

**HOUSE OF REPRESENTATIVES
PUBLIC RESPONSIBILITY COUNCIL
1999 SUMMARY OF PASSED LEGISLATION**



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*Representative Mark G. Flanagan, Chair
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COMMITTEE ON GOVERNMENTAL OPERATIONS

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COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS

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May 1999***

**PUBLIC RESPONSIBILITY COUNCIL
TABLE OF CONTENTS**

Page

COMMITTEE ON COMMUNITY AFFAIRS

CS/CS/HB 17, 3rd Engrossed	1
CS/CS/HB 163, 2nd Engrossed	3
HB 289	5
HB 297, 2nd Engrossed	5
CS/HB 303 (<i>passed as CS/SB 716</i>)	6
CS/HB 305 (<i>passed as CS/SB 714</i>)	6
HB 313 (<i>passed as SB 290</i>)	7
CS/HB 401	7
CS/HB 475, 1st Engrossed	8
HB 561, 1st Engrossed	8
HB 573, 1st Engrossed	9
CS/HB 587, 1st Engrossed	10
HB 605	10
HB 621, 2nd Engrossed	11
CS/HB 647 (<i>passed in CS/CS/SB 1566, 2nd Engrossed</i>)	12
HB 659 (<i>passed as CS/SB 2380, 2nd Engrossed</i>)	12
HB 867, 1st Engrossed	13
HB 975, 1st Engrossed	14
HB 1737 (<i>passed in CS/SB 172, 2nd Engrossed</i>)	15
HB 1771 (<i>passed as SB 1534, 1st Engrossed</i>)	16
HB 1963 (<i>passed in CS/CS/SB 1566, 2nd Engrossed</i>)	17
HB 2079 (<i>passed in CS/CS/SB 1270, 3rd Engrossed</i>)	17

COMMITTEE ON ELECTION REFORM

HB 125	19
HB 281, 1st Engrossed	19
HB 1463 (<i>passed as CS/SB 752</i>)	19
HB 2109 (<i>passed as SB 754</i>)	20
HB 2163	20
HB 2263 (<i>passed as SB 756, 2nd Engrossed</i>)	21

COMMITTEE ON GOVERNMENTAL OPERATIONS

CS/HB 1, 3rd Engrossed	22
HB 73 (<i>passed as CS/CS/SB 230, 2nd Engrossed</i>)	23
HB 169 (<i>passed as SB 326, 1st Engrossed</i>)	24

TABLE OF CONTENTS (CONTINUED)

Page

COMMITTEE ON GOVERNMENTAL OPERATIONS (Continued)

CS/CS/HB 223 24
HB 243 (*passed in combined CS/HB 311, CS/243, 1st Engrossed*) 25
CS/HB 261, 1st Engrossed 25
HB 357, 2nd Engrossed 26
HB 619 (*passed as SB 1296, 1st Engrossed*) 27
HB 885, 1st Engrossed 27
CS/HB 1013 28
CS/HB 1707, 1st Engrossed 28
CS/HB 1831 (*passed as CS/CS/SB 1468*) 29
HB 1883, 2nd Engrossed 30
HB 2043 (*passed as CS/SB 1870*) 31
CS/HB 2055 (*passed as CS/CS/SB 662, 3rd Engrossed*) 31
HB 2219 (*passed as CS/SB 2280, 2nd Engrossed*) 32

COMMITTEE ON GOVERNMENTAL RULES & REGULATION

CS/HB 107, 1st Engrossed 35

Committee on Community Affairs

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/CS/HB 17, 3rd Engrossed--Community Revitalization by Water & Resource Management; Community Affairs; Constantine; Bradley and Others (CS/SB 1078 by Comprehensive Planning, Local and Military Affairs; Carlton; Klein and Others)

House Committee(s) of Reference: Community Affairs; Business Development & International Trade; Water & Resource Management; Transportation & Economic Development Appropriations

This bill creates the "Growth Policy Act," which authorizes municipalities and counties to designate urban in-fill and redevelopment areas based on specified criteria. Furthermore, the bill provides economic incentives for the urban in-fill and redevelopment areas. The bill creates an Urban In-fill and Redevelopment Assistance Grant Program to be used by local governments to develop community participation processes for the development of an urban in-fill and redevelopment plan. Matching grants funds are also provided for implementing urban in-fill and redevelopment projects that assist the goals identified in a local governments urban in-fill and redevelopment plan.

This bill also incorporates several recommendations of the Transportation Land Use Study Committee Report to address transportation concurrency requirements. Local governments are authorized to use professionally accepted techniques for measuring levels of service, and are authorized to establish multimodal transportation districts in local comprehensive plans. Furthermore, this bill allows "pipelining" for multi-use developments of regional impact (DRI). Pipelining allows certain multi-use developments of regional impact with a residential component to satisfy the transportation concurrency requirements of local comprehensive plans by payment of a proportional-share contribution for traffic impacts.

This bill provides procedures by which a county or a combination of counties and municipalities may develop and adopt plans to improve efficiency, accountability, and coordination of delivery of local government services. The bill provides new criteria for feasibility studies that are submitted in conjunction with proposals for incorporation of a municipality.

This bill makes several changes to Florida's affordable housing laws, which were the subject of HB 195. The changes: (1) clarify that certain low-income housing property are exempted from ad valorem taxation; (2) provide a state housing tax credit incentive to private corporations participating in urban revitalization projects, including housing

specifically designed for the elderly; (3) allow persons between the ages of 55 and 61 (inclusive) to qualify for housing for the elderly under certain conditions; and (4) authorize the Florida Finance Housing Corporation to adopt rules establishing a process for distributing certain unallocated funds under the State Apartment Incentive Loan (SAIL) program.

This bill creates the Urban Homesteading Act to allow a local government, or its designee, to operate a program making foreclosed single-family housing projects available for purchase to eligible buyers. The bill provides eligibility requirements and creates an application process with loans to qualified buyers.

In addition, this bill includes the substance of HB 2181, which amends existing law governing special districts and community development districts (CDDs).

This bill allows special assessments to be paid in no more than 30 yearly instalments, rather than 20 yearly installments. The bill allows water management districts to provide notice of staff meetings by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located.

This bill clarifies that a petition by the governing body of an existing special district for reestablishment as a CDD must contain information specified in the Florida Statutes and that the petition is not subject to the \$15,000 filing fee.

This bill provides that the Department of Community Affairs may provide, contract for, or assist in conducting education programs for elected or appointed members of district boards. The bill provides for certain courses. The bill provides an arrangement for payment of fees, if any, for the courses.

This bill allows the board of supervisors to keep the record book of proceedings within the boundaries of a development of regional impact (DRI) or a Florida Quality Development (FQD), or where there is a combination of a DRI or a FQD, that includes the district; and to maintain an office within the boundaries of a DRI or a FQD, that includes the district. The bill provides that the filing of the petition for expansion or contraction by the district board of supervisors constitutes consent of the landowners within the district whose land *is not* proposed to be added or removed from the district. The bill broadens the express powers section to include the power to establish, operate, and maintain buses, trolleys, transit shelters, ride-sharing facilities and service, parking improvements, and related signage; provides that the district also has power to establish, operate, and maintain conservation areas, mitigation areas, and wildlife habitat.

This bill specifies that benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments that constitute a lien on the property assessed. The bill establishes that liens be co-equal with liens of state,

county, municipal, and school board taxes. The non-ad valorem assessments are collected by the tax collector.

This bill requires that any board seeking to construct or improve a public building, structure, or other public works comply with the bidding procedures of s. 255.20, F.S. The bill requires that the district not only adopt rules, but policies and procedures for applying competitive bidding procedures.

This bill allows districts, initially established by county or municipal ordinance, to petition to amend their boundaries up to a cumulative total of 50 percent of the land in the initial district or a total of 500 acres. The district must include a statement, at the *initial* sale, disclosing that the CDD may impose and levy taxes and assessments on the property. A CDD must record in the property records a notice of establishment within 20 days after the effective date of the rule or ordinance establishing the district. CDDs in existence on the effective date of this act must record a notice of establishment within 90 days.

This bill amends the provision contained in s. 190.049, F.S., that was enacted in accordance with the provisions of Art. III, subsection 11(a)21, Florida Constitution, preventing the creation of certain independent special districts by special law or general law of local application. Under the provisions of Art. III, subsection 11(a)21, Florida Constitution, this section must receive a vote of three-fifths of the membership of each house of the Legislature in order to pass.

This bill appropriates \$2.5 million for Urban In-fill and Redevelopment Community Grants and \$2.5 million for state housing tax credits.

This bill takes effect on July 1, 1999.

CS/CS/HB 163, 2nd Engrossed--Local Government Code Enforcement

by Judiciary; Community Affairs; Crist; Bush; Roberts and Others
(CS/SB 946 by Comprehensive Planning, Local and Military Affairs;
Forman and Others

House Committee(s) of Reference: Community Affairs; Real Property & Probate;
Judiciary

This bill amends chapter 125, F.S. regarding County Government. It also amends part II of chapter 162, F. S., regarding Supplemental County or Municipal Code or Ordinance Enforcement Procedures. The bill contains a severability clause. If any of the provisions of the bill are found invalid, then the remaining provisions will not be affected by such a finding.

Under chapter 125, F.S., the bill provides that in cases of repeat violations found after a citation has been issued, the code inspector is not required to give a code or ordinance violator a reasonable time to correct the violation and may immediately issue a citation. A person is considered to have repeatedly violated a code or ordinance if he or she admits to violating the same provision within 5 years prior to the violation. It does not matter that the violations occurred in different locations. The bill revises the definition of "repeat violation."

Under chapter 125, F.S., the bill creates a new enforcement provision. The provision requires the owner of a property subject to an enforcement proceeding who transfers ownership of the property between the time the initial pleading was served and the time of the hearing to: (1) disclose the existence and the nature of the proceeding to the prospective transferee; (2) deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the seller; (3) disclose to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding; and (4) file a notice with the code enforcement official of the transfer of the property, including the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer. In addition, the bill creates a rebuttable presumption of fraud when disclosure fails to occur before the transfer. To conform, this same provision is provided for under s. 162.06, F.S. dealing with enforcement procedures.

Under chapters 125 and 162, F.S., the bill authorizes the local government to make reasonable repairs on certain property if the code inspector has reason to believe a violation or there is a serious threat to the public health and welfare posed by the condition that caused the violation. The bill clarifies that there is no continuing obligation on the part of a local governing body to make further repairs or to maintain property it has repaired to bring the property into compliance. Also, the property does not create a liability against the local governing body for damage to the property if the repairs were made in good faith.

Under part II of chapter 162, F.S., provides a more specific matrix for determining fines based on population of the local governments to impose on code or ordinance violators. It also authorizes a code enforcement board or special master to impose additional fines to cover all costs incurred by the local government regarding enforcement of codes and repair costs. The bill provides additional conditions for notifying alleged violators by certified mail, return receipt requested.

Finally, the bill permits counties and municipalities to set rates for towing vehicles from or immobilizing vehicles on private property, or rates for the removal and storage of wrecked or disabled vehicles and other similar situations involving a vehicle. However, if a municipality chooses to enact an ordinance establishing the maximum fees [sic] for the towing or immobilizing vehicles as provided in this bill, the county rates will not apply within such municipality. The bill replaces the word "fees" with the word "rates" as it relates to towing and immobilization activities.

The effective date of the bill is October 1, 1999.

**HB 289--Local Government Infrastructure Surtax
by K. Smith and Others (SB 732 by Horne and Others)**

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Government Appropriations

This bill extends to charter counties the ability to use proceeds and any interest accrued from the Local Government Infrastructure Surtax (LGIS) to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

The bill also provides that any proceeds or interest from bonds issued subsequent to July 1, 1987 to refund bonds that were issued prior to July 1, 1987, may be utilized to retire or service indebtedness incurred for such refunding bonds. Additionally, the bill provides that all such actions that were taken by charter counties prior to July 1, 1998 are ratified.

The effective date of this bill is July 1, 1999.

**HB 297, 2nd Engrossed--Special-Purpose Zones
by Villalobos, Crist and Others (CS/CS/SB 214, 1st Engrossed, by
Local and Military Affairs, Commerce and Economic Opportunities;
Silver)**

House Committee(s) of Reference: Community Affairs; Governmental Rules & Regulations; Transportation & Economic Development Appropriations

This bill establishes a 10-year economic development program entitled the "Florida Empowerment Zone Program" within the Department of Community Affairs (DCA) in conjunction with the Federal Empowerment Zone Program.

The bill appropriates \$3.5 million to the DCA each fiscal year, for 10 years, beginning FY 1999-2000 for the purpose of funding local government awards under the Federal Empowerment Zone designation. The bill further authorizes DCA to adopt and enforce rules necessary to administer the program.

The bill extends the Urban High-Crime Tax credit program to qualified businesses located in that portion of Miami-Dade County designated as a federal empowerment zone. The bill also extends eligibility for the Rural Job Tax Credit Program to qualified businesses located in Immokalee.

The bill qualifies for enterprise zone designation, areas within Miami-Dade County designated as a federal empowerment zone, and the area of Immokalee designated as a rural enterprise community. Finally the bill, authorizes the creation of two new satellite enterprise zones outside of the boundaries of two existing enterprise zones that are located in Miami-Dade County and in the City of Bradenton.

The effective date of this bill is upon becoming law.

CS/HB 303--Florida World War II Veterans Memorial Trust Fund by Community Affairs; Turnbull and Others (passed as CS/SB 716 by Comprehensive Planning, Local and Military Affairs; Mitchell and Others)

House Committee(s) of Reference: Community Affairs; Health & Human Services Appropriations

This bill creates the Florida World War II Veterans Memorial Matching Trust Fund to be administered by the Department of Veterans' Affairs, for the purpose of receiving private contributions and matching state funds to build a Florida World War II Veterans Memorial.

The bill provides for a termination date of the trust fund and specifies that if the trust fund is terminated, the Department of Veterans' Affairs shall pay the outstanding obligations as soon as practicable. In that event, the Comptroller must close out and remove the trust fund from the state accounting systems.

The effective date of the bill is July 1, 1999, if HB 305 or similar legislation is adopted in the same legislative session or an extension thereof.

CS/HB 305--Florida World War II Veterans Memorial by Community Affairs; Turnbull and Others (passed as CS/SB 714 by Comprehensive Planning, Local and Military Affairs; Mitchell and Others)

House Committee(s) of Reference: Community Affairs; Health & Human Services Appropriations

The bill creates the "Florida World War II Veterans Memorial Act." The bill requires construction of a memorial to honor the residents of Florida who served in the Armed Forces of the United States during World War II.

The bill specifies that the memorial be located within the Florida Capitol Center Planning District (CCPD). The Commission on Veterans' Affairs (Commission) must

confer with the Capitol Center Planning Commission when considering the location of the memorial within the CCPD. The Commission must submit its recommendations for the location and design of the memorial to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 31, 2002.

Construction on the memorial must have begun by June 30, 2005, if sufficient funds are available in the Florida World War II Veterans Memorial Matching Trust Fund created by law. The bill requires that upon completion of the memorial, the Governor arrange an appropriate unveiling ceremony on a date that coincides with the anniversary of a significant event in the history of World War II.

The effective date of the bill is July 1, 1999, if HB 303 or similar legislation is adopted in the same legislative session or an extension thereof.

HB 313--Community Contribution Tax Credits by Fuller and Others (passed as SB 290 by Horne and Others)

House Committee(s) of Reference: Community Affairs; Insurance; Finance & Taxation; General Appropriations

House Bill 313 increases the total amount of Community Contribution Tax Credits that may be granted for programs outlined in ss. 220.183 and 624.5105, F.S. The annual increase of allowable credits is from \$5 million to \$10 million. The credits are granted against the corporate income tax and the insurance premium tax to corporations or insurers that participate in public revitalization projects such as enterprise zones.

The bill reduces General Revenue fund receipts by \$6.3 million in FY 1999-00 and by \$5.0 million in FY 2000-01.

The effective date of this bill is July 1, 1999.

CS/HB 401--Private Activity Bonds by Community Affairs; Ball (CS/SB 1252 by Commerce and Economic Opportunities; Kurth)

House Committee(s) of Reference: Community Affairs; Transportation & Economic Development Appropriations

This bill establishes a new bond allocation region consisting of Brevard and Volusia Counties. Since the state volume limitations are based on a population formula, these counties will compete for approximately \$19 million in bond allocations. Adding a new region provides Brevard and Volusia Counties better odds for bond allocations for their annual housing programs. The two counties in the new region are subject to the same

bond conversion criteria as provided by law. There appears to be no significant fiscal impact to the state in implementing the provisions of this bill.

The bill is effective upon becoming law.

CS/HB 475, 1st Engrossed--Housing Facilities/Older Persons by Community Affairs; Greenstein and Others (CS/SB 690 by Comprehensive Planning, Local and Military Affairs; Campbell)

House Committee(s) of Reference: Community Affairs; Real Property & Probate; Elder Affairs & Long-Term Care

This bill effectively allows certain communities (homeowners' associations), which otherwise meet certain specified criteria, to qualify as "housing for older persons" under the Florida Fair Housing Act (chapter 760).

The bill amends Part IV, of chapter 420, F.S., regarding housing, to change the definition of "housing for older persons" in s. 420.503, F.S. As such, it effectively lowers the allowable age range of elderly persons to 55 through 61 (inclusive) who qualify for a housing project that qualifies for an exemption under the Fair Housing Act provided other requirements are met-- with regard to certain provisions within the Florida Housing Finance Corporation Act and with regard to prioritizing projects for Internal Revenue Code tax credits.

This bill appears to have a positive indeterminate fiscal impact or benefit to the state by indirectly assisting the state in meeting its housing needs for the elderly. This bill does not appear to have a fiscal impact on local government.

The bill is effective upon becoming law.

HB 561, 1st Engrossed--Tax on Sales, Use & Other Transactions by Fasano

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Government Appropriations

The bill creates sales and use tax exemptions for sales and leases to the following not-for-profit organizations:

- All qualified veterans' organizations and their auxiliaries;
- Consumer credit counseling organizations that provide free of charge, or at a substantially reduced cost, consumer credit counseling to a client population which is disadvantaged or suffers a hardship;
- Athletic event sponsors that: (1) are incorporated pursuant to chapter 617, F.S.; (2) hold a current exemption from federal corporate income tax liability

pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and, (3) are funded primarily by county or municipal governments and have as their primary purpose the encouragement and facilitation of the use of certain locations within Florida as venues for sporting events;

- Organizations whose sole or primary function is to raise funds for another organization or organizations currently holding a consumer's certificate of exemption issued by the Department of Revenue;
- Certain nonprofit water systems (subject of HB 1925);
- Not-for-profit corporations which hold a current exemption from federal income tax under s. 501(c)(12) of the Internal Revenue Code, as amended, if the sole or primary function of the corporation is to construct, maintain, or operate a water system in this state; and,
- Library cooperatives certified under s. 257.41(2), F.S.

The bill also:

- Creates a sales and use tax exemption for works of art donated to educational institutions;
- Expands the sales tax exemption for schools preparing students for jobs in the motion picture industry to include leases of real property to the schools; and,
- Creates a sales and use tax exemption for the charge paid for the rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats for use during a high school or college football game in a high tourism impact county when the charge for such box seats is imposed by a nonprofit sponsoring organization.

The estimated fiscal impact of the bill, as amended, upon General Revenue is (\$4.7) million for FY 99-2000 and (\$5.1) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.5) million for FY 1999-2000 and (\$0.5) for FY 2000-2001. The total estimated fiscal impact for this bill is (\$5.2) million for FY 1999-2000 and (\$5.6) million for FY 2000-2001.

The effective date of the bill is upon becoming law.

HB 573, 1st Engrossed--Camp Blanding/Post Exchange Store by K. Smith (SB 1136 by Kirkpatrick)

House Committee(s) of Reference: Community Affairs; Transportation & Economic Development Appropriations

The bill amends 250.10, F.S., authorizing the Adjutant General of the Florida National Guard to establish a post exchange store. The store serves members of the Florida National Guard and other authorized users and is located at the Camp Blanding

Training Site. Operation of the store must be in accordance with relevant provisions of the Florida Statutes and federal rules and regulations.

The bill permits the use of the Camp Blanding Management Trust Fund in the initial operations of the post exchange store. The bill mandates that profits, if any, from the post exchange store must be deposited in the Camp Blanding Management Trust Fund. The funds must be used for the enhancement of the facilities and services provided by the Camp Blanding Training Site.

The bill allows the Adjutant General to establish an account with a federally insured financial institution in the state to facilitate the operations of the post exchange store.

The effective date of the bill is upon becoming law.

CS/HB 587, 1st Engrossed--Platted Lands by Real Property & Probate; Henriquez (CS/SB 2300 by Regulated Industries; Sebesta)

House Committee(s) of Reference: Community Affairs; Real Property & Probate

The CS requires a new boundary survey for a replat only when improvements are made which may affect the boundary of the previously platted lands, rather than when any improvements have been made on the land to be replatted or on adjoining lands. It deletes the requirement that registered surveyors and mappers employed by the same certified legal entity prepare a boundary survey and plat. In certain counties survey markers, or "monuments," must be placed on the corners of a lot prior to the transfer of that lot. The bill revises the execution requirements for a dedication, requiring that the dedication be executed by all persons, corporations, or entities whose signature is required to convey record fee simple title to the lands being dedicated in the same manner in which deeds are required to be executed.

The effective date of the bill is July 1, 1999.

HB 605--Housing Finance Authorities/Bonds by Flanagan (SB 1744 by Lee)

House Committee(s) Reference: Community Affairs; Financial Services; Finance & Taxation

This bill allows a housing finance authority that did not receive a private activity bond allocation to still provide for its affordable housing mortgage loan program. To accomplish this, the bill grants a housing finance authority permission to refund bonds previously issued by another housing finance authority with the other authority's consent.

This bill does not have any direct fiscal impact to the state or local government. However, the bill appears to promote fiscal efficiency within the affordable housing industry as well as assist the state in meeting its increasing affordable housing needs.

The effective date of the bill is July 1, 1999.

**HB 621, 2nd Engrossed--Wireless 911 Telephone Services
by Logan; Maygarden and Others (SB 178, 1st Engrossed, by
Comprehensive Planning, Local and Military Affairs)**

House Committee(s) of Reference: Community Affairs; Governmental Operation; Utilities & Communications; Finance & Taxation; General Government Appropriations

This bill provides legislative findings, purposes, and intent. It provides definitions to include references to the Federal Communications Commission Orders that have been adopted in FCC Docket No. 94-102 and orders and rules subsequently adopted by the FCC relating to the provision of 911 services. It provides duties of the Department of Management Services with respect to the Wireless 911 Board.

This bill creates the Wireless 911 Board and provides the duties, membership, and powers of the board. It requires the board to report to the Governor and the Legislature each year. It requires completion of a study for submission to the Governor and the Legislature. It requires the board to retain an independent accounting firm for certain purposes. It provides a process for firm selection.

This bill imposes a monthly fee for certain 911 telephone service. It provides a rate and adjustment of the rate. It exempts the fee from state and local taxes. It prohibits local governments from imposing additional fees related to such service. It provides procedures for collecting the fee and remitting the fee to the board. It provides criteria for provision of certain services. It prohibits certain activities relating to wireless 911 telephone service and provides penalties. It provides that the act does not preempt other laws that regulate providers of telecommunications service.

The bill clarifies that the Wireless 911 Board has the authority to consider emerging technology and related cost savings.

An appropriation of \$18,711,000 to the Department of Management Services from the Wireless Emergency Telephone System Trust Fund for the 1999-2000 fiscal year is included in the bill. Of this sum, \$8,607,060 is distributed to counties, \$9,729,720 is distributed to 911 service providers, and \$374,220 is distributed to the Department of Management Services for administrative costs.

The effective date is July 1, 1999

CS/HB 647--Economic Development/Rural Areas by the Committee on Community Affairs; K. Smith (passed in CS/CS/ SB 1566, 2nd Engrossed, by Fiscal Policy; Community and Economic Opportunities; Kirkpatrick and Others)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; Transportation & Economic Development Appropriations

The bill creates the "Rural Economic Development Enhancement Act."

The bill provides that local governments' future land use plans must include data in rural communities which demonstrates the need for job creation, capital investment and economic development. Furthermore, future planned industrial uses shall not be limited by population base or other factors relating to low density population.

The bill authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to recommend to the Legislature additions to or deletions from the list of standard industrial classifications used to determine an eligible business for purposes of the Rural Job Tax Credit Program.

The bill adds a rural community definition to the tax refund program for qualified target industry businesses definitions and expands the requirements to become a target industry business.

The bill creates the Rural Economic Development Initiative to be administered by OTTED.

The bill authorizes OTTED to accept and administer funds appropriated for grants to assist rural communities to develop and implement economic development strategic plans and provides for a review of grant applications.

The bill authorizes the Department of Community Affairs (DCA) to establish a grant program to assist rural counties in financing studies regarding the establishment of municipal service taxing or benefit units. The bill also grants DCA rule-making authority.

This bill was passed in HB 1566.

HB 659--Local Government Comprehensive Planning by Merchant (passed as CS/SB 2380, 2nd Engrossed, by Comprehensive Planning, Local and Military Affairs; Rossin

House Committee(s) of Reference: Community Affairs; Education K/12

CS/SB 2380, 2nd Engrossed, provides that the limitation on amendments to a local government's comprehensive plan does not apply to amendments necessary to establish public school concurrency. It requires all local government public schools facilities elements within a county to be prepared and adopted on a similar time schedule. It revises requirements related to inclusion of school siting elements in comprehensive plans.

This CS provides guidelines for determining suitability of soils for septic tanks. It acknowledges the state land planning agency's responsibility to review and evaluate comprehensive plan amendments proposing location, installation, or use of on-site sewage treatment and disposal systems. It prohibits the state land planning agency from requiring the use of standards, conditions, or land-use restrictions that are more stringent than or have the effect of being more stringent than the applicable statutes or rules adopted by the Department of Health, the Department of Environmental Protection, or any other agency regarding or affected by the location, installation, or use of onsite sewage treatment and disposal systems and provides an exception to the prohibition.

This CS provides that certain public educational facilities are consistent with local comprehensive plans under certain circumstances.

This CS provides criteria for district school boards and local governmental entities to consider in determining hazardous walking conditions for students, etc.

This CS clarifies space requirements for certain publicly owned buildings located in community redevelopment areas.

The act becomes effective upon becoming a law.

HB 867, 1st Engrossed--Public Construction by Brummer and Others (CS/SB 1906 by Comprehensive Planning, Local and Military Affairs; Sebesta and Others)

House Committee(s) of Reference: Community Affairs; Business Regulation & Consumer Affairs; Education Appropriations

The bill amends current law regarding competitive bidding for local public construction work as follows:

- Requires counties, municipalities, special districts and political subdivisions to competitively award public electrical work contracts in excess of \$50,000.
- Provides that construction costs used to determine the \$200,000 threshold amount for competitive bidding, shall be *total* construction project costs.

- Requires that when the local governing board of the local government decides that it is in the best interest to award a project to a private sector contractor, that it do so upon consideration of specific substantive criteria and administrative procedures expressly set forth in a charter, ordinance, or resolution adopted prior to July 1, 1994.
- Adds that in the event that the project is awarded in a method other than a competitive bid, the governing board must find *evidence* that (1) there is one uniquely qualified licensed contractor and the work is of such a specialized nature that obtaining competitive bids is not possible, or (2) there are time constraints that are of no fault of the public owner or its agents.
- Requires that if the project is to be awarded by a method other than a competitive selection process, the architect or engineer of record has provided a written recommendation that the project be awarded to the private sector contractor without competitive selection and the considerations and justifications for the decision by the local government are documented in writing.
- Requires that for electrical work greater than \$50,000 which is begun after October 1, 1999, and is to be performed by a local government using its own employees, the local government use a licensed contractor.
- Adds a standing provision for a licensed contractor or vendor interested in submitting an offer to perform work under this section to sue the appropriate local government and provides that the prevailing party shall be entitled to recover its reasonable attorney's fees.

The effective date of the bill is October 1, 1999.

HB 975, 1st Engrossed--Hurricane Loss Mitigation Program by Feeney and Others (SB 872 by Latvala and Others)

House Committee(s) Reference: Community Affairs; Finance & Taxation; General Government Appropriations

This bill creates the Hurricane Loss Mitigation Program and provides for a \$7 million annual appropriations from the Florida Hurricane Catastrophe Fund to the Department of Community Affairs. At least 40 percent of the total appropriation must be used for mobile homes, including programs to inspect and improve tie-downs, construct and provide safety structures, and provide other means to reduce losses. In the second year of the program, at least 30 percent, and thereafter at least 20 percent must be used for such purposes. The bill also allocates 10 percent of the \$7 million appropriation to the State University System for hurricane research to support hurricane loss reduction devices and techniques for residences and mobile homes with regard to the development of credible data on potential loss reduction.

The bill requires the DCA to develop programs in consultation with an advisory council appointed by the Secretary of DCA. The council must consist of a representative from

the Department of Insurance, home builders, insurance companies, the Federation of Mobile Home Owners, the Florida Association of Counties and the Florida Manufactured Housing Association who is a mobile home manufacturer or supplier.

The DCA must report on the activities funded and evaluate the same on January 1, 2001, and January 1, 2002. The report and evaluation must be submitted to the House Speaker, Senate President, and the Majority and Minority Leaders of the House and Senate.

The effective date of the bill is July 1, 2000.

**HB 1737--Tangible Personal Property Taxes
by Representative Brummer and Others** (passed in CS/SB 172, 2nd
Engrossed, by Fiscal Resource; Horne and Others)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Appropriations

This bill requires that the property appraiser grant an extension for filing a tangible personal property tax return for 30 days if a request is submitted. The bill authorizes an additional discretionary extension of up to 15 additional days. This is different from current law, as the property appraiser now has complete discretion to grant up to a 45-day extension. Although this bill does not change the maximum amount of days allowed for the extension (45 days), it does limit the property appraiser's discretion to only 15 days. Upon filing a request for an extension, a taxpayer will receive, at a minimum, a 30-day extension. This period may be extended for an additional 15 days at the discretion of the property appraiser.

The bill prohibits the property appraiser from requiring a request for extension more than 10 days prior to the tax return's due date.

The bill revises the requirements relating to the extension request by allowing any or all of the following information to be included in the request: name of the taxable entity, tax identification number, and the reason a discretionary extension is granted. The required information is at the option of the property appraiser.

HB 1737 died in the Senate Committee on Comprehensive Planning, Local and Military Affairs on April 30, 1999. However, HB 1737 can be found in section 2 of CS/SB 172, 2nd Engrossed.

The effective date of CS/SB 172, 2nd Engrossed, is July 1, 1999.

HB 1771--Local Govt./Tax Certificates & Deeds by Sublette (passed as SB 1534, 1st Engrossed, by Meek)

House Committee(s) of Reference: Community Affairs; Finance & Taxation

SB 1534, 1st Engrossed, clarifies language relating to the county extending or modifying leases. In addition, boards of county commissioners are authorized to sell real property that is of insufficient size and shape for a building permit for any type of development, and is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners.

The bill increases the authorization of board of county commissioners to sell any parcel of real property from property valued at less than \$5,000 to property valued at less than \$15,000. The property must be of such a size, shape, and location that the board determines the property is only of use to one or more adjacent property owners.

The bill changes the event which starts the 90-day period in which the county may purchase land which was not purchased at a public sale. The bill provides that the 90 days begin when the land is listed on the "lands available for taxes" list, not 90 days after the day of offering for public sale. The bill clarifies who may purchase the property after the 90 days has run to specify the county and any other governmental unit. The bill allows the omitted years' taxes (taxes which have not been extended against parcels on the list are treated as omitted taxes) to be canceled by the board of county commissioners if a governmental body purchases the property for its own use.

The bill provides that the board of county commissioners may cancel county-held tax certificates and omitted years' taxes on properties acquired by the county for the express purpose of providing in-fill housing. The bill prohibits the transfer of property acquired for in-fill housing from being transferred to a taxpayer who failed to pay the delinquent taxes or charges that led to the tax certificate or lien. The bill defines taxpayer to include taxpayer's family or any entity in which the taxpayer or taxpayer's family has an interest. The bill also provides that property acquired by the county for delinquent taxes, when such property is acquired for in-fill housing, does not have to be conveyed to a municipality even if located in the municipality.

The bill provides that property acquired by the county for delinquent taxes, when such property is acquired for in-fill housing, does have to be conveyed to a municipality even if located in the municipality. This applies to tax certificates issued after July 1, 1999.

In addition, the bill includes the substance of HB 231, which provides for a partial refund of taxes levied in 1998 and 1999 on residential property destroyed or damaged by forest fire, hurricane, tropical storm, sinkhole, or tornado, which is not capable of being used or occupied. To qualify for such tax abatement or refund, the residential house must be incapable of being used and occupied. Property owners must file an application with the property appraiser before August 15, 1999 for any damages arising

in 1998, and by June 1, 2000 for any damage occurring between January 1, 1999 and April 30, 1999. Failure to make such timely application constitutes a waiver of any claim for a partial abatement or refund under this bill.

In turn, the property appraiser must determine whether the property is eligible for a partial abatement or refund, and submit an official written statement to the tax collector with the following information:

- The number of months the residential house was not capable of use and occupancy;
- The value of the residential house before the damage or destruction;
- The total taxes due on the residential house, based on the ratio that the number of months of loss of use and occupancy bears to 12; and
- The amount of abatement or refund in taxes.

The tax collector must abate or refund the taxes on the property shown on the tax collection roll in the abatement or refund amount specified by the property appraiser. By September 1, the tax collector must notify the Board of County Commissioners and the Department of Revenue of the total reduction in taxes resulting from the partial abatement or refund of taxes granted in the county. This section of the bill expires October 1, 2000.

The effective date of this bill is upon becoming a law.

HB 1963--Enterprise Zones

by Dennis (passed in CS/CS/SB 1566, 2nd Engrossed, by Fiscal Policy, Commerce and Economic Opportunities; Kirkpatrick and Others)

House Committee(s) of Reference: Community Affairs; Governmental Rules & Regulations; Finance & Taxation; Transportation & Economic Development Appropriations

This bill directs the Office of Tourism, Trade and Economic Development to designate a pilot project area within an enterprise zone and specifies qualifications such area must meet. Furthermore, the bill provides for sales tax and corporate income tax credits for \$1 million annually.

CS/CS/SB 1566, 2nd Engrossed, becomes law, unless otherwise provided in the bill, on July 1, 1999.

HB 2079--Florida Clean Air Act

by Gay and Others (passed in CS/CS/SB 1270, 3rd Engrossed, by Fiscal Policy; Transportation; Casas; Forman)

House Committee(s) of Reference: Community Affairs; Environmental Protection; Governmental Operations; Transportation & Economic Development Appropriations

These provisions establishes the Clean Air Florida Advisory Board (board) to study the use and implementation of alternative fuel programs for Florida. The board must develop recommendations to the Florida Legislature on future alternative fuel vehicle programs. Also, the board must make recommendations for establishing pilot programs for Florida that provide “experience and support the best use expansion of the alternative fuel industry.” The provisions have an insignificant fiscal impact.

CS/CS/SB 1270, 3rd Engrossed, unless otherwise provided in the bill, takes effect upon becoming a law.

Committee on Election Reform

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 125--Candidates for Public Office by Election Reform; Alexander and Others (SB 866 by Lee)

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill requires a subordinate officer, deputy sheriff, or police officer to resign effective upon qualifying to run for public office against his or her incumbent superior who has sought reelection. If the subordinate officer, deputy sheriff, or police officer is seeking public office but not against his or her superior, that subordinate officer, deputy sheriff, or police officer must take a leave of absence without pay during the period of his or her candidacy.

This bill will become effective upon becoming a law.

HB 281, 1st Engrossed--Election Protest & Contests by Detert and Others (CS/SB 822 by Ethics and Elections; Carlton)

House Committee(s) of Reference: Election Reform; Judiciary

This bill is the result of an interim project that was done in 1997. The bill revises the time-frames for filing an election protest, request for manual recount, and election contests. In addition, the bill deletes the "protest of election returns in circuit court" cause of action and merges the broader provisions of this cause of action with the "election contest" procedure. The grounds for contesting an election are specified and more detail is provided regarding the actual procedure of filing an election contest. The bill codifies that jurisdiction to hear a contest of the election of a member to either house of the Legislature is vested in the applicable house in accordance with its rules.

The effective date of the bill is July 1, 1999.

HB 1463--Elections/Lieutenant Governor by Election Reform; Flanagan and Others (passed as CS/SB 752 by Ethics and Elections; Ethics and Elections and Others)

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill implements the recent changes to Article IV, Section 5(a), of the Florida Constitution, which allows gubernatorial candidates to run without designating a

running mate in the primary elections. The bill provides that the gubernatorial candidate has the option of designating his or her Lieutenant Governor running mate after the second primary election, thus permitting the consideration of candidates who were eliminated during the primary process. Further, this bill provides for ballot language on primary election ballots and advance absentee ballots for general election if candidate for Lieutenant Governor has not been designated by time certain; allows an exception to s. 100.111, F.S., known as the "Sore Loser Law," allowing a candidate who has qualified for public office and has either withdrawn or been eliminated to be designated as candidate for Lieutenant Governor.

The bill shortens the time-frame for certifying election results for the second primary to allow gubernatorial candidates time to choose and qualify a running mate. Candidates for Lieutenant Governor will not be required to pay a separate qualifying fee or obtain signatures on petitions.

The effective date of the bill is January 1, 2000 (chapter 99-140, L.O.F.).

**HB 2109--Elections (Ballot Access for Minor Party Candidates and Candidates with No Party Affiliation)
by Election Reform; Flanagan and Others (passed as SB 754 by
Ethics and Elections and Others)**

House Committee(s) of Reference: Election Reform; Governmental Operations

This bill implements changes to Article VI, Section 1 of the Florida Constitution that were made with the passage of Constitutional Revision No. 11. Specifically, the bill reduces the petition requirement for the alternative method of qualifying for all candidates. Major party candidates, candidates with no party affiliation, and minor party candidates may obtain petitions equal to one percent (1%) of the registered voters of the jurisdiction represented by the office sought. The requirement that signatures only be obtained from registered voters of the candidate's party has been eliminated.

The bill also provides that minor party candidates and candidates with no party affiliation may either pay or petition to obtain a position on the general election ballot.

This bill will become effective upon becoming a law.

**HB 2163--Judicial Selection
by Election Reform; Flanagan (CS/SB 1210 by Judiciary; Grant)**

House Committee(s) of Reference: Election Reform

This bill implements changes to Article V, Subsections 10, 11(a)-(b) of the Florida Constitution that were made with the passage of Constitutional Revision No. 7. Specifically, the bill provides for the local option for selection of circuit and county court judges by election or merit selection and retention. The bill provides that the voters of each judicial circuit or county must be provided the opportunity to determine if circuit or county court judges will be elected by the voters or appointed through merit selection and retention.

In addition, the bill establishes the process by which the issue will be placed on the ballot. The bill requires that the 2000 general election ballot present to the voters the opportunity to change from election of judges to merit selection and retention. After the 2000 general election, the method of selection of circuit or county court judges may be placed on the ballot through the petition process.

This bill has an effective date of January 1, 2000.

**HB 2263--Nonpartisan Elections (of School Board Members)
by Election Reform; Flanagan (passed as SB 756, 2nd Engrossed,
by Ethics and Elections and Others)**

House Committee(s) of Reference: Election Reform

This bill implements changes to Article IX, Section 4(a) of the Florida Constitution that were made with the passage of Constitutional Revision No. 11. Specifically, the bill provides for the nonpartisan election of school board members. The only chapter in the Florida Election Code which specifically details nonpartisan elections is chapter 105, F.S., *Nonpartisan Elections for Judicial Officers*.

The bill amends chapter 105, F.S. to apply to candidates for school board. School board candidates will qualify by paying a qualifying fee of 4% of the annual salary, to be deposited in the Elections Commission Trust Fund, unless the candidate chooses to qualify by the alternative method. Nonpartisan candidates who use the petition method of qualifying will not be required to state that the filing fee imposes an undue burden on their personal resources, or on resources otherwise available to them.

The names of the qualified candidates will appear on the first primary election ballot. If no candidate receives a majority of the votes in the first primary, the two candidates with the highest number of votes will have their names printed on the general election ballot. The bill repeals s. 230.08, F.S., which provides for school board members to be nominated by political parties holding primary elections.

The effective date of this bill is January 1, 2000.

Committee on Governmental Operations

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 1, 3rd Engrossed--State Agency Performance Report by Governmental Operations; Posey and Others (CS/SB 228 by Fiscal Policy; Webster)

House Committee(s) of Reference: Governmental Operations; Financial Services; General Appropriations

This bill requires each state agency's annual performance report to include a one page summary of agency performance, to include:

- A notation of the total of all moneys which came into the jurisdiction of each agency;
- Line-items for programs provided by each agency, including their sub-units and contractors;
- Total amounts spent for each program;
- Amounts spent in each program output measure (when such measures are available), expressed in terms of cost per unit;
- Amounts spent for major services and products (when output measures are not available), expressed in terms of cost per unit.
- Separate line items for total reversions;
- Separate line items for total pass-throughs to entities over which agencies have no authority or responsibility.

The bill provides for disincentives for failing to submit the required one page summary forms.

The bill provides for the Executive Office of the Governor, in cooperation with other organizations, to provide instructions for the unit cost summaries, including interim instructions for a phase-in year.

The bill provides that the Office of Program Policy Analysis and Governmental Accountability will receive a copy of each agency's annual performance report.

The bill provides for the Florida Financial Management Information System Coordinating Council to make recommendations concerning enhancements to the Florida Accounting Information Resource Subsystem which would support agencies in their unit cost reports.

The bill requires appropriation by the Legislature to expend revenues generated by taxes or fees imposed by amendment to the State Constitution after October 1, 1999.

The bill provides that area agencies on aging are subject to ss. 286.011-286.012, F.S., when considering any contracts requiring the expenditure of funds.

The effective date of this bill is July 1, 1999.

HB 73--LES Dept./Reorganization

by Merchant and Others (passed as CS/CS/SB 230, 2nd Engrossed, by Commerce and Economic Opportunities; Governmental Oversight and Productivity; Webster)

House Committee(s) of Reference: Governmental Operations, Governmental Rules & Regulations, General Government Appropriations

The second engrossed version of Committee Substitute for Committee Substitute for Senate Bill 230 reorganizes the Department of Labor and Employment Security and provides authority for the reorganization of the Department of Education by the Commissioner of Education.

The bill provides that the Department of Labor and Employment Security is to operate in a decentralized fashion. All actions required by the reorganization are to be accomplished within available appropriations and existing resources of the department. The secretary is to appoint two assistant secretaries with specified jurisdictional areas. The secretary is also to appoint a comptroller, whose duties are defined in the bill. Additionally, special offices are created within the department to house the General Counsel and Inspector General. Five field offices are established in Panama City, Lake City, Orlando, Tampa and Miami. The Division of Jobs and Benefits is renamed the Division of Workforce and Employment. Statutory authority creating the Unemployment Appeals Commission is deleted from s. 20.171, F.S., and recreated in chapter 443, F.S.

The jurisdiction of the Division of Safety is limited to public sector employers. Further, statutory authority for the Division of Safety is repealed effective July 1, 2000, and the department is required to conduct a study on the proposed reauthorization of the division by January 1, 2000. The brain and spinal cord injury program is transferred to the Department of Health by a type two transfer effective July 1, 2000. The Division of Blind Services is transferred by a type two transfer to the Department of Education effective January 1, 2001.

The Occupational Access and Opportunity Commission is created and is to be housed in the Department of Education. It is to develop the federally required vocational rehabilitation plan, contract with an administrative entity that will support the commission's work, and receive federal funds as the state's vocational rehabilitation agency. The Department of Labor and Employment Security, Division of Vocational Rehabilitation, must comply with the transitional direction of the plan. If the commission does not designate the division as the administrative entity for implementing the plan,

then all the powers, funds, property and equipment of the division's component programs shall be transferred to the designated administrative entity by type two transfer.

The department is to contract with one or more consumer reporting agencies to provide creditors with secured electronic access to quarterly wage reports submitted by employers pursuant to the unemployment compensation law.

The Commissioner of Education is to appoint a deputy commissioner for technology and administration. The Commissioner of Education is authorized to reorganize the Department of Education and must report on the reorganization to the Legislature by January 1, 2001. The Department of Education is also appropriated \$500,000 from the General Revenue Fund.

Except where otherwise provided in the bill, the effective date of the bill is October 1, 1999.

**HB 169--Treasurer/Deferred Compensation Plan
by Turnbull and Others (passed as SB 326, 1st Engrossed, by
Thomas)**

House Committee(s) of Reference: Governmental Operations; Financial Services;
General Government Appropriations

This bill prohibits fees received from deferred compensation participants from being transferred to the General Revenue Fund, and requires that such fees be used to operate the deferred compensation program.

The effective date of this bill is upon becoming a law.

**CS/HB 223--Governmental Conflict Resolution
by Community Affairs; Constantine and Others (SB 1076 by
Webster)**

House Committee(s) of Reference: Governmental Operations; Community Affairs

This bill requires disputing governmental entities to first attempt to resolve their conflicts without litigation before continuing with court proceedings.

This bill changes how intergovernmental disputes are governed in the following ways:

- Expands the scope of those governmental entities to be regulated, so as to include local and regional governmental entities (not just counties and municipalities).
- Establishes procedures and requirements for conflict resolution proceedings, which, except in certain specified circumstances, must be exhausted by the governmental entity initiating the lawsuit before court proceedings are continued.
- Provides for procedures and requirements for conflict assessment meetings, joint public meetings, mediation, and final conflict resolution.

The effective date of this bill is upon becoming a law.

**CS/HB 243--Public Works Projects/Suits
by Governmental Operations; Trovillion and Others** (passed in combined CS/HB 311, CS/HB 243, 1st Engrossed, by Judiciary; Fuller and Others)

House Committee(s) of Reference: Governmental Operations; Judiciary; Transportation & Economic Development Appropriations

This bill specifies conditions under which suits may be brought by and against public authorities on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or written directive on a public works project at which the public authority requires a performance bond. In any such suit, both the public authority and the contractor shall have the same rights, obligations, remedies and defenses as a private person, except for liability based on an oral modification.

This bill provides that public authorities which are parties to the suit do not waive sovereign immunity from equitable claims and remedies.

The effective date is upon becoming law, and will apply to contracts entered into on or after July 1, 1999.

**CS/HB 261, 1st Engrossed--Firefighters & Policy Pension TF
by Governmental Operations; Pruitt; Fasano and Others** (SB 380, 1st Engrossed, by Webster)

House Committee(s) of Reference: Governmental Operations; Finance & Taxation

This bill revises chapters 175 and 185, F.S., relating to fire and police pension plans, to apply minimum benefits and standards to all plans funded under the chapters. This bill also modifies current law to:

- Allow members to retire after 25 years service and reaching age 52; allow up to the current 5 years credit for a military leave of absence; specify that employers can set a benefit factor above 2 percent; and clarify provisions on refund of contributions.
- Modify provisions related to funding, contributions, and other fiscal matters to lower the minimum employee contribution to 0.5 percent; provide time frames for deposit of contributions; retain the provision allowing employers to delay meeting minimum standards until state funding is available; and define the term “extra benefits.”
- Define terms and clarify provisions to assure parity between firefighters and police; remove discriminatory provisions; and update references to the Florida Retirement System (FRS) in response to a 1995 law that allowed cities and special districts to withdraw from the FRS and establish a local plan (which may be a 175/185 plan).
- Clarify provisions related to pension boards to eliminate combined plans which include general employees; provide for board representation in combined police and firefighter plans; specify voting requirements; and authorize boards to hire or use independent consultants, legal counsel, actuaries, and other technical advisors.
- Modify provisions related to plan administration to increase the asset level at which annual audits are required; provide for three-year valuation schedules; and streamline reporting requirements.
- Establish a 75-percent joint-and-survivor payment option; clarify beneficiary provisions; allow disabled retirees to elect regular benefit payment options; increase the threshold for lump-sum payments; and clarify plan termination requirements.

The effective date of this bill is upon becoming a law (chapter 99-1, L.O.F.).

HB 357, 2nd Engrossed--Hospital Meetings & Records **by Fasano (CS/SB 1012 by Health, Aging and Long-Term Care;** **Carlton)**

House Committee(s) of Reference: Governmental Operations; Community Affairs

This bill defines in detail the term “strategic plan” of hospitals which are subject to Florida public records laws for purposes of confidentiality of such plans and of meetings related to such plans. It expands the current hospital public meetings exemption to include not only when a strategic plan is discussed or reported on, but also when it is being modified or approved.

The bill authorizes the release of the transcripts of such meetings earlier than the statutory three years if the strategic plan has been publicly disclosed by the hospital or implemented to the extent that the circumstances do not require the transcript of the meeting to remain confidential.

The bill provides a public necessity statement for the exemptions in s. 395.3035, F.S., dealing with the confidentiality of public hospital records and meetings.

The exemption is made subject to the Open Government Sunset Review Act of 1995 and stands repealed on October 2, 2004, unless reviewed and reenacted by the Legislature.

The effective date is upon becoming a law.

**HB 619--Sales Tax/Manufactured Asphalt
by Logan and Others** (passed as SB 1296, 1st Engrossed, by Sullivan
and Others)

House Committee(s) of Reference: Governmental Operations; Finance & Taxation;
Transportation & Economic Development Appropriations

The bill exempts manufactured asphalt which is used for state or local public works projects from the indexed tax imposed by s. 212.06, F.S.

The effective date of this bill is July 1, 1999.

**HB 885, 1st Engrossed--FRS/Judge of Compensation Claims
by Boyd and Others** (CS/SB 724, 1st Engrossed, by Governmental
Oversight and Productivity; Silver)

House Committee(s) of Reference: Governmental Operations; General
Appropriations

Effective July 1, 1999, participation in the Senior Management Service Class is compulsory for any member of the Florida Retirement System who is employed as a judge of compensation claims with the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security. In lieu of participating in the Senior Management Service Class, a judge of compensation claims may participate in the Senior Management Service Optional Annuity Program.

This bill also provides that in lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class may withdraw from the Florida Retirement System altogether. The decision to withdraw from the Florida Retirement System shall be irrevocable for as long as the employee holds such a position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior

Management Service Optional Annuity Program (this provision is the essence of HB 61 by Lynn).

The effective date of this bill is July 1, 1999.

CS/HB 1013--FRS Preservation of Benefits Plan by Governmental Operations; Bloom and Others (CS/SB 1856 by Governmental Oversight and Productivity; Silver)

House Committee(s) of Reference: Governmental Operations; General Appropriations

This bill CS/HB 1013 creates the Florida Retirement System Preservation of Benefits Plan to provide retirement benefits that would otherwise be limited by the maximum benefit limitations of s. 415(b) of the Internal Revenue Code. This bill will provide an approved mechanism for FRS retirees to receive the retirement benefits they have earned and for which retirement contributions have been paid. CS/HB 1489, the traveling trust fund bill, creates a separate trust fund referred to as the "Florida Retirement System Preservation of Benefits Plan Trust Fund" for the purpose of providing retirement benefits that would otherwise be paid from the Florida Retirement System except for the maximum benefit limitations of s. 415(b) of the Internal Revenue Code.

The effective date of these bills is July 1, 1999.

CS/HB 1707, 1st Engrossed--Management Services Department by General Government Appropriations; Governmental Operations; Posey and Others (CS/CS/SB 2410 by Fiscal Policy; Governmental Oversight and Productivity; Webster)

House Committee(s) of Reference: Governmental Operations; General Governmental Appropriations

This bill updates organizational structure changes to the Department of Management Services resulting from the implementation of Performance-Based Program Budgeting (PB²); and makes technical changes to several state employment service programs overseen by the agency.

This bill also clarifies and corrects statutory cross references where necessary; increases the cap on meritorious service awards; deletes a requirement for certain reports; recognizes the service of volunteers and provides a limitation on volunteer awards; provides for a uniform appraisal system for employees and positions in the selected exempt service; exempts certain leases from the competitive bidding process; revises the threshold

for leased space facility requirements; provides for the disbursement of moneys received from disposition of state-owned tangible personal property; increases purchasing category threshold amounts; requires a report on break-even mileage to be submitted biennially to agency inspectors general; requires a report from agency heads on employee use of state motor vehicles; provides criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; deletes obsolete language from the statutes; repeals a pilot program that terminated the state air contract and authorizes the department to negotiate air services to and from Tallahassee and other cities; provides senior management service status for certain positions in the Governor's Office; clarifies the department's responsibility for implementing the Law Enforcement Radio System; repeals s. 110.207(1)(g), F.S., relating to statewide planning of career service broad-banding compensation and classification; requires certain pay implementations to be subject to review and recommendation by the Department of Management Services and approval by the Office of Planning and Budgeting; repeals s. 59(4) of SB 2502, enacted in the 1999 Regular Session of the Legislature, relating to performance measures for the Florida Public Service Commission; provides that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses; provides such legislators may also elect to continue coverage under the group term life insurance program prevailing for current members at the premium cost in effect for that plan; and directs the department to seek proposals for the use or transfer of a specified state residential public education facility, and requiring the department to take steps to preserve the facility.

The effective date of this bill is upon becoming a law.

**CS/HB 1831--Statewide Drug Control
by Governmental Operations; Feeney (passed as CS/CS/SB 1468 by
the Fiscal Policy; Criminal Justice; Brown-Waite)**

House Committee(s) of Reference: Governmental Operations; Transportation & Economic Development Appropriations

This bill creates a state Office of Drug Control, with a director appointed by the Governor, and a Statewide Drug Policy Advisory Council within the Executive Office of the Governor. The bill provides support, duties and responsibilities of each, along with an fiscal appropriation.

The effective date of this bill is upon becoming a law.

HB 1883, 2nd Engrossed--State-Administered Retirement by Governmental Operations; Posey and Others (SB 2530, 1st Engrossed, by Webster)

House Committee(s) of Reference: Governmental Operations; Governmental Rules & Regulations; General Appropriations

This bill comprises miscellaneous retirement legislation necessary for the Division of Retirement to adequately manage and administer the retirement programs for which it has responsibility. It provides for the division to review and comment on local government retirement system actuarial valuation reports and impact statements on a triennial basis; it provides that required payments based on the most recent actuarial valuation are subject to being state-accepted; it modifies the current limitation on benefits for service under more than one retirement system or plan; it clarifies requirements related to consolidation of existing retirement systems and preservation of rights; it redefines "creditable service" to conform the definition to existing law; it clarifies creditable service provisions for certain school board employees; authorizes the Division of Retirement to adopt rules; and establishes in statute the Florida Retirement System Actuarial Assumption Conference and designates the principals of the conference to develop consensus information with respect to the economic and non-economic assumptions and funding methods of the Florida Retirement System.

This bill reenacts certain sections of the Florida Statutes as a result of recent court action. The reenacted sections include: Florida Retirement System membership status of blind vending facility operators; Florida Retirement System membership eligibility and retirement contribution payments for blind vending facility operators; and legislation relating to 1996 contribution rates. It establishes changes in contribution rates for classes and subclasses of the system, effective July 1, 1999, based on the 1998 annual actuarial valuation of the FRS; corrects errors; conforms provisions relating to de minimis accounts to federal law; clarifies provisions relating to past service and prior service; clarifies proof of disability requirements; modifies provisions relating to death benefits to permit purchase of certain retirement credit by joint annuitants and clarifies the contribution rate and interest required to be paid for such purchases; updates and corrects references; authorizes the State Retirement Commission to adopt rules related to their specific duties; repeals s. 121.027, F.S., as created by chapter 97-180, L.O.F., which gave rule-making authority to the Division of Retirement for administering all of the provisions of chapter 97-180, L.O.F.; provides that the Board of Trustees of the State Board of Administration shall review the actuarial valuation report and the process by which FRS contribution rates are determined and recommend and submit any comments regarding the process to the Legislature; providing presumptions that certain illnesses incurred by state law enforcement officers are done so in the line of duty; providing that with respect to municipal firefighters' and police officers' retirement trust funds that the board of trustees may invest in corporations on the National Market System of the Nasdaq Stock Market; increasing the age at which a Special Risk Class Member must elect whether

to participate in the Deferred Retirement Option Program; redefining the term "special risk member"; adding to the Special Risk Class of membership certain emergency medical technicians and paramedics; and providing a declaration of important state interest with regard to this legislation.

This bill also provides that it is the intent of the legislature to review the current benefits provided under the Florida Retirement System during the 2000 Legislative Session. To this end, prior to February 1, 2000, the Senate Fiscal Policy Committee, the Senate Governmental Oversight and Productivity Committee, the House Governmental Operations Committee and the House General Appropriations Committee will review the current Florida Retirement System and make recommendations to the presiding officers regarding the costs and benefits of alternative retirement plan options on both the employers and employees. These recommendations shall include a defined contribution plan.

The effective date of this bill is upon becoming a law, except that the reenacted subsections shall operate retroactively to June 7, 1996, and except that the amendments to paragraph (c) of subsection (15) of section 121.021, and subsections (1) and (2) and paragraph (a) of subsection (7) of s. 121.0515, F.S., shall take effect October 1, 1999.

HB 2043--Presentence Investigation Reports **by Bense** (passed as CS/SB 1870 by Criminal Justice; Clary)

House Committee(s) of Reference: Governmental Operations; Crime & Punishment

This bill provides an exception to a public record exemption for certain information contained in a presentence investigation report (PSI) of a convicted criminal. It allows a state attorney to permit a victim of a crime, a victim's parent or guardian if a minor, or next of kin if a homicide, to review a copy of the PSI prior to sentencing upon request. It provides that confidential information shall be blackened out before such review, and that the victim shall maintain the confidentiality of the contents of the report.

The effective date of this bill is July 1, 1999.

HB 2055--One-Stop Permitting System **by Governmental Operations; Constantine and Others** (passed as CS/CS/SB 662, 3rd Engrossed, by Fiscal Policy; Comprehensive Planning, Local and Military Affairs; Carlton)

House Committee(s) of Reference: Governmental Operations; General Governmental Appropriations

This bill requires the Department of Management Services (DMS) to create a One-Stop Permitting Internet System to provide individuals and businesses with a central source of development permit information. To accomplish this, the bill:

- Requires a permit that is filed using the One-Stop Permitting System to be approved or denied within a specified time.
- Provides for a temporary waiver of certain permit fees for applications filed using the One-Stop Permitting System.
- Creates the Quick Permitting County Designation Program within the DMS, and provides for grant moneys to be awarded to counties certified as Quick Permitting Counties.
- Provides a \$100,000 appropriation to fund the administrative costs to establish the system, and appropriates \$3,000,000 to offset reduced revenues resulting from implementing the One-Stop Permitting System.

The effective date of this bill is July 1, 1999.

HB 2219--DMS/Reorganization

by Sanderson (passed as CS/SB 2280, 2nd Engrossed, by Governmental Oversight and Productivity; Campbell)

House Committee(s) of Reference: Governmental Operations; General Government Appropriations

This bill reorganizes the Department of Management Services (DMS) transferring functions of the Division of State Group Insurance and the Division of Retirement to the Department of Management Services and abolishing the Florida State Group Insurance Council. The bill makes appropriate nomenclature changes throughout affected statutes.

This bill also provides miscellaneous statutory changes to enhance operations of the Division of State Group Insurance, including the following: provides that eligibility to participate in the state group insurance program may be authorized by rules adopted by the department and provides for optional membership in a health maintenance organization; provides that the department may require additional detailed information on each managed care organization's ability to meet service requirements; provides the department will make its selection on the basis of the plan that offers high value to enrollees, rather than the best overall benefit package for the affected service area; deletes specific authority for contracting with specialty psychiatric hospitals; provides the department shall develop its comprehensive insurance benefit package in furtherance of its duties in collective bargaining matters; provides that employer assumption of insurance premiums conditioned by a firefighter or law enforcement officer's incurring of a catastrophic injury is rephrased to bring s. 110.123, F.S., into compliance with amendments made to ss. 112.19 and 112.191, F.S., on the same subject; provides that any state agency that employs a full-time law enforcement officer,

correctional officer, correctional probation officer, or firefighter who is killed or suffers catastrophic injury in the line of duty as provided in ss. 112.19 and 112.191, F.S., shall pay the entire premium of the state group health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee subject to the limitations and conditions set forth in these two sections, as applicable; provides that state employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits; and clarifies the department's role as the final authority in decisions concerning enrollment, the existence of coverage, or covered benefits. The bill revises the state group drug program as follows: deletes existing statutory language specifying employee drug co-payments and transfers that authority to the General Appropriations Act or relevant implementing legislation; provides continuation of the current dispensing fee for retail pharmacies; provides continuation of a mail-order prescription drug program for program participants; provides for a uniform reimbursement rate for participating retail pharmacies; provides that participating pharmacies must maintain an on-line computer system to verify participant eligibility and must agree to make their records available for utilization review actions undertaken by the program; provides responsibilities for establishing reimbursement schedules for prescription pharmaceuticals and for implementing cost saving measures; prohibits the Department of Management Services from implementing a prior authorization or a restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond provisions related specifically to generic equivalents for prescriptions and starter dose programs or the dispensing of long-term maintenance medications; and terminates the prior authorization program expanded pursuant to section (8) of the 1998-1999 General Appropriations Act. The bill also includes that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses (this is full premium cost without any health insurance subsidy).

This bill also establishes conditions under which voice mail systems shall be utilized; repeals s. 20.37(3), F.S., related to the location of the headquarters of the Department of Veterans' Affairs; provides changes to the Florida Employee Long-Term-Care Plan Act as follows: provides an opportunity for public employees and their families to purchase long-term-care insurance by means of payroll deduction; provides upon the affirmative vote of the governing body of any county or municipality in this state the active and retired officers and employees of any such county or municipality and their spouses, children, stepchildren, parents, parents-in-law, and others designated may participate in the long-term-care program; provides that the Department of Management Services and the Department of Elderly Affairs shall review all self-insured and all fully-insured proposals submitted to it by qualified vendors who have submitted responses prior to February 23, 1999; upon review, the departments may award a contract to the vendor that the departments deem to represent the best value to public employees, family members of public employees, and retirees; prohibits any entity providing actuarial consulting services to the Department of Management Services or the Department of Elderly Affairs with regard to the long-term-care plan from providing or

contracting to provide the entity selected as the provider of long-term-care service offerings in this state with any services related to the Florida Employee Long-Term-Care Plan; increases the membership of the Long-Term-Care Board from seven to nine members and provides for appointments; provides that any member of the FRS who serves as the elected mayor of a consolidated local government, which government by its charter has chosen status as a municipality rather than a county government for purposes of the state retirement system, may elect membership in the Elected State and County Officers' Class; provides that any such mayor or former mayor shall be eligible for membership in this class for the term of office, provided the member or the local government employer pays the retirement contributions that would have been paid had actual participation commenced at that time, plus appropriate interest; provides that no retirement credit will be allowed for any service which is used to obtain a benefit under any local retirement system; and requires each department of the executive branch to survey each board, commission, and other such entity under its jurisdiction and recommend whether the entity should be abolished, continued, or revised and report this information in electronic format to the Department of Management Services which shall report the findings from all departments to the Governor and Legislature by December 1, 1999.

The effective date of this bill is July 1, 1999.

Committee on Governmental Rules & Regulations

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 107, 1st Engrossed--Administrative Procedure Act by Governmental Rules & Regulations; Pruitt; Wallace and Others (CS/CS/SB 206 by Fiscal Policy; Governmental Oversight and Productivity; Fiscal Policy; Laurent)

House Committee(s) of Reference: Water & Resource Management; Governmental Operations; Governmental Rules & Regulations

This bill reorganizes for clarity the definition of “agency” found in s. 120.52(1), F.S. (1998 Supplement), and includes in the definition regional water supply authorities for purposes of the Administrative Procedure Act. Entities described in ch. 298, F.S., relating to water control districts, are removed from that definition. Provides that district school boards do not have to adopt rules pursuant to the standard contained in s. 120.536(1) and s. 120.52(8), but must instead adopt rules pursuant to the general powers described in s. 230.22(2), F.S. (1998 Supplement).

The bill clarifies the rule-making standard adopted in the 1996 revisions to the Administrative Procedure Act. It provides that an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling act. Moreover, an agency does not have authority to adopt a rule because it is within the agency’s class of powers and duties. Statutory language granting rule-making authority is to be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute. Agencies are again provided the opportunity to review existing rules to determine whether those rules have a valid statutory basis pursuant to the clarified standard. Those rules that are determined not to have adequate authority may be shielded from challenge as to validity and agencies may seek legislative ratification of those rules.

Other provisions provide that an agency may not adopt retroactive rules, including those intended to clarify existing law, unless expressly authorized by statute. When challenging a proposed rule, the petitioner has the burden of going forward in a challenge to a proposed rule. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority. Where the agency is to reject or modify a recommended conclusion of law or interpretation of administrative rule, it is to state its reasons for doing so with particularity and must also make a finding that its substituted conclusion of law is as or more reasonable than that for which it was substituted.

The bill is effective upon becoming law.
