDOT's electronic toll collection system.

**Section 25.** Amends s. 338.165, F.S., removing high-occupancy toll (HOT) lanes and express lanes from FDOT's authorization to request issuance of bonds secured by toll revenues collected on selected facilities for the purpose of funding transportation projects located within the county or counties in which the project is located.

**Section 26.** Creates s. 338.166, F.S., to authorize FDOT to request the issuance of bonds secured by revenues collected on HOT/express lanes on I-95 in Broward and Miami-Dade Counties. Tolls may continue to be collected after the discharge of any bond indebtedness but must first be used for operation and maintenance of the HOT/express lane project or associated transportation project. Any remaining toll revenues may be used for the construction, maintenance, or improvement of any road on the State Highway System. FDOT is authorized to implement variable toll rates on the HOT/express lanes. Except for HOT/express lanes, no tolls may be charged on any interstate highway where tolls were not being charged on July 1, 1997.

**Section 27.** Amends s. 338.2216, F.S., to provide for alternative tolling and payment methods including video billing and variable pricing. The revisions also provide service plaza contract bid requirements for fuel and other vendors on the turnpike system. Fuel contracts must be bid separate from food vendor services.

**Section 28.** Amends s. 338.223, F.S., to correct a cross-reference relating to s. 339.155, F.S.

**Section 29.** Amends s. 338.231, F.S., to eliminate the requirement to maintain a uniform toll rate structure on the turnpike system.

**Section 30.** Amends s. 339.12, F.S., to increase the maximum amount of project agreements for projects or project phases not included in the adopted work program from \$100 million to \$250 million. The revisions also create a new reimbursement program for counties with a population of 150,000 or less. The program authorizes FDOT to enter into agreements with governmental entities to advance a maximum of \$200 million in projects or project phases from outside the five-year adopted work program. Projects included in these agreements must also be included in

the governmental entity's comprehensive plan. This new program authorizes FDOT to enter into long-term repayment agreements with these counties for up to 30 years.

**Section 31.** Amends s. 339.135, F.S., to revise the notification process used by FDOT when amending the work program. Under the revisions, FDOT must notify each affected municipality, metropolitan planning organization, and county when deleting or deferring capacity-enhancing projects. FDOT must include comments received from affected bodies in its preparation of work program amendments.

**Section 32.** Amends s. 339.155, F.S., to revise obsolete statutory requirements related to federal planning requirements.

**Section 33.** Amends s. 339.2819, F.S., to reinstate the Small County Resurfacing Assistance Program in 2012. Certain eligibility criteria relating to ad valorem tax rates are removed.

**Section 34.** Amends s. 339.2819, F.S., to correct a cross-reference relating to s. 339.155, F.S.

**Section 35.** Amends s. 339.285, F.S., to correct a cross-reference relating to s. 339.155, F.S.

**Section 36.** Repeals ch. 343, part III, F.S., to abolish the non-functioning Tampa Bay Commuter Transit Authority.

**Section 37.** Amends s. 348.0003, F.S., to require the members of each statutorily-created expressway authority, transportation authority, bridge authority, and toll authority to comply with constitutional financial disclosure requirements. The Miami-Dade Expressway Authority currently is required to comply.

**Section 38.** Amends s. 348.0004, F.S., to authorize all expressway authorities to index toll rates to the Consumer Price Index. Toll rates may be adjusted no more often than once per year.

**Section 39.** Amends s. 479.01, F.S., to modernize the definition of "automatic changeable facing" as it relates to outdoor advertising.

**Section 40.** Amends s. 479.07, F.S., to prohibit un-permitted signs outside urban areas, rather than incorporated area. The revisions revise requirements for display of sign permit tags and directs FDOT to establish, by rule, a fee for furnishing a replacement permit tag in an amount that covers the actual cost of the tag. The amendment relegates the permitting of signs viewable from two or more roads in separate jurisdictions to the more stringent requirements. The amendment adds Hillsborough County and the City of Miami to a pilot program reducing the allowable minimum distance between signs to 1000 feet if all other requirements are met.



**Section 41.** Amends s. 479.08, F.S., to revise provisions for the denial or revocation of a sign permit for violations. Any notice of a violation must include a detailed description of the violation.

**Section 42.** Amends s. 479.156, F.S., to revise provisions relating to a municipality's or county's ability to permit and regulate wall murals as "customary use" under federal law. The amendment allows a determination of customary use, the determination overrides the controls in the agreement between FDOT and the United States Department of Transportation.

**Section 43.** Amends s. 479.261, F.S., to expand the services for which the interstate highway logo sign program is applicable. FDOT is authorized to implement a three-year rotation system to provide for the removal or addition of participating businesses. Permit fees are to be established based on market demand, population, traffic volume, and costs but may not exceed \$5,000 in urban areas or \$2,500 in other areas.

**Section 44.** Creates a business partnership pilot program which authorizes the Palm Beach County School District to display names of business partners on district property in unincorporated areas.

**Section 45.** Authorizes the use of, but does not appropriate, public funds for certain non-capacity improvements to Old Cutler Road in Miami-Dade County.

**Section 46.** Amends s. 120.52, F.S., to exclude transportation authorities created under ch. 343, F.S., from the definition of "agency" for the purposes of ch. 120, F.S., the Administrative Procedure Act.

**Section 47.** Directs FDOT to establish an approved methodology for calculating proportionate share exactions which recognizes that sustainable DRIs will likely achieve an internal capture rate greater than 30 percent.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 34-5; House 109-5*

### **CS/CS/HB 1175 — Transportation Disadvantaged Services**

by Policy and Budget Council; Healthcare Council; and Rep. Robaina (CS/CS/SB 788 by Health and Human Services Appropriations Committee; Transportation and Economic Development Appropriations Committee; and Senators Fasano and Lynn)

This revises ss. 427.011-427.016, F.S., to ensure the coordinated planning of transportation disadvantaged services by all human service agencies; strengthen the alternative provider procedure process for purchasing agencies to ensure all agencies follow the same process; require all agencies to identify dollars spent on non-emergency transportation services to

transportation disadvantaged clients; and require agencies to pay the transportation rates established by the service plan unless the procedure to use an alternative provider has been completed. The bill allows the Agency for Health Care Administration to continue to contract for non-emergency transportation services in agency service area 11 with managed care plans under contract before July 1, 2004. The bill also updates terminology, deletes obsolete language, and makes other technical changes.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 36-0; House 118-0*

### **CS/SB 1604 — Designations**

by Transportation Committee and Senator Baker (includes SB 126 by Senator Wilson; SB 1948 by Senator Bullard; SB 1952 by Senator Bullard; CS/CS/CS/SB 1978 by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Baker; CS/CS/CS/SB 1992 by Transportation and Economic Development Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senator Baker; SB 2074 by Senator Bullard; and SB 2672 by Senator Hill)

This bill makes honorary designates of the following roads, bridges, and buildings as follows:

- That portion of State Road 44 in Lake County from County Road 46A east to the county line is designated as the "Major Claude A. Gnann Memorial Highway."
- That portion of State Road 44 in Lake County from County Road 439 east to County Road 46A is designated as the "Deputy Wayne Koester Memorial Highway."
- That portion of U.S. Highway 441 between County Road 318 and NW 193rd Street in Marion County is designated as the "Lt. Colonel Robert T. Heagy, Jr. Memorial Highway."
- That portion of U.S. 1 in Miami-Dade County from S.W. 184th Street to S.W. 112th Avenue, inclusive, is designated as "Cutler Bay Boulevard."
- That portion of U.S. 1 in Miami-Dade County from S.W. 136th Street to S.W. 184th Street, inclusive, is designated as "Palmetto Bay Boulevard."
- That portion of S.W. 59th Avenue in Miami-Dade County from S.W. 80th Street to S.W. 72nd Street is designated as "American Legion Way."
- That portion of Opa-Locka Boulevard/N.W. 135th Street in Miami-Dade County between N.W. 7th Avenue and N.W. 47th Avenue is designated as "Honorable Robert B. Ingram, Ph.D., Boulevard."
- That portion of West Flagler Street in Miami-Dade County between 13th Avenue and 14th Avenue is designated as "Monsignor Emilio Vallina Avenue."

- That portion of N.W. 135<sup>th</sup> Street between 7<sup>th</sup> Avenue and 27<sup>th</sup> Avenue in Miami-Dade County is designated as "Bishop Victor Tyrone Curry Boulevard."
- That portion of S.W. 67<sup>th</sup> Avenue between S.W. 56th Street and S.W. 64th Street in Miami-Dade County is designated as "Richard D. Ward Way."
- That portion of Hialeah Drive between Okeechobee Road and Lejeune Road in Miami-Dade County is designated as "Mary Ellen Miller Way."
- That portion of West Country Club Drive between N.E. 199th Street and N.E. 192nd Street in Miami-Dade County is designated as "Jacobo Cababie Avenue."
- That portion of State Road 934/71st Street between Bay Drive and State Road A1A/Collins Avenue in the City of Miami Beach in Miami-Dade County is designated as "Rosendo Rosell Road."
- That portion of S.E. 2nd Avenue from the Miami River south to S.E. 2nd Street in Miami-Dade County is designated as the "Avenue of the Americas."
- That portion of State Road 836 between 97th Avenue and 137th Avenue in Miami-Dade County is designated as "MSgt. Benjamin Strickland Highway."
- That portion of LeJune Road between East 65th Street and Okeechobee Road in the City of Hialeah in Miami-Dade County is designated as "Rafael Diaz-Balart Way."
- That portion of 8th Street between S.W. 107th Avenue and S.W. 117th Avenue in Miami-Dade County is designated as "Jose A. Marques Boulevard."
- That portion of W. Okeechobee Road between W. 4th Avenue and Palm Avenue in Miami-Dade County is designated as "Willy Chirino Boulevard."
- That portion of U.S. Highway 98 between U.S. Highway 301 and the Pasco-Hernando County line in Pasco County is designated as the "Constable Arthur Fleece Crenshaw Memorial Highway."
- That portion of U.S. Highway 98 between U.S. Highway 301 and the Pasco-Polk County line in Pasco County is designated as the "Agent John Van Waters Memorial Highway."
- That portion of Beaver Street between Myrtle Avenue and Tyler Street in Duval County is designated as "Roy Willis Street."
- That portion of U.S. Highway 19/98 (State Road 55) and U.S. Alternate 27 (State Road 500) in Levy County in front of the Chiefland High School is designated as the "United States Army Specialist Brandon Tyler Thorsen Memorial Highway."
- That portion of Edgewood Avenue in Duval County between Beaver Street and Roosevelt Boulevard is designated as "John E. Andrews Boulevard."
- That portion of Wilson Boulevard in Duval County between I-295 South and Old Middleburg Road is designated as "George Matthews Boulevard."

- That portion of New Kings Road in Duval County between Davis Street and Myrtle Avenue is designated as "Angela Webb Hammonds Boulevard."
- That portion of Martin Luther King, Jr., Boulevard in Duval County between Myrtle Avenue and Moncrief Road is designated as "Willie F. Faust Boulevard."
- That portion of Edgewood Avenue West between Avenue B and Moncrief Road is designated as "James H. Argrett, Sr. Avenue."
- That portion of State Road 72 in Sarasota County from a point immediately east of I-75 to the entrance of the National Veterans Cemetery in Sarasota is designated as "Veteran's Memorial Parkway."
- That portion of SR 789/Gulf Stream Avenue between Sunset Drive and Bird Key Drive in Sarasota County is designated as the "Gil Waters Bridge."
- The portion of 27th Avenue in Miami-Dade County from Flagler to S.W. 5th Street is designated as "Raquel Regalado Avenue."
- The Regional Transportation Management Center in Fort Myers is designated the "Joseph P. Bertrand Building."
- The portion of SR 934 on N.W. 79th Street between N.W. 7th Avenue and N.W. 37th Avenue in Miami-Dade County is designated as "Reverend Dr. C.P. Preston, Jr. Street."
- That portion of SR 972/ SW 22nd Street between SW 22nd Avenue and SW 24th Avenue in Miami-Dade County is designated as "Rolando Encinosa Road."
- That portion of 71st Street between Collins Avenue and Bay Drive in the City of Miami Beach in Miami-Dade County is designated as "Henri Levy Boulevard."
- That portion of S.W. 72nd Avenue between S.W. 21st Street and North Waterway Drive in Miami-Dade County is designated as "Manuel Feijoo Avenue."
- That portion of U.S. Highway 1 between S.W. 80th Street and S.W. 57th Avenue in Miami-Dade County designated as "South Miami All-American Parkway" by chapter 2003-298, Laws of Florida, is redesignated as "All America Parkway."
- That portion of 12th Avenue between 8th Street S.W. and 64th Street N.W. in Miami-Dade County is designated as "Katherine Fernandez Rundle Avenue."
- The portion of Biscayne Boulevard in Miami-Dade County between N.E. 13th Street and N.E. 14th Street is designated as "Judy Drucker Boulevard."
- The portion of State Road 976/S.W. 40th Street in Miami-Dade County from Hibiscus Street to Ohio Street is designated as "Will James Johnson Road."
- The portion of 8th Street in Miami-Dade County from SW 42nd Avenue to SW 47th Avenue is designated as "Martha Flores Way."

- The portion of SW 87th Ave from SW 94th St to SW 95th Street is designated as "Rabbi Barry Tabachnikoff Avenue."
- The Department of Transportation Turnpike District Headquarters Building located at the Turkey Lake Service Plaza at Turnpike Mile Post 263 is designated as the "Senator Daniel Webster Building."

The Department of Transportation, and where appropriate the Department of Management Services, are directed to erect suitable markers.

- The CS also amends s. 589.19, F. S., and names the state forest managed by the Division of Forestry in Seminole County (now known as the Little Big Econ State Forest) as the Charles H. Bronson State Forest.
- Additionally, the bill provides that, notwithstanding any provision of Chapter 1974-400, L. O. F., public funds may be used for the alteration of Old Cutler Road, between Southwest 136th Street and Southwest 184th Street, in the Village of Palmetto Bay. The alteration may include the installation of sidewalks, curbing, and landscaping to enhance pedestrian access to the road. The official approval of the project by the Department of State must be obtained before any alteration is started.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 116-1*

## **HIGHWAY SAFETY AND MOTOR VEHICLES**

### **CS/HB 69 — License Plates**

by Economic Expansion and Infrastructure Council and Rep. Patterson and others  
(CS/CS/SB 222 by Transportation and Economic Development Appropriations Committee;  
Transportation Committee; and Senators Wise and Baker)

This bill allows county tax collectors to, in addition to issuing license plates with the county name printed on the license plate, also issue license plates with the state motto ("In God we Trust"), or the words "Sunshine State." Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The bill allows for a third license plate option for counties who have not elected to remove the county name to issue license plates with either the name of the county in which the plate is sold, the state motto, or the words "Sunshine State" imprinted on the plate.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 33-2; House 109-4*

### **CS/HB 137 — Operating a Motor Vehicle**

by Economic Expansion and Infrastructure Council and Rep. Lopez-Cantera (CS/CS/CS/SB 802 by Transportation and Economic Development Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senator Garcia)

The bill creates a new s. 316.1926, F.S., regarding additional offenses. The new section provides violations of s. 316.2085(2) and (3), F.S., regarding motorcycle operation, and violations of the speeding laws in ss. 316.183(2), 316.187, and 316.189, F.S., in excess of 50 miles per hour over the speed limit, are moving violations punishable as provided in ch. 318, F.S.

This bill amends s. 316.2085(2), F.S., to include the requirement that a person riding a motorcycle or moped must have both wheels on the ground at all times; however, an exception is added to provide it is not a violation if the wheels of the motorcycle or moped lose contact with the ground briefly due to the condition of the road surface or other circumstances beyond the control of the operator.

A new subsection (3) is added to s. 316.2085, F.S., to require the license tag of a motorcycle or moped be permanently affixed horizontally to the ground and may not be adjusted or capable of being flipped up.

In addition, the bill amends s. 318.14, F.S., to provide "tiered" penalties for violations of the newly created s. 316.1926, F.S. The penalties are as follows:

- A person cited for a violation shall, in addition to any other requirements, pay a fine of \$1,000. This fine is in lieu of the fine required under s. 318.18(3)(b), F.S., if the person is cited for violation of s. 316.1926(2).
- A person cited for a second violation shall, in addition to any other requirements, pay a fine of \$2,500. This fine is in lieu of the fine required under s. 318.18(3)(b), F.S., if the person is cited for violation of s. 316.1926(2), F.S. In addition, the court shall revoke the person's authorization and privilege to operate a motor vehicle for a period of 1 year and order the person to surrender his or her driver's license.
- A person cited for a third violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. Upon conviction, the court shall impose a \$5,000 fine, revoke the person's authorization and privilege to operate a motor vehicle for a period of 10 years and order the person to surrender his or her driver's license.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 38-1; House 112-0*

## **SB 154 — Pedestrian Safety/Driver Requirements**

by Senators Fasano and Baker

This bill clarifies the requirements of ch. 316, F.S., requiring drivers to yield the right of way to pedestrians crossing a roadway at crosswalks and intersections. The bill clarifies these requirements by requiring drivers at signal controlled intersections to stop for pedestrians currently legally crossing the roadway.

Drivers at intersections with traffic control signals in place, or at any crosswalk where signage so indicates, are required to stop and remain stopped to allow legally crossing pedestrians to cross the street. Drivers must also stop and remain stopped for pedestrians who are stepping into the roadway to legally cross and are upon the half of the roadway upon which the vehicle is traveling, or approaching so closely from the opposite half of the roadway as to be in danger.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 35-0; House 117-0*

## **CS/HB 167 — Temporary Motor Vehicle License Tags**

by Economic Expansion and Infrastructure Council and Rep. Cretul and others (CS/CS/SB 544 by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senators Baker and Bullard)

Section 320.131(4)(a), F.S., is amended to remove the option to display a temporary tag on the inside of the rear window of a vehicle. The result is that temporary tags may only be displayed in the rear license plate bracket, or on the front where the metal license plate would normally be, for vehicles requiring front display of license plates.

Section 320.131(4)(b), F.S., is created to require the Department of Highway Safety and Motor Vehicles (department) to designate specifications for the media upon which the temporary tag is printed. Such media must be either nonpermeable or subject to weatherproofing so that it maintains its structural integrity, including graphic and data adhesion, in all weather conditions after being placed on a vehicle.

Section 320.131(8), F.S., is amended to correct a reference from temporary license plate to temporary tag to be consistent throughout this section. Also, this section is amended to require the department to administer an electronic system for licensed motor vehicle dealers to use for issuing temporary tags.

Section 320.131(9), F.S., is created to:

- Revise the provisions for required implementation of a secure, electronic, print-on-demand, temporary tag issuance and record retention system;

- Remove the criteria determining what secure print-on-demand means; and
- Authorize licensed motor vehicle dealers to charge a fee.

Specifically, s. 320.131(9), F.S., is created to provide the department is required to implement a secure print-on-demand, electronic temporary tag registration, record retention, and issue system for use by every department-authorized issuer of temporary tags by the end of FY 2007-2008. The system allows the department to issue, on demand, a temporary tag number in response to a request from the issuer via a secure electronic exchange of data and then allow the issuer to print the temporary tag with all required information. In order to ensure the continuation of operations for issuers should a system outage occur, the department is authorized to allow limited use of a backup manual issuance which requires recordkeeping of information as determined by the department and the timely electronic reporting of that information to the department. The department, also, is authorized to adopt the necessary rules to administer this specified program. The rules may include exemptions for issuers who do not require a dealer license, under this section, due to the type or size of vehicle being sold. In addition, motor vehicle dealers licensed under ch. 320, F.S., are authorized to charge a fee to comply with this section.

In addition, this bill repeals s. 320.96, F.S. Most of the requirements from this section are moved to s. 320.131(9), F.S.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 36-0; House 112-0*

### **CS/SB 630 — Vehicle Registration/Family First Contribution**

by Transportation and Economic Development Appropriations Committee and Senator Fasano

This bill amends ss. 320.02 and 322.08, F.S., to direct the Department of Highway Safety and Motor Vehicles to insert a new voluntary contribution option of \$1 to the nonprofit organization, Family First, on the application and renewal forms for both motor vehicle registrations and driver's license applications. The bill also provides that the driver's license application form for renewal issuance or renewal extension include an option to make a voluntary contribution to Family First and amends s. 320.18, F.S.

Organizations can apply for inclusion on these forms as a voluntary contribution option, or check off, for individuals wishing to donate funds. Family First is a nonprofit organization that focuses on strengthening the family by promoting and supporting healthy families and marriages.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 21-15; House 79-38*



**CS/SB 732 — Bethune-Cookman University License Plates**

by Transportation Committee and Senators Hill, Lynn, and Wilson

This bill authorizes the Bethune-Cookman College specialty license plate to be reissued as the Bethune-Cookman University specialty license plate. It updates provisions directing annual use fees from license plate sales to go to Bethune-Cookman University.

The Bethune-Cookman College license plate was created by an act of the Legislature and enacted into law on February 15, 1997. The name of Bethune-Cookman College was changed to Bethune-Cookman University to commemorate the school's accreditation as a Level III Master's Degree institution by the Southern Association of Colleges and Schools (SACS) on February 14, 2007.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 37-0; House 117-0*

**CS/SB 734 — Specialty License Plates**

by Transportation and Economic Development Appropriations Committee and Senators Fasano and Gaetz (includes SB 1274 by Senator Gaetz; CS/SB 2206 by Transportation Committee and Senator Baker; CS/CS/SB 2220 by Transportation and Economic Development Appropriations Committee; and Transportation Committee; SB 2854 by Senator Siplin)

This bill creates four specialty license plates (Florida Tennis, Lighthouse Association, In God We Trust, and Horse Country) and provides for the collection and distribution of annual use fees associated with the specialty plates. Drivers wishing to purchase a specialty license plate can do so for an annual use fee of \$25. The bill amends ss. 320.08056 and 320.08058, F.S.

***Florida Tennis***

The Florida Tennis license plate shall be titled "Play Tennis." Funds would be distributed to the United States Tennis Association, Florida Section Foundation, for distribution via grants to nonprofit organizations to operate tennis programs for youth and special populations, and to build, renovate, and maintain public tennis courts. Up to 5 percent of plate revenue could be used for marketing, and up to 5 percent could also be used for administrative costs.

***Lighthouse Association***

The Lighthouse Association license plate shall be titled "Visit Our Lights." Funds would be distributed to the Florida Lighthouse Association, Inc., for the preservation, restoration, and protection of the 29 remaining historic lighthouses in Florida. Up to 10 percent of revenue could be used for promotion and marketing.

### ***In God We Trust***

Proceeds from the "In God We Trust" license plate shall be distributed to the In God We Trust Foundation, Inc., to fund educational scholarships for children of Florida residents who are members of the United States Armed forces, the National Guard and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty and are not covered by existing state law. Funds may also be distributed to other nonprofit organizations that may apply for grants and to provide educational grants to schools promoting the historical and religious significance of American and Floridian history. Up to 10 percent of revenue could be used for administration and marketing. The specialty license plate application requirements of s. 320.08053, F.S., must be met before the plates are issued.

### ***Horse Country***

Proceeds from the "Horse Country" license plate shall be distributed to PCMI Properties, Inc., organized to support the activities of the Panama City Marine Institute. The Institute rehabilitates troubled and delinquent youth, and is part of the Associated Marine Industries group of nonprofits, which has 27 locations in Florida. Proceeds would be used in programs for the rehabilitation of at-risk youth, and for the expansion of other youth rehabilitation programs in the state. Special consideration will be given to programs using horses and other livestock. Up to 10 percent of revenue could be used for marketing and any audit compliance costs. The specialty license plate requirements of s. 320.08053, F.S., must be met before the plates are issued.

If approved by the Governor, these provisions take effect October 1, 2008.

*Vote: Senate 35-4; House 118-1*

### **CS/SB 1008 — Failure to Redeliver Hired Vehicles**

by Criminal Justice Committee and Senators Storms and Crist

Under s. 817.52, F.S., any person failing to return a rented vehicle in accordance with the rental agreement, may be charged with a third degree felony if the lessor does not give prior permission and the person had the intent to defraud, abandon, or willfully refuse to redeliver the vehicle. At least one law enforcement agency considers the failure to redeliver a rental vehicle as a breach of contract rather than a crime.

The bill stipulates when a vehicle rental agency files a report to a law enforcement agency indicating a renter has not returned a rental vehicle as per the rental agreement, the agency must accept the report and enter it into the National Crime Information System and the Florida Crime Information System.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 115-0*

**CS/CS/SB 1076 — Motor Vehicles and Mobile Homes/Destruction**

by Transportation and Economic Development Appropriations Committee; Criminal Justice Committee; and Senators King, Storms, Justice, Lynn, and Crist

The bill closes loopholes in current law whereby towed vehicles could be sold as scrap to salvage yards and metal recyclers without the actual owners' permission. It requires salvagers and recyclers to hold so-called "derelict" vehicles for 3 full business days, excluding weekends and holidays, before destroying them, and to notify the Department of Highway Safety and Motor Vehicles within 24 hours after receiving the derelict vehicle.

The bill provides definitions, enhanced penalties, and additional requirements related to the dismantling or destruction of motor vehicles and mobile homes by salvage motor vehicle dealers and secondary metals recyclers. It also conforms related requirements and penalties, authorizes the department to charge a \$3 fee for each derelict vehicle certificate, and allows for a \$2.50 service charge to be collected by county tax collectors.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 116-0*

**CS/HB 1509 — Community Service/Noncriminal Traffic Offenses**

by Economic Expansion and Infrastructure Council and Rep. Braynon and others (CS/CS/SB 858 by Criminal and Civil Justice Appropriations Committee; Judiciary Committee; and Senators Joyner and Wilson)

This bill modifies provisions allowing a person ordered to pay a civil penalty for a noncriminal traffic infraction to perform community service in lieu of paying, if the person presents evidence of a "demonstrable financial hardship." Upon a finding of such hardship, the court must allow the person to satisfy the civil penalty by participating in community service in lieu of payment.

The bill specifies that either the federal minimum wage or the "average prevailing wage rate" (instead of current law's "average standard wage") for a trade or profession for which there is a community service need may be used to determine a specific value for the community service, and provides a reporting mechanism between the agency overseeing the community service and the clerk of court authorized to collect payment from the offender. The bill also defines "community service" and "community service agency."

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 38-0; House 116-0*

**CS/CS/SB 1946 — Agricultural and Farming Equipment/Highways**

by Transportation and Economic Development Appropriations Committee; Agriculture Committee; and Senator Baker

The bill revises restrictions in current law authorizing agricultural equipment and implements of husbandry. Specifically the bill amends s. 316.515, F.S. Agricultural vehicles including straight trucks, agricultural tractors, cotton module movers, not exceeding 50 feet in length, any combination of up to and including three implements of husbandry, including the towing power unit, any single agricultural trailer, any agricultural implements attached to a towing power unit, or a self propelled agricultural implement or an agricultural tractor are no longer required to be within 130 inches in width. In addition, the Florida Department of Transportation is no longer required to issue overwidth permits for implements of husbandry greater than 130 inches, but not more than 170 inches, in width.

Section 316.515(c), F.S., is created to provide that the existing width and height restrictions of this section do not apply to farming or agricultural equipment, whether the equipment is self-propelled, pulled or hauled. This applies only if such movement is performed during daylight hours upon a public road which is not a limited access facility as defined in s. 334.03(13), F.S., and the width and height limitations may be exceeded by such equipment without a permit. To be eligible for this exemption, the equipment must be operated within a radius of 50 miles of the real property owned, rented, or leased by the equipment owner; however, equipment being delivered by a dealer to a purchaser is not subject to the 50-mile limitation. Farming or agricultural equipment greater than 174 inches in width is required to have one warning lamp mounted on each side of the equipment, to be visible from the front and rear at a distance of 1000 feet. A slow moving vehicle sign will also be required. The operator of the vehicle is responsible for verifying that the route used has adequate clearance for the equipment.

All vehicles included in these proposed changes must comply with all safety requirements prescribed by s. 316.2295(5) and (6), F.S., and DOT rules.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 118-0*

**CS/CS/CS/SB 1992 — Department of Highway Safety and Motor Vehicles**

by Transportation and Economic Development Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senator Baker (includes SB 382 by Senator Baker; CS/CS/CS/SB 802 by Transportation and Economic Development Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senator Garcia; SB 958 by Senators Oelrich and Gaetz; SB 1102 by Senator Geller; CS/SB 1604 by Transportation Committee and Senator Baker; CS/CS/CS/SB 1978 by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Baker; CS/CS/SB 2220 by

Transportation and Economic Development Appropriations Committee; Transportation Committee; and SB 2604 by Senator Constantine)

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (department).

**Section 1.** Redefines the term "hybrid vehicle" and the ability of drivers to use High Occupancy Vehicle (HOV) lanes. Authorizes Department of Transportation (DOT) to eliminate the program authorizing hybrid vehicles to use HOV lanes if it deems the lanes are being degraded. The department will be required to modify the procedure for issuing HOV decals.

**Section 2.** Requires persons to stop for a railroad crossing if a law enforcement officer signals the approach or passage of a railroad train.

**Section 3.** Requires beginning July 1, 2008, for any newly established school zone or any school zone in which the signing has been replaced, a sign stating "speeding fines doubled" shall be installed within the school zone. By adding notification as a requirement for new and replacement school zone signs, the DOT would mirror the current practice in other areas where speeding fines are doubled.

**Section 4.** Provides a "spectator" is defined to mean any person who is knowingly present at and views a drag race when such presence is the result of an affirmative choice to attend or participate in the race or exhibition. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the racer and the individual, evidence of gambling or betting on the outcome of the race, and any other factor that would tend to show knowing attendance or participation. A person may not be a spectator at any prohibited drag race. A violation is a noncriminal traffic infraction, punishable as a moving violation.

**Sections 5, 6, 13, 36, and 37.** Lowers the BAL for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more. In addition, no trial judge may accept a plea of guilty to a lesser offense from a person charged who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more.

Deletes an obsolete provision and provides the court may require the use of an approved ignition interlock device for a period of not less than 6 continuous months for a first DUI offense and for not less than 2 continuous years for a second offense.

Provides that for a third or subsequent violation involving the required use of an IID, the person is required to complete treatment as determined by a licensed treatment agency following a referral by a DUI program and have the duration of the requirement to use an IID extended for a least 1 month up to the time required to complete treatment.

**Sections 9 and 10.** Redefines the term "motor vehicle" to exclude a truck having a gross vehicle weight rating of more than 26,000 pounds from the requirement to use a child restraint and a safety belt. As a result, child restraint and safety belt usage would be required on additional vehicles, those weighing between 5,000 and 26,000 pounds.

**Sections 11, 12, and 30.** Authorizes a police officer to make an arrest upon probable cause of a violation of laws governing the registration of motor vehicles in ch. 320, F.S.

Revises requirements for traffic citation forms and provides for the electronic transmission of citation data.

Authorizes a law enforcement officer or authorized representative of the department to collect a person's fingerprints electronically when issuing a citation.

**Section 14.** Allows certain persons to attend a basic driver improvement course approved by the department up to five times within 10 years.

**Section 15.** Creates a new definition for electronic titles. The term "Certificate of Title" is defined to mean the record that is evidence of ownership of a vehicle, whether a paper certificate authorized by the department or certificate consisting of information that is stored in an electronic form in the department's database.

**Sections 16 and 17.** Modifies the definition of "motorcycle" to exclude vehicles where the operator is enclosed by a cabin and deletes the requirement that an original motorcycle, motor-driven cycle, or moped registration only be issued to a driver with a motorcycle endorsement.

**Sections 18 and 28.** Removes the voluntary contribution option on motor vehicle registrations and renewals for the Election Campaign Financing Trust Fund, which is expired.

**Section 19.** Provides that a violation of requirements for displaying a truck license plate is a moving violation punishable as provided in ch. 318, F.S.

**Section 20.** Requires the department to withhold the registration and license plate for a commercial motor vehicle unless the identifying number issued by the federal agency responsible for motor carrier safety is provided for the motor carrier and the entity responsible for motor carrier safety for each motor vehicle as part of the application process. This section also provides the department may not issue a commercial motor vehicle registration or license plate to, and may not transfer the commercial motor vehicle registration or license plate for, a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

According to the department, this proposed change provides authority for the department to participate in the Performance and Registration Information System Management Program,

whereby a carrier under an out-of-service order will have his or her vehicle registration withheld. Participation in this program will allow the department in conjunction with other partners in highway safety, to assist in removing an unsafe motor carrier from state roadways by suspending his or her vehicle registration. A federal grant request for \$750,000 has been approved for programmatic changes pending enactment of this proposal.

**Sections 21, 22, and 45.** Streamlines the design process by removing paragraph (3) from section 316.08053, F.S., containing some of the agency's rulemaking authority, in favor of existing statutory design standards.

Allows a family member of a service member killed while serving, the opportunity to obtain a Gold Star license plate even if the service member was not a resident of Florida.

Creates a moratorium on the creation of new specialty license plates between July 1, 2008 and July 1, 2011 and provides exceptions to the moratorium.

**Sections 23 and 25.** Removes the option of displaying a temporary tag on the inside of the rear window of a vehicle, and requires the department to designate specifications for the media upon which the temporary tag is printed in order to be protected from weather hazards. The bill also repeals s. 320.96, F.S., requiring the department to implement a print-on-demand electronic temporary tag registration system. The bill, however, amends s. 320.131, F.S., to still require the department to implement a secure print-on-demand electronic temporary tag system for use by every department-authorized issuer of temporary tags by the end of FY 2007-2008.

**Section 24.** Further clarifies the types of insurance that motor vehicle dealers would be required to have under the motor vehicle dealer licensing requirements. Specifically, franchise dealers must obtain a garage liability insurance policy, and all other motor vehicle dealers must submit either a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.

**Section 26.** Defines "convenience service" and redefines "conviction," "hazardous materials," and "out-of-service order." Specifically, the definition:

- "Convenience service" is created to mean any means whereby an individual conducts a transaction with the department other than in person.
- "Conviction" is modified to apply to offenses committed in a commercial motor vehicle or by a person holding a commercial driver license.
- "Hazardous materials" is redefined to mean any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

- "Out-of-service order" is modified to mean a prohibition issued by an authorized local, state, or federal government official which precludes a person from driving a commercial motor vehicle.

**Sections 27, 28, 29, 31, and 32.** Modifies the acceptable documents for the issuance of an ID card and to require proof of a residence address. This section also removes the permanent ID card for seniors and changes the term of the ID card from 6 years to 8 years. References to respective fees are moved to s. 322.21, F.S. These changes are necessary to comply with the requirements of the REAL ID Act.

Modifies the acceptable documents for the issuance of a driver's license and authorizes the use of additional documents to prove identity. These changes are necessary to comply with the requirements of the REAL ID Act.

Requires the residence address to be displayed on the face of the driver's license, which is a requirement of the REAL ID Act.

Modifies length of drivers' license issuance; modifies terms of renewal; limiting "convenience service" renewals to one renewal. Specifically, the term of a driver's license for those under 80 years of age is modified to 8 years. Drivers 80 years old and over would continue to be issued 6 year licenses. In addition, licensees are limited to one consecutive convenience renewal. These changes are necessary to comply with the requirements of the REAL ID Act. A reduction in revenue collections in years seven and eight will occur as a result of these changes in the renewal cycle.

Requires an applicant who has not attained 80 years of age applying for an original driver's license to be issued a driver's license that expires at midnight on the licensee's birthday which next occurs on or after the eighth anniversary of the date of issue. An applicant who is at least 80 years of age applying for an original issuance shall be issued a driver's license that expires at midnight on the licensee's birthday that next occurs on or after the sixth anniversary of the date of issue.

**Section 33.** Abolishes the Florida At-Risk Driver Council.

**Section 34.** Deletes provisions authorizing the use of a change-of-address sticker on a driver's license and correct a cross-reference in s. 322.08, F.S., which will change as a result of the bill.

**Section 35.** Increases the fees charged for obtaining a new or renewal driver's license or identification card, and specifies all of the fees be deposited into the General Revenue Fund unless specifically noted below.

The bill raises the fees contained in s. 322.21, F.S., as follows:



- The commercial license is increased from \$50 to \$67.
- A Class E license is raised from \$20 to \$27.
- A renewal is raised from \$15 to \$20.
- The replacement fee (moved from s. 322.17, F.S.) remains \$10, but shall apply in all cases where a change of address is required, as the sticker-replacement method in s. 322.17, F.S. is removed (as discussed above). Of the \$10 replacement fee, \$7 is directed to the Highway Safety Operating Trust Fund (HSOTF).
- Fees for identification cards issued pursuant to s. 322.051, F.S., are:
  - \$10 for an original ID card.
  - \$10 for a renewal ID card, with \$6 of the \$10 deposited in the HSOTF.
  - \$10 for a replacement ID card, with \$9 of the \$10 deposited in the HSOTF.
- Each endorsement required by s. 322.57, F.S., is raised from \$5 to \$7.

**Section 38.** Requires a 1 year suspension of a person's driver's license, if that person knowingly loans their vehicle to someone whose driver's license is suspended and that vehicle is involved in an accident resulting in bodily injury or death.

**Sections 40 and 41.** Mirrors the FMCSA regulations, remedies inconsistencies, and removes the limitation on disqualifications for specified major offenses to those committed in a commercial motor vehicle. This section is amended to include that law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving of a motor vehicle (not just a violation committed in a commercial motor vehicle) with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Basically, if a person holds a commercial driver's license and is arrested for a violation of s. 316.193, F.S., a disqualification of the commercial driver's license applies whether the violation was committed while operating a commercial motor vehicle or any motor vehicle.

Also, provides the department must sustain the disqualification:

- For a period of 1 year if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher; or
- Permanently if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended for driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher.

**Section 42.** Modifies the definition of "judgment" as "any judgment becoming final by expiration ... of the time within which an appeal might have been perfected...."

**Section 44.** Creates an undesignated section of law to create the Automobile Lenders Industry Task Force (task force) within the department. The task force is to be composed of 12 appointed members representing lending institutions, law enforcement, state attorney, state regulatory agencies, automotive repair, towing and motor vehicle dealers. The task force shall make recommendations on proposed legislation and proposed department rules, present issues concerning the motor vehicle lending industry, consider any matters relating to the motor vehicle lending industry which are presented to it by the department, and submit a final report, including legislative proposal to the Governor, the President of the Senate, the Speaker of the House of Representatives and appropriate committees with the Legislature by June 30, 2009, when the task force shall cease to exist.

**Section 46.** Provides the Regional Transportation Management Center in Fort Myers is designated the "Joseph P. Bertrand Building" and the department is directed to erect suitable markers for such designation. Corporal Bertrand was shot by a traffic violator he suspected was under the influence, on State Road 80 in Fort Myers. He had served the citizens of Florida, with the Florida Highway Patrol, for 16 years. His career with FHP began August 26, 1951. He was stationed in Pahokee, Homestead, Miami, Pinellas Park, and Fort Myers. At the time of his death, he was 46.

**Sections 7, 8, 24, 39, and 43.** Corrects conforming cross-references and makes necessary changes as a result of other changes in the bill and deletes duplicative language.

If approved by the Governor, these provisions take effect October 1, 2008, except as otherwise specified in the bill.

*Vote: Senate 38-0; House 112-2*

## **SB 2296 — Commercial Motor Vehicles**

by Senators Posey and Bullard

The bill clarifies the definition of "commercial motor vehicle" (CMV) as it is used in Florida traffic laws, motor vehicle registration and titling laws, and driver's licensing law. Through the codification in Florida Statute of a published interpretation of federal regulations relating to the definition of CMV, the bill clarifies vehicles occasionally transporting personal property to or from a closed-course motorsport facility are not CMVs, provided no profit or corporate sponsorship is involved.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 117-0*

---

**Senate Committee on  
Transportation and Economic Development Appropriations**

**SB 1882 — Distribution of Excise Taxes**

by Transportation and Economic Development Appropriations Committee and Senator Fasano

This bill revises the distribution of the documentary stamp tax collections to change the amounts distributed to trust funds from the share otherwise going to the General Revenue Fund from fixed to variable. The bill redirects documentary stamp proceeds from the Department of Transportation and from the Department of Community Affairs, \$300 million and \$1.8 million respectively, to the General Revenue Fund. This is accomplished by replacing the fixed amounts with a percentage calculation which is capped at the current statutory amount. In effect, the General Revenue Fund is guaranteed a minimum of 53.65 percent share once debt service needs have been met. The bill also assesses the cost of administering the documentary stamp tax laws to all the funds that receive distributions.

In addition, the bill revises the funding for the University Concurrency Trust Fund within the Department of Education to redirect revenues to the General Revenue Fund. The amount of revenue redirected to the General Revenue Fund is approximately \$13 million annually.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 39-0; House 115-3*

**HB 5067— State Infrastructure**

by Economic Expansion and Infrastructure Council and Rep. Cannon and others

This bill includes various statutory changes to conform to the General Appropriations Act (GAA) and to implement various program reductions and efficiencies within the Department of Highway Safety and Motor Vehicles. The bill:

- Reenacts the Department of Highway Safety and Motor Vehicles, consistent with ss. 11.901-11.920, F.S., the Government Accountability Act.
- Provides the department the authority for the implementation of the Federal REAL ID Act.
- Increases the civil penalty late fee required in s. 318.18, F.S., and directs those revenues to the Highway Safety Operating Trust Fund.
- Directs the \$2.00 processing fee collected on the purchase of personalized prestige or specialty license plates to the Highway Safety Operating Trust Fund.
- Directs the 50 cents reflectorization fee collected on each motor vehicle registration or renewal registration to the Highway Safety Operating Trust Fund.

- Grants authority to the department to waive the hearing requirement for offenders whose license have been revoked, cancelled or suspended to allow a person to operate a motor vehicle on a restricted basis for business or employment use only.
- Grants authority to the department to issue electronic titles in lieu of printing a paper title and allows the department to collect and use e-mail addresses of motor vehicle and vessel owners and registrants as a notification method in lieu of the United States Postal Service.
- Reduces funding for Motorcycle Safety Education Campaigns and provides that the \$2.50 motorcycle safety fee education fee assessed when registering a motorcycle may be used for the Florida Motorcycle Safety Education Program established in s. 322.255, F.S., or the general operations of the department.
- Eliminates the Motorcycle Safety Education Course Reimbursements.
- Eliminates the Florida "At Risk" Driver program.
- Eliminates the DUI Programs Coordination Trust Fund.

The bill also:

- Revises Roadside Beautification provisions for DOT construction contracts.
- Provides for the use of Reserve Funds to minimize DOT project deferrals.
- Establishes requirements relating to Turnpike Toll Plaza Contracting.
- Authorizes the Florida Building Commission to conduct business by teleconferencing.
- Revises administrative procedures for the community development block grants in the Department of Community Affairs.
- Removes the supplanting provision for the Emergency Management Preparedness and Assistance Trust Fund.

If approved by the Governor, unless otherwise specified, these provisions take effect upon becoming law.

*Vote: Senate 38-1; House 118-0*

## **HB 5071 — Economic Development**

by Economic Expansion and Infrastructure Council and Rep. Cannon and others

This bill permits the Florida Sports Foundation to use funds generated by the Florida Professional Sports Team License Plate for operations of the foundation and for support of the Sunshine State Games. The bill also provides an application review process for the Black

Business Loan Program and clarifies the distribution of appropriated funds to eligible Black Business Investment Corporations.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*

### **HB 5073 — Department of State**

by Economic Expansion and Infrastructure Council and Rep. Cannon and others

This bill includes various statutory changes relating to the Department of State to conform statutory duties to the spending decisions included in General Appropriations Act (GAA). Specifically, the bill:

- Deletes an obsolete fee that is no longer assessed by the department for searching corporate records. This function is handled by an outsourcing vendor.
- Eliminates the requirement that the department establish regional offices for the purpose of assisting in the delivery of historic preservation services. By closing the regional offices, the budget deletes 3 FTE positions and \$197,489 from recurring General Revenue.
- Repeals the Discovery of Florida Quincentennial Commemoration Commission which was enacted on July 1, 2004, but has never been funded by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2008.

*Vote: Senate 40-0; House 119-0*



---

## Senate Memorials and Concurrent Resolutions

### MEMORIALS

A memorial is a document addressed to Congress, to the President of the United States, or to an executive or legislative body or official to express the consensus of the Legislature or to petition action on matters within the jurisdiction of the addressee. In the Florida Legislature, both houses must pass a memorial, and it is not subject to approval or veto by the Governor. The Legislature also uses a memorial to request Congress to propose an amendment to the United States Constitution or to enact legislation.

The following memorials were approved by the Senate and House during the 2008 Regular Session:

<b>Bill</b>	<b>By</b>	<b>To Subject</b>	<b>Vote: Senate / House</b>
S 1454	Senator Wilson	TO: U.S. Congress SUBJECT: Federal 2010 Census in Creole	Adopted / 107-0
S 1742	Senators Carlton, Gaetz, and Haridopolos	TO: U.S. Congress SUBJECT: Educator Ethics	Adopted / 118-1
S 2662	Senator Peaden	TO: U.S. Congress SUBJECT: Alzheimer's Disease Research/ Federal Funding	39-0 / 118-0

### CONCURRENT RESOLUTIONS

#### **SCR 2930 — Involuntary Servitude of Africans**

by the Senate of the State of Florida

A concurrent resolution is used to express the opinion of both legislative houses and is filed with the Secretary of State.

This concurrent resolution historically outlines the unjust treatment by the state of African slaves and freemen and then expresses the Legislature's profound regret for Florida's role in sanctioning and perpetuating the involuntary servitude of generations of African slaves. The concurrent resolution additionally calls for healing and reconciliation among the residents of Florida.

This concurrent resolution was adopted by the Senate and the House, and was then signed by the legislative officers and filed with the Secretary of State on March 27, 2008.





**CLAIM BILLS**

During the 2008 session, 31 claim bills were filed in the Senate. There were 23 companion bills filed in the House of Representatives.

Of the 31 claim bills filed in the Senate, 8 were approved by the House and Senate and 3 of the House companion bills were approved by the House and Senate. At this time, 2 of the claim bills have been approved by the Governor. If they all become law, they will authorize or direct payment of \$12,050,825 to be paid from local government budget accounts and \$23,450,000 to be paid from the General Revenue Fund.

The following claim bills were approved:

Bill	By	Relief:	Vote:	
			Senate	House
S 12	Senator Aronberg ( <i>passed as H 7037</i> )	Alan Jerome Crotzer v. State of Florida; \$1,250,000	33-5	116-0
S 34	Senator Lawson	Laura Laporte v. Dept. of Agriculture and Consumer Services; \$4,000,000	26-9	115-0
S 38	Senator Deutch	Shakima Brown and Janaria Miller v. Broward Memorial Regional Hospital; \$300,000	28-8	117-0
S 40	Senator Wilson	Maria and Jorge Gough v. Miami-Dade County School Board; \$1,000,000	23-16	114-0
S 46	Senator Lawson ( <i>passed as H 443</i> )	Marissa Amora v. Dept. of Children and Families; \$18,200,000	32-6	114-0
S 50	Senator Baker	Lisa Freeman-Salazar and Andy Salazar v. City of Lake Worth; \$342,208	25-10	118-0
S 54	Senator Joyner	Daniel Decembre v. Orange County School Board; \$1,800,000	32-6	102-12
S 56	Senator Aronberg	Schneidine Theogene v. Miami-Dade County; \$2,400,000	29-9	116-0
S 60	Senator Ring	Adrian Fuentes v. South Broward Hospital District; \$1,600,000	31-8	118-0
S 64	Senator Diaz de la Portilla ( <i>passed as H 787</i> )	Brian Daiagi v. South Florida Water Management District; \$3,908,617	22-15	111-5
S 68	Senator Dean	Tyler Giblin v. Marion County Hospital District; \$700,000	32-6	119-0



---

## Index

### SENATE AND HOUSE BILLS

0003.....	74	0242.....	114	0556.....	57
0012.....	299	0251.....	115	0559.....	95
0029.....	98	0274.....	249	0560.....	76
0034.....	299	0276.....	257	0564.....	224
0035.....	41	0313.....	104	0574.....	115
0038.....	299	0321.....	93	0601.....	262
0040.....	299	0326.....	127	0603.....	233
0043.....	90	0328.....	94	0607.....	213
0046.....	299	0337.....	194	0610.....	111
0050.....	299	0340.....	88	0622.....	105
0054.....	299	0343.....	32	0623.....	111
0056.....	299	0366.....	94	0625.....	43
0060.....	299	0370.....	209	0630.....	282
0061.....	92	0382.....	286	0642.....	114
0064.....	299	0390.....	87	0643.....	34
0068.....	299	0419.....	59	0644.....	19
0069.....	279	0428.....	57	0646.....	225
0076.....	90	0432.....	128	0648.....	27
0078.....	42	0435.....	245	0652.....	197
0082.....	193	0443.....	299	0653.....	113
0085.....	93	0458.....	260	0654.....	92
0092.....	93	0461.....	12	0663.....	44
0105.....	57	0464.....	245	0669.....	110
0108.....	250	0472.....	98	0679.....	266
0126.....	276	0489.....	42, 47, 48	0682.....	271
0137.....	280	0496.....	93	0686.....	220
0151.....	96	0498.....	199	0687.....	250
0154.....	281	0500.....	74	0688.....	45
0165.....	199	0502.....	42	0694.....	58
0167.....	281	0503.....	99	0696.....	235
0173.....	87	0522.....	96	0697.....	76
0186.....	234	0526.....	118	0698.....	59
0192.....	127	0527.....	145	0704.....	196
0219.....	1	0531.....	75	0727.....	36
0222.....	279	0535.....	12	0732.....	283
0225.....	58	0537.....	94	0734.....	283
0226.....	41	0542.....	128	0736.....	214
0230.....	1	0544.....	281	0739.....	45
		0546.....	48	0743.....	81
		0547.....	131	0745.....	237

0756.....	241	1008.....	284	1313.....	119
0758.....	130	1012.....	9	1318.....	226
0766.....	247	1014.....	194	1360.....	215
0773.....	246	1022.....	12	1363.....	88
0787.....	299	1026.....	62	1373.....	66
0788.....	275	1037.....	38	1374.....	223
0790.....	110	1042.....	46	1378.....	71
0794.....	69	1046.....	47	1384.....	69
0797.....	261	1048.....	53	1395.....	48
0799.....	69	1059.....	220	1414.....	118
0800.....	75	1064.....	93	1417.....	64
0802.....	280, 286	1070.....	71	1427.....	143
0803.....	214	1076.....	285	1429.....	49
0818.....	32	1084.....	44	1440.....	113
0822.....	155	1090.....	212	1442.....	105
0838.....	97	1092.....	210	1454.....	297
0843.....	249	1094.....	127	1456.....	211
0853.....	81	1098.....	25	1458.....	111
0854.....	59	1102.....	286	1462.....	252
0856.....	119	1105.....	269	1464.....	254
0858.....	285	1106.....	215	1474.....	244
0861.....	252, 254	1116.....	81	1478.....	214
0863.....	254	1128.....	95	1488.....	221
0866.....	147	1130.....	99	1489.....	262
0874.....	36, 90, 91	1141.....	47	1502.....	72
0879.....	120	1152.....	52	1509.....	285
0887.....	199	1167.....	259	1544.....	135
0909.....	155	1175.....	275	1552.....	143
0928.....	60	1188.....	104	1554.....	36
0937.....	29	1193.....	211	1558.....	194
0948.....	62	1196.....	13, 190	1586.....	157
0951.....	258	1203.....	116	1588.....	153
0958.....	286	1206.....	261	1604.....	276, 286
0961.....	144	1208.....	131	1606.....	254
0966.....	36	1274.....	283	1614.....	89
0967.....	197	1276.....	120	1616.....	101
0987.....	195	1286.....	186	1618.....	102
0988.....	210	1294.....	186	1630.....	1
0989.....	215	1300.....	132	1648.....	226
0992.....	34	1302.....	133	1670.....	120
0994.....	42, 47	1304.....	134	1672.....	143
0995.....	267	1308.....	81	1684.....	29
0996.....	260	1310.....	62	1694.....	216

1696.....	213	2018.....	145	2462.....	30
1702.....	187	2052.....	69	2484.....	248
1704.....	51	2074.....	276	2494.....	269
1706.....	72	2080.....	155	2498.....	262
1712.....	107	2082.....	21	2500.....	159
1716.....	231	2084.....	267	2502.....	161
1742.....	297	2086.....	262	2504.....	266
1746.....	124	2100.....	85	2516.....	50
1752.....	123	2102.....	201	2522.....	249
1762.....	237	2104.....	201	2532.....	50
1768.....	237	2106.....	202	2534.....	3
1774.....	238	2108.....	202	2546.....	116
1788.....	83	2110.....	202	2574.....	47
1790.....	83	2112.....	202	2582.....	65
1792.....	84	2114.....	203	2594.....	145
1814.....	191	2116.....	203	2598.....	217
1820.....	189	2118.....	203	2604.....	287
1824.....	188	2120.....	204	2610.....	227
1830.....	190	2122.....	204	2626.....	49
1838.....	190	2124.....	205	2630.....	227, 228
1864.....	208	2128.....	185	2640.....	259
1882.....	293	2130.....	185	2652.....	211
1888.....	187	2132.....	185	2654.....	7
1892.....	188	2158.....	30	2660.....	195
1906.....	112	2164.....	245	2662.....	297
1908.....	108	2192.....	43	2666.....	66
1946.....	286	2202.....	199	2672.....	276
1948.....	276	2206.....	283	2676.....	104
1950.....	53	2220.....	283, 286	2700.....	119
1952.....	276	2222.....	2	2716.....	262
1954.....	53	2224.....	74	2756.....	228
1962.....	220	2248.....	246	2760.....	218
1968.....	12	2264.....	37	2820.....	85
1978.....	276, 286	2272.....	38	2854.....	283
1982.....	144	2296.....	292	2860.....	13, 190
1986.....	73	2310.....	63	2864.....	258
1988.....	95	2326.....	221	2900.....	162
1992.....	276, 286	2350.....	233	2902.....	179
1994.....	1	2366.....	217	2930.....	297
2000.....	88	2374.....	64	5001.....	162
2002.....	200	2390.....	51	5003.....	179
2012.....	23	2422.....	198	5043.....	188
2016.....	257	2438.....	65	5045.....	188

5049.....	189	2005-023 .....	202	0039.....	54
5051.....	189	2005-024 .....	202	0039.01.....	41
5057.....	190	2005-142 .....	202	0061.....	50
5059.....	190	2006-025 .....	209	0061.13016.....	96
5061.....	190	2007-001 .....	80	0061.20.....	50
5063.....	200	2007-321 .....	153	0063.....	44, 45
5065.....	157	2008-001 .....	159	0063.0541.....	46
5067.....	293	2008-002 .....	161	0083.595.....	262
5071.....	294	2008-007 .....	99	0092.56.....	103
5073.....	295	2008-008 .....	85	0098.0981.....	148
5083.....	124	2008-009 .....	201	0098.0981(2).....	148
5085.....	205	2008-010 .....	201	0099.012.....	149
5087.....	207	2008-011.....	202	0099.097.....	149
7007.....	51	2008-012 .....	202	0101.041.....	150
7009.....	159	2008-013 .....	202	0101.23(2).....	150
7019.....	191	2008-014 .....	202	0101.5608.....	150
7033.....	248	2008-015 .....	203	0101.573.....	148
7037.....	299	2008-016 .....	203	0106.082.....	152
7041.....	51	2008-017 .....	203	0112, part III .....	5
7049.....	228	2008-018 .....	204	0119.....	5, 248
7053.....	212	2008-019 .....	204	0119.011(2).....	248
7059.....	132	2008-020 .....	205	0119.07(1).....	47
7067.....	123	2008-021 .....	185	0119.071(2)(h) ....	102, 103
7073.....	52	2008-022 .....	185	0119.071(2)(h)1. ....	102
7075.....	53	2008-023 .....	185	0119.071(2)(h)2. ....	102
7077.....	53	2008-024 .....	191	0119.071(5)(a)5. ....	47
7083.....	223	2008-025 .....	257	0119.0713(1).....	248
7091.....	134	2008-026.....	114	0119.0714.....	103
7097.....	198	2008-027 .....	98	0119.0714(1)(h) .....	103
7103.....	19	2008-028 .....	267	0119.15.....	103, 254
7105.....	237			0120.....	16, 196, 275
7109.....	60	<b>FLORIDA STATUTES</b>		0120.52.....	275
7113.....	97	0001.01(14).....	252	0120.54.....	61
7135.....	135	0011.901-0011.920 ....	293	0120.74.....	61
7137.....	89	0011.908.....	61	0121.0515.....	75
HB 5047 .....	189	0011.911.....	61	0121.71.....	200
		0011.919.....	61	0125.031.....	72
<b>CHAPTER LAWS</b>		0016.615.....	48	0163.3177.....	271
1974-400 .....	279	0016.616.....	48	0163.3178.....	271
2004-363 .....	203	0020.23.....	271	0163.3182.....	271
2004-364 .....	203	0027.40.....	45	0193.114.....	153
2005-021 .....	201	0027.511.....	83	0193.1142.....	153
2005-022 .....	202	0028.24(10).....	247	0193.155.....	153

0193.155(8).....	154, 155	0288.1045.....	66	0320.64.....	65
0193.1554.....	154	0288.7001.....	60	0320.6412.....	65
0193.1555.....	154	0288.7002.....	60	0320.696.....	65
0193.1556.....	154	0288.705.....	251	0320.96.....	282, 289
0194.011.....	154	0292.04.....	253	0322.051.....	291
0196.031.....	154	0292.055.....	252	0322.08.....	282, 290
0196.183.....	154	0316.....	83, 281	0322.091.....	96
0197.....	247	0316.0741.....	271	0322.17.....	291
0197.3632.....	154	0316.08053.....	289	0322.21.....	290
0197.542(2).....	247	0316.183(2).....	280	0322.245.....	96
0200.065.....	154	0316.187.....	280	0322.245(1).....	96
0200.185.....	155	0316.189.....	280	0322.255.....	294
0201.....	191	0316.1926.....	280	0322.264(1)(d) .....	96
0206.....	139	0316.1926(2).....	280	0322.57.....	291
0215.20(1).....	204	0316.193.....	271, 291	0322.64.....	272
0215.32.....	183	0316.2085.....	280	0324.....	96
0215.44.....	63	0316.2085(2).....	280	0327.803.....	133
0215.47.....	63	0316.2085(2) and (3) ..	280	0331.501.....	65
0215.474.....	63	0316.2295(5) and (6) ..	286	0334.03(13).....	286
0215.555.....	26	0316.302.....	272	0337.0261.....	272
0215.5595.....	18	0316.515.....	286	0337.11.....	272
0215.981.....	253	0316.515(c).....	286	0337.111.....	253
0216.....	201, 204, 205	0316.613.....	272	0337.14.....	272
0216.177.....	181, 183	0316.614.....	272	0337.16.....	272
0220.....	157	0316.656.....	272	0337.18.....	272
0250.5206.....	249	0318.....	280, 288	0337.185.....	272
0253.....	132	0318.14.....	280	0337.403.....	271, 272
0257.172.....	193	0318.15.....	96	0337.408.....	273
0257.18.....	193	0318.18.....	293	0338.01.....	273
0257.22.....	194	0318.18(3)(b) .....	280	0338.165.....	273
0259.....	132	0320.....	282, 288	0338.166.....	273
0265.....	195	0320.02.....	254, 282	0338.2216.....	273
0265.002.....	253	0320.023.....	255	0338.223.....	273
0265.703.....	195	0320.08053.....	284	0338.231.....	273
0267.....	195	0320.08056.....	283	0339.12.....	273
0267.0731.....	195	0320.08058.....	253, 283	0339.135.....	274
0267.081.....	195	0320.089.....	254	0339.155.....	273, 274
0267.1732.....	194	0320.131.....	289	0339.2819.....	274
0267.174.....	196	0320.131(4)(a) .....	281	0339.285.....	274
0272.129.....	195	0320.131(4)(b) .....	281	0343.....	275
0287.....	5	0320.131(8).....	281	0343, part III .....	274
0287.055.....	271	0320.131(9).....	281, 282	0348.0003.....	274
0288.001.....	60	0320.18.....	282	0348.0004.....	274

0367.081(4)(a) .....	69	0430.83.....	207	0553.731.....	80
0370.....	134	0443.101(10).....	59	0553.901.....	77
0372.....	134	0450.33.....	264	0556.105.....	69
0372.107.....	133	0455.....	264	0559.927.....	63
0373.026(8)(b) .....	183	0456.049.....	218	0559.928.....	63
0373.1961(3).....	183	0458.....	10, 11	0559.9285.....	63
0376.3071.....	183	0458.3475.....	205	0559.929.....	63
0379.....	134	0459.....	10, 11	0559.9335.....	63
0380.06(19)(c) .....	72	0459.023.....	205	0559.935.....	63
0380.5105.....	129	0460.....	10, 11	0559.9355.....	63
0393.....	53	0461.....	10, 11	0559.936.....	63
0393.0661.....	207	0466.....	10, 11, 219	0559.937.....	63
0393.071.....	208	0468.....	265	0560.....	31
0394.9084.....	52	0468, part XIV .....	213	0560.309.....	32
0395.1041.....	9	0468.841.....	265	0570.71.....	129
0395.106.....	24	0471.....	226	0589.19.....	279
0400, part II.....	37	0475.....	38	0607.....	59
0400.179.....	205	0475.17.....	265	0607.0627.....	33
0401.....	9	0475.451(9).....	265	0607.1326.....	34
0403.890.....	183	0477.019.....	265	0607.1331.....	34
0409.....	211	0479.01.....	274	0608.....	59
0409.017.....	205	0479.07.....	274	0617.....	5, 59, 252
0409.1451.....	43	0479.08.....	275	0620.....	59
0409.175(16)(a) and (b) 47		0479.156.....	275	0624.....	4
0409.25645.....	52	0479.261.....	275	0624.155.....	15
0409.904.....	205	0489.105.....	78	0624.3161.....	15
0409.906(26).....	205	0489.105(6).....	265	0624.401.....	38
0409.9061.....	207	0489.511.....	265	0624.4211.....	15
0409.908.....	205	0489.515.....	265	0624.4213.....	14
0409.911.....	206	0491.....	41	0624.443.....	23
0409.9112.....	206	0491.003.....	41	0624.4621.....	30
0409.9113.....	206	0496.404(9).....	96	0624.46226.....	24
0409.9117.....	206	0497, part II.....	81	0626.8417.....	38
0409.912(39)(a) .....	206	0498.....	264	0626.8418.....	38
0409.912(4)(b) .....	206	0498.019.....	264	0626.9521.....	15
0409.912(53).....	207	0500.148.....	1	0626.9541.....	15
0409.91206.....	207	0501, part II.....	35	0626.9541(1)(i) .....	15
0409.9122.....	207	0509.....	258	0626.9543.....	23
0409.9124.....	207	0538.....	57	0627.062.....	13
0409.913.....	207	0548.....	260	0627.0621.....	14
0413.402.....	209	0548.0065.....	265	0627.0628.....	16
0427.011-0427.016 .....	275	0548.008.....	265	0627.0629.....	16
0430.502(1)(e) .....	50	0553.....	78	0627.351.....	17, 24



0627.351(6)(a)6. ....	80	0768.....	218	0847.011.....	98, 99
0627.404(2).....	28	0768.28.....	244	0847.013.....	98, 99
0627.6131.....	12	0775.082.....	127, 280	0847.0135.....	98, 99
0627.736.....	23	0775.083.....	127, 280	0847.0135(5).....	106
0627.783.....	26	0775.084.....	280	0874.....	90, 91
0627.94073.....	23	0775.084(1)(b)1.a.-o. ...	105	0874.03(1).....	99
0633.....	257	0776.051.....	93	0874.06.....	91
0634.....	37	0782.04(1).....	93	0877.26.....	98, 99
0634.4165.....	38	0782.04(1)(a)1. or (2) ...	93	0893.....	90, 215
0641.....	4	0782.04(2), (3), or (4) ...	93	0903.011.....	104
0641, part II.....	4	0782.051.....	93	0903.286.....	104
0641.31.....	9	0784.048.....	98	0907.043.....	104
0641.3154.....	9	0784.048(2).....	98	0916.301.....	53
0641.3155.....	12	0790.06.....	62	0937.....	42
0655.005.....	38	0790.065.....	102	0943.053.....	84, 97
0689.01.....	245	0790.115.....	100	0943.10(1).....	96
0689.262.....	17	0794.03.....	103	0943.325.....	98
0692.01.....	245	0796.....	102	0944.47.....	100
0697.01.....	35	0800.04(5)(b) .....	93	0957.....	100
0718.....	264, 266, 269	0800.04(7)(b) .....	106	0960.....	106
0718.111(11).....	262	0810.14.....	98	0984.....	84
0718.113.....	76	0810.14(1).....	98	0985.02.....	85
0718.116.....	263	0812.145.....	69	0985.686.....	85
0718.117.....	263	0817.234.....	11	1002.415.....	124
0718.509.....	264	0817.487.....	58		
0720.3087.....	263	0817.52.....	284	<b>STATE CONSTITUTION</b>	
0720.311.....	267	0831.....	64	Art. I, s. 24(a).....	47
0721.03(1)(c) .....	266	0831.03.....	64	Art. III, s. 19.....	198
0736.0703.....	245	0831.05.....	64	Art. X, s. 27.....	171
0736.0802(10).....	246	0847.....	102		

**SUBJECT**

**9**

911 Emergency Dispatchers/Denise Amber Lee Act .....	216
--	-----

**A**

Administrative Procedures.....	196
Administrative Trust Fund/APD.....	201
Administrative Trust Fund/Fish and Wildlife Conservation Commission .....	185
Adoption/Termination of Parental Rights/Putative Father Registry.....	44

---

Agency for Persons with Disabilities.....	207
Agency Inspectors General.....	199
Agricultural and Farming Equipment/Highways.....	286
Agriculture .....	187
Alcoholic Beverages and Tobacco.....	258
Alternative Credit High School Courses.....	112
Alzheimer's Disease/Medicaid Waiver Program .....	210
Amateur Matches .....	260
Artificial Reefs/Placement of Vessels .....	128
Automated External Defibrillators.....	224
Automated Teller Machine Transactions.....	36

**B**

Beach Management.....	143
Bethune-Cookman University License Plates .....	283
Beverage Law .....	258
Building Standards.....	76
Business Entities .....	59

**C**

Career Service System .....	199
Cemetery Lands .....	81
Certificates of Need/General Hospitals .....	221
Certification of Clinical Nurse Specialists.....	214
Child Protection .....	53
Child Support Enforcement .....	52
Child Welfare Professionals Recognition Day .....	42
Children with Disabilities .....	7
Children's Zones .....	74
Citizens' Right-to-Know Act/Pretrial Release .....	104
Citrus.....	2
Claim Bills .....	299
Adrian Fuentes v. South Broward Hospital District .....	299
Alan Jerome Crotzer v. State of Florida .....	299
Brian Daiagi v. South Florida Water Management District .....	299
Daniel Decembre v. Orange County School Board .....	299
Laura Laporte v. Dept. of Agriculture and Consumer Services .....	299
Lisa Freeman-Salazar and Andy Salazar v. City of Lake Worth.....	299
Maria and Jorge Gough v. Miami-Dade County School Board.....	299
Marissa Amora v. Dept. of Children and Families .....	299
Schneidine Theogene v. Miami-Dade County.....	299
Shakima Brown and Janaria Miller v. Broward Memorial Regional Hospital.....	299

---

Tyler Giblin v. Marion County Hospital District.....	299
Cleanup of Sites Contaminated by Petroleum .....	144
Commercial Motor Vehicles.....	292
Community Associations.....	267, 269
Community Associations and Professional Regulation.....	262
Community College Finance .....	235
Community Colleges .....	235
Community Service/Noncriminal Traffic Offenses.....	285
Concealed Weapons License .....	62
Concurrent Resolutions.....	297
Controlled Substances.....	87, 88
Corporate Income Tax Credit Scholarship Program.....	113
Corporate Income Tax/2008 IRS Code.....	157
Corrections.....	88
Cosmetology .....	260
Council on the Social Status of Black Men and Boys .....	48
Counterfeit Goods.....	64
Creation/Fund B Surplus Funds Trust Fund/SBA .....	198
Criminal Activity/Criminal Gangs.....	90
Criminal History Information .....	84
Criminal Offenses and Penalties.....	90
Cultural and Historic Resources .....	193
Cultural and Historical Programs.....	195

## D

Dating Violence .....	104
Dentistry.....	218
Department of Business and Professional Regulation.....	189, 262
Department of Corrections.....	89
Department of Highway Safety and Motor Vehicles.....	286
Department of Law Enforcement.....	97
Department of State .....	295
Department of Transportation.....	271
Designations.....	276
Developmental Disabilities.....	53
Developments of Regional Impact.....	72
Disability History and Awareness .....	119
Display of Flags/Homeowners' Associations .....	71
Dissolution of Marriage .....	244
Dissolution of Marriage, Child Custody and Support .....	50
Distribution of Excise Taxes.....	293
DNA Testing.....	98
Drivers' Licenses/Suspended, Revoked, or Canceled.....	95

---

Drugs, Devices, and Cosmetics .....	228
-------------------------------------	-----

**E**

Early Learning .....	120
East Central Florida Memory Disorder Clinic .....	50
Economic Development.....	294
Economic Stimulus .....	63
Education .....	124
Educational Facilities Construction .....	120
Educational Opportunity for Military Children .....	116
Elderly Persons and Disabled Adults/Abuse and Neglect .....	94
Elections.....	147
Employee Leave for Victims of Sexual Violence.....	42
Energy .....	135
Environmental Protection .....	186
Environmental Site Redevelopment .....	145
Escrow Agents .....	38
Ethics in Education .....	107
Ethics in Education Act .....	107
Everglades Restoration Bonds .....	143
Exceptional Student Awareness.....	119
Exemptions/Tax on Sales, Use and Other Transactions .....	220
Exploited Children .....	105

**F**

Failure to Redeliver Hired Vehicles .....	284
Family Law .....	244
Family Readiness Program .....	249
Federal Grants Trust Fund/APD .....	202
Federal Grants Trust Fund/Fish and Wildlife Conservation Commission.....	185
Financial Matters .....	30
Financial Services .....	32, 188
Firesaftey/Structure Markings .....	36
Fish and Wildlife Conservation .....	134
Fish and Wildlife Conservation Commission .....	186
Florida Public Task Force on Workplace Safety .....	197
Florida Retirement System .....	75, 200
Food Donation by Public Food Service Establishment .....	257
Foreclosure Fraud .....	34
Funding for State Veterans' Homes .....	254

---

## G

General Appropriations Act.....	162
Gertrude Maxwell Save a Pet Act.....	1
Grants and Donations Trust Fund/Fish and Wildlife Conservation Commission .....	185
Group Self-Insurance Funds .....	30
Guardian Advocates/Developmentally Disabled.....	45

## H

Health Care .....	205
Health Care Consumer's Right to Information Act.....	221
Health Care Facilities and Services .....	220
Health Care Fraud and Abuse.....	223
Health Care Practitioners .....	213
Health Flex Plans .....	12
Health Insurance .....	3, 12
Health Insurance Claims Payments .....	9
Highway Safety and Motor Vehicles.....	279
HIV Testing/Informed Consent .....	226
HIV/AIDS Educational Requirements.....	225
Homeowners' Associations/Lien Claims .....	73
Hotels and Restaurants.....	257

## I

Impaired Medical Practitioners/Treatment Programs.....	217
Implementation of Amendment 1 .....	153
Implementing the 2007-2008 Special Appropriations.....	161
Implementing the 2008-2009 General Appropriations Act .....	179
Independent Living Transition Services for Youth in Foster Care.....	43
Indigent Civil Defense .....	83
Infrastructure Operations .....	196
Inland Navigation.....	130
Inmates/Medical Assistance Eligibility/Medicaid .....	211
Insurable Interest in Insurance Contracts.....	27
Insurance .....	13
Insurance (Sale of Annuities).....	21
Insurance Capital Build-up Incentive Program.....	190
Insurance Policies .....	23
Intergovernmental Cooperation .....	71
Interscholastic Extracurricular Activities .....	118
Involuntary Servitude of Africans .....	297

---

**J**

Judicial Sales.....	246
Judicial Sales/Real or Personal Property .....	246
Juvenile Offenders/Residential Facilities .....	85

**L**

Land Acquisition and Management .....	128
Law Enforcement.....	96
Leased Property for Public Purposes .....	72
Lewd or Lascivious Molestation.....	93
License Plates.....	279
Licensure of Psychologists .....	214
Local Government Finance.....	198

**M**

Management of Historic Pensacola Properties .....	194
Material Harmful to Minors.....	95
Maternal and Child Health Programs/WIC.....	211
Medical Faculty Certificates .....	217
Medical Research.....	208
Memorials .....	297
Alzheimer's Disease Research/ Federal Funding.....	297
Educator Ethics .....	297
Federal 2010 Census in Creole .....	297
Mental Health and Substance Abuse Services.....	49
Military Affairs .....	249
Missing Person Investigations .....	42
Money Services Businesses .....	30
Mortgage Broker Licenses.....	189
Mortgage Fraud.....	81
Motor Vehicle Dealers.....	65
Motor Vehicle Warranty Associations.....	37
Motor Vehicles and Mobile Homes/Destruction .....	285
Murder of Law Enforcement Officers .....	93
My Safe Florida Home Program.....	19

**N**

Newborn Safe Abandonment.....	51
Nursing Facilities .....	220

---

**O**

Ocean Outfalls .....	133
Offense of Voyeurism.....	94
Offenses Against Officers.....	92
Onsite Sewage Treatment and Disposal Systems .....	226
Open Government Sunset Review	
Department of Agriculture and Consumer Services .....	1
Florida Kidcare Program Public Records Exemption.....	212
Foster Parents/DCFS.....	47
Paratransit Services.....	74
Putative Father Registry.....	46
Victims of Child Abuse or Sex Crimes.....	102
Operating a Motor Vehicle .....	280
Operations and Maintenance Trust Fund/APD.....	202
Orders of No Contact with Victims of Crimes .....	105
Organ and Tissue Donation .....	227
Orthotics, Prosthetics, and Pedorthics .....	213

**P**

Pedestrian Safety/Driver Requirements .....	281
Personal Care Attendant Program.....	209
Personnel and Benefit Systems.....	197
Persons Injured by Crime/Medical Treatment.....	93
Pharmacy Technicians .....	215
Physician Assistants/Formulary.....	215
Postsecondary Distance Learning .....	237
Postsecondary Student Fees.....	238
POW-MIA Flag .....	249
Pretrial Release .....	104
Professions .....	260
Property Insurance .....	13
Property Taxation and Value Adjustment Boards .....	155
Protection of Wild and Aquatic Life.....	132
Public Accountancy .....	261
Public Health.....	224
Public Library Grants/State Aid.....	193
Public Lodging and Food Service Establishments.....	257
Public Records .....	102, 247
Public Records Exemption for Victims of Sexual Violence.....	47
Public Records/Complaint of Discrimination.....	248
Public Records/Judicial and Administrative Officials.....	247
Public Records/Organ and Tissue Donor Registry .....	227

---

Public Safety .....	98
---------------------	----

**Q**

Qualified Defense Contractor Tax Refund Program .....	66
---	----

**R**

Radio Equipment Using Law Enforcement Frequencies .....	96
Real Property Transfer Returns .....	191
Real Property, Probate, and Trust Law .....	245
Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act.....	259
Releases From Gambling Vessels.....	127
Residential Properties .....	266
Residential Tenancies .....	262
Revenue Administration .....	190
Right to Keep and Bear Arms in Motor Vehicles.....	99

**S**

School Access for Junior or Senior Officers' Training Corps .....	115
School and Program Choice.....	112
School Breakfast Programs.....	111
School Safety .....	110
School Safety and Wellness.....	110
School Standards, Accountability, and Grading.....	108
School/Multiple Birth Siblings/Classroom Placement .....	114
Secondary Metals Recyclers .....	57
Self-Directed Care Program for Mental Health Treatment.....	51
Sellers of Travel.....	62
Sentencing/Justice and Correctional Policies .....	88
Service-Disabled Veteran Business Enterprises .....	250
Shared County/State Juvenile Detention Trust Fund/DJJ.....	85
Single-gender Schools, Classes, and Programs .....	114
Small Business Regulatory Relief .....	60
Social Services Block Grant Trust Fund/APD.....	202
Social Worker Identification.....	41
Spaceflight .....	65
Special Appropriations.....	159
Specialty License Plates.....	283
State Agency Law Enforcement Radio System Trust Fund .....	190
State College System .....	231
State Curriculum Standards, Accountability, and High School Grades .....	108
State Data Center System.....	188
State Employees.....	187



---

State Infrastructure.....	293
State Judicial System .....	83
State Parks/Violations.....	127
State Song .....	194
State Symbols/ Florida Cracker Horse.....	1
State Universities .....	234
Students with Disabilities .....	119
Supplemental Educational Services.....	118

## T

Telephone Caller Identification .....	58
Temporary Motor Vehicle License Tags .....	281
Textbook Affordability .....	233
The Don Davis Physical Education Act.....	111
The Florida College System.....	231
The Success in Early Learning Act.....	120
Theft of Copper or Other Nonferrous Metals .....	69
Title Insurance .....	29
Title Loans/Regulation/Consumers .....	36
Tobacco Settlement Trust Fund/APD.....	202
Transfer Fee Covenants/Real Property .....	245
Transitional Services/Young Adults/Disabilities.....	210
Transportation Administration.....	271
Transportation Disadvantaged Services.....	275
Trust Administration.....	245
Trust Fund Bills .....	185, 201
Trust Funds/Agency for Health Care Administration.....	201
Trust Funds/DCFS .....	203
Trust Funds/Department of Elderly Affairs.....	205
Trust Funds/Department of Health .....	204
Trust Funds/Department of Veterans' Affairs.....	204
Tuition Differential, Professional Program Tuition, and Ad Valorem Taxation for Educational Institutions.....	237

## U

Underground Utilities/Excavations and Demolitions .....	69
Unemployment Compensation Benefits .....	62
Unemployment Compensation/Day Laborer .....	59
University of South Florida Polytechnic.....	234

## V

Vehicle Registration/Family First Contribution .....	282
--	-----

---

Veterans' Affairs .....	250
Veterans' Affairs Direct-Support Organization .....	252
Veterans' Affairs Direct-Support Organization Public Records .....	254
Victim Protection .....	104
Virtual Education .....	123

**W**

Water and Wastewater Utilities .....	69
Water Pollution Control .....	131
Weapon and Firearm Licenses/Interagency Data Sharing .....	101
Welfare Transition Trust Fund/DCFS .....	203
Welfare Transition Trust Fund/Department of Health .....	203
Workers' Compensation Medical Services and Supplies .....	188
Workforce Innovation .....	57
Wrongful Incarceration .....	241
Wrongful Incarceration Compensation .....	241