2003 Regular Session
Summary of Legislation Passed

Compiled and Edited by
Office of the Senate Secretary

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AGRICULTURE

HB 945 — Nonagricultural Vehicles

by Rep. Poppell and others (SB 1222 by Senators Argenziano, Bennett, Siplin, and Bullard)

This bill amends ch. 570, F.S., which contains general laws pertaining to the Department of Agriculture and Consumer Services (DACS). It permits DACS to establish rules that will allow certain vehicles that are not carrying agriculture products to by-pass agriculture inspection stations. It also makes it unlawful to impersonate an inspector, agent, or other DACS employee.

The prepass procedures will contribute to safety on the interstate by helping to alleviate traffic back-up on the ramps of the inspection stations. It will also increase the efficiency of the inspection operation.

Making it a crime to impersonate a DACS employee provides a deterrent to interference with the department's duties to regulate areas, such as food safety inspections, that have a direct impact on the health and welfare of Florida's citizens.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 116-0

HB 1061 — Federal Records/Public Records

by Rep. Bowen and others (CS/CS/SB 1230 by Health, Aging, and Long-Term Care Committee; Governmental Oversight and Productivity Committee; and Senators Argenziano, Bennett, Siplin, and Bullard)

This bill authorizes confidential federal records which are provided to the Department of Agriculture and Consumer Services for assistance during a joint food safety or food illness investigation to remain confidential and exempt from public records requirements. The department has been unable to provide timely assistance in evaluating information or providing meaningful input because of Florida's sunshine laws. The bill prohibits the disclosure of such information unless a federal agency has found that the record is no longer entitled to protection or unless ordered by a court. It also provides for future legislative review and repeal and provides a statement of public necessity.

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

CS/SB 1218 — Food Safety and Security

by Agriculture Committee and Senators Argenziano, Bennett, and Bullard

This bill creates the Florida Food Safety and Food Security Advisory Council to serve as a forum for presenting, investigating, and evaluating issues concerning food safety. The membership of the council will consist of, but not be limited to the Commissioner of Agriculture, the Secretary of Health, the Secretary of Business and Professional Regulation, or their designees; the person responsible for domestic security with the Florida Department of Law Enforcement; members representing the production, processing, distribution, and sale of foods; consumers and/or members of citizens groups or food industry groups; scientists or other experts in aspects of food safety from state universities; representatives from local, state, and federal agencies that are charged with responsibilities for food safety or food security; the chairs of legislative committees with jurisdictional oversight over agriculture and home defense issues; and any others that the Commissioner of Agriculture appoints. The bill appropriates $5,000 from the Contract and Grants Trust Fund and $5,000 from the General Inspection Trust Fund to pay for the costs associated with conducting the business of the Florida Food Safety and Food Security Advisory Council.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 118-0

CS/SB 1232 — Pest Control

by Agriculture Committee and Senators Argenziano, Bennett, and Bullard

This bill revises various provisions relating to the practice of pest control which is regulated by the Department of Agriculture and Consumer Services. It:

- Authorizes vehicles which are only used to perform sales and solicitation of pest control to have temporary or removable markers.
- Limits the time a person may hold a second identification card to one year; an exception of two years is made for persons holding a second card in fumigation.
- Exempts special identification cardholders for fumigation from technical training requirements.
- Narrows the categories of certification of those that may perform pest control fumigation.
- Revises renewal language for limited commercial landscape maintenance personnel to include deadlines and late fees for late applications, as well as provides an expiration date for failure to renew a license.
- Provides disciplinary actions against persons impersonating a pest control inspector.

- Adds a fine that exceeds the cost of a license to the disciplinary action taken against an unlicensed applicator on the first offense.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 116-0

CS/CS/SB 1300 — Citrus

by Appropriations Committee; Agriculture Committee; and Senator Alexander

This bill revises the statute regulating air pollutant emissions from the citrus juice processing industry. It:

- Revises and conforms statutory deadlines to the U.S. Environmental Protection Agency approval process and schedules.
- Lowers the limitation on sulfur content in fuel used by citrus processors.
- Authorizes the Department of Environmental Protection to develop management practices for Clean Air Act pollutants not otherwise regulated by this program.
- Provides for evaluation and potential sunset of this program.
- Requires any change in the salary of an employee of the Department of Citrus which is at or above $100,000 annually to be approved by the full membership of the Citrus Commission.
- Requires the Department of Citrus to publish an annual travel report that provides specific information for each staff member of the department and each member of the commission who has traveled during that year.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

CS/SB 1644 — Nitrate and Phosphorus Fertilizers

by Natural Resources Committee and Senators Argenziano, Siplin, and Bullard

This bill, which makes changes to s. 576.045, F.S., regarding nitrate contamination of groundwater, is the result of a House Agriculture Committee interim review.

Between 1985 and 1992, the Florida Department of Agriculture and Consumer Services (department) and the Florida Department of Environmental Protection (FDEP) jointly conducted surveys of drinking water wells in predominantly agricultural regions of Florida. Survey results from limited sampling in 38 Florida counties showed elevated levels of nitrate in drinking water wells in 36 of the 38 counties tested. Of those 36 counties, 13 had at least one site with nitrate

levels above the federal drinking water standard of 10 parts per million (ppm) set by the United States Environmental Protection Agency (USEPA).

Based on these findings, the department initiated development of a comprehensive program to protect Florida's water resources while maintaining the state's large agricultural industry. The department, in partnership with FDEP, the Florida Farm Bureau Federation, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, and other groups, developed a voluntary, incentive-based program to develop individual practices or combinations of practices to specify how nitrogen-based fertilizers are to be used.

The legislature concluded that the program appears to be working and is a process that successfully integrates science, public and industry interest, economics, environmental protection, and agricultural production. For the agriculture industry, a fundamental appeal of the program is that it is voluntary. The bill reenacts s. 576.045, F.S., with some revisions.

The bill adds phosphorus contamination to water quality issues previously addressed in that section. It also expands the law to include contaminated surface waters, along with the ground water and drinking water provisions included in current law. It requires persons licensed to distribute fertilizer to pay a fee of 50 cents per ton on fertilizer containing phosphorus and revises the purposes for which the department may use the proceeds of fees levied against licensees. It also revises compliance requirements for property owners or leaseholders with respect to contamination of groundwater from fertilizers. The bill revises requirements for the department, in consultation with the Department of Environmental Protection, the Department of Health, and the water management districts to adopt rules for interim measures, best-management practices, conservation plans, nutrient management plans, and any other measures necessary for water quality improvement.

Except for subsections relating to the presumption of compliance and the clarification of the Florida Department of Environmental Protection's regulatory authority, the provisions of s. 576.045, F.S., are scheduled to expire on December 31, 2003, unless reenacted by the Legislature. This bill changes that date to December 31, 2012.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-0

CS/CS/SB 1660 — Community Development and Planning

by Comprehensive Planning Committee; Agriculture Committee; and Senators Argenziano, Alexander, Dockery, Peaden, Lynn, Webster, Bennett, Fasano, Posey, Smith, Bullard, Lee, and Siplin

This bill creates s. 163.3162, F.S., which regulates certain aspects of farm activities. It prohibits a county from restricting farm activities on land classified as agricultural land if the activity is

regulated by best management practices, interim measures, or regulations developed by specified state and federal agencies. It permits a county to regulate farm activities within a wellfield protection area if such activity is not already addressed by the type of regulation previously described. The prohibition against duplicate regulation does not permit a farm operation located next to an established homestead or business on March 15, 1982, to change to a more excessive farming use. A county ordinance regulating the transportation or land application of sewage sludge will not be deemed to be a duplicate regulation. Urban counties meeting certain criteria will not be governed by this bill.

This bill also amends s. 193.461, F.S., by authorizing counties to establish procedures to waive the requirement that annual applications be filed to have land classified as agricultural.

The elimination of duplicate regulation is intended to reduce the efforts that farm operators expend for regulatory compliance. The automatic renewal of agriculture land classification restores a provision that previously existed and is consistent with treatment accorded homestead classifications.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 117-0

CS/SB 1754 — Soil and Water Conservation Council

by Agriculture Committee and Senator Argenziano

This bill amends ch. 582, F.S., which pertains to soil and water conservation. It increases the number of voting members serving on the Soil and Water Conservation Council and merges non-voting members serving on the Agriculture Water Policy Group into the council. It increases the number of persons that must sign a petition to organize or terminate a soil and water conservation district and it gives the Commissioner of Agriculture authority to dissolve a district under certain circumstances.

The new make-up of the council will better represent current demographics and will make the advisory process more efficient. As an alternative to a referendum conducted by the Department of Agriculture and Consumer Services to terminate a district, the bill provides a procedure for the Commissioner to dissolve or discontinue a district.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 111-0

CS/SB 2462 — Agriculture and Consumer Services

by Agriculture Committee and Senator Garcia

This committee substitute clarifies licensing requirements for individuals and companies that work with liquefied petroleum (LP) gas in certain industrial applications; revises regulations pertaining to qualifiers and master qualifiers and sets forth grounds for revocation or imposition of other checks on a license by the Department of Agriculture and Consumer Services (department); revises reporting requirements for LP gas-related accidents and minimum storage requirements for persons engaged in distributing LP gas for resale; and provides for administrative penalties and a warning letter in lieu of penalties for a first violation. This committee substitute also removes certain restrictions on the terms of membership in the Florida Propane Gas Education, Safety, and Research Council. The committee substitute also changes the registration requirements for motor vehicle repair shops; revises the criteria the department uses to determine if certain security requirements can be waived for sellers of travel; limits the length and terms of a contract for ballroom dance studio contracts; and requires a mover to name the department as a certificate holder on its insurance policy while deleting the requirement that a mover provide certain social security numbers on its registration with the department.

Sale of Liquefied Petroleum Gas

This committee substitute substantially amends ch. 527, F.S., which relates to the sale of LP gas. This committee substitute expands the definition of "qualifier," which means any person who has passed a competency examination administered by the department and is employed by a licensed business in one or more of several classifications described in s. 527.01, F.S. Specifically, the committee substitute adds a "category V LP gases dealer for industrial uses only" and defines that term to mean a person that fills, sells, or transports LP gas containers that are used in welding, forklifts, or other industrial uses. The application fee for such license is $300, and the renewal fee is $200. The committee substitute also provides that a category I LP gases dealer, an LP gas installer, and a specialty installer may work with natural gas as well as LP gases. The addition of natural gas will allow these licensees to install natural gas in situations where previously only plumbers could provide installation services. Additionally, the committee substitute revises the definition of a category II LP gas dispenser to clarify that it includes a person who maintains a cylinder storage rack at a licensed business location for the purpose of storing cylinders filled by the licensed business for sale or use at a later date.

This committee substitute reorganizes existing subsections of s. 527.02, F.S., into a new s. 527.0201, F.S., relating to "qualifiers; master qualifiers; examinations." This reorganization adds a category V LP gas dealer to the list of persons required to pass a written exam to obtain a license; provides that an owner, a partner, or any person employed by a license applicant may apply to take the examination and that an individual whose qualifier status has expired must pass another examination; limits a person's capacity to act as a qualifier to one licensed location; requires a person applying for certification as a master qualifier to provide documentation of a minimum of one year's work experience in the gas industry; requires that a report of a vacancy

in the qualifier or master qualifier position be made to the department by the departing qualifier or master qualifier and the licensed company; and clarifies conditions that must be met for a license to be reinstated when it has been suspended because of the lack of a duly designated qualifier. If a category I LP gas dealer or installer no longer employs the person designated as its master qualifier but employs another person who is a qualifier, the bill sets forth procedures for a company to follow to replace the master qualifier without its license being suspended.

This committee substitute conforms a cross-reference related to the General Inspection Trust Fund, where all funds collected under this chapter are deposited, and also provides that an LP gas-related accident must be reported by an LP gas licensee only when it involves death, personal injury, or property damage exceeding $1,000. The committee substitute also provides that a bulk storage filling plant must have loading and unloading provisions solely for the licenseholder. Additionally, this committee substitute authorizes the department to impose administrative penalties, as well as civil penalties, for a violation relating to the sale of LP gas, and provides that the department may issue a warning letter in lieu of an administrative or civil penalty for a first violation.

Florida Propane Gas Education, Safety, and Research Council

This committee substitute removes outdated language relating to the staggering of terms for the initial membership of the Florida Propane Gas Education, Safety, and Research Council, and removes certain restrictions on the terms of council membership.

Motor Vehicle Repair Shops

This committee substitute allows motor vehicle repair shops to register biennially instead of annually and specifies that the fee for registration is to be calculated on a per-year basis. The committee substitute also provides that estimate and invoice forms must accompany a renewal application only if the original forms have changed, eliminates the use of an exemption certificate as proof of registration by persons applying for or renewing a local occupational license, and gives the Department of Agriculture and Consumer Services rulemaking authority to stagger the registrations over a 2-year period.

Sellers of Travel

This committee substitute eliminates the requirement that a seller of travel must demonstrate financial responsibility through the submission of audited financial statements or the prior year's federal income tax return to have certain security requirements, such as a bond or letter of credit, waived. The seller of travel must still fulfill other requirements described in the statute to have such security requirements waived.

Ballroom Dance Studio Contracts

This committee substitute limits the length of a contract for ballroom dance studio services or lessons to 36 months and imposes other restrictions on renewals of a contract. The committee substitute also provides that a ballroom dance studio may not represent that a contract for future services is for a lifetime, constitutes a perpetual membership, or is otherwise for an indefinite term.

Moving Services

This committee substitute deletes the requirement that social security numbers must be provided for the owner, corporate officers and directors, and the Florida agent of the corporation in the annual registration of a mover. The committee substitute also requires a mover to name the Department of Agriculture and Consumer Services as a certificate holder in its certificate of insurance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

ANIMALS (DOMESTIC)

HB 1037— Rabies Vaccination Certificate/Public Records

by State Administration Committee and others (CS/SB 462 by Governmental Oversight and Productivity Committee and Agriculture Committee)

This bill reenacts and narrows the public records exemption for certain information contained in rabies vaccination certificates, which would otherwise be repealed on October 2, 2003. Florida law requires all dogs, cats, and ferrets four months of age or older to be vaccinated against rabies by a licensed veterinarian. Upon vaccination, the veterinarian must provide a rabies vaccination certificate to the animal's owner and to the animal control authority.

Current law provides a public records exemption for information contained in a rabies vaccination certificate which identifies the owner of the animal vaccinated and is contained in a rabies vaccination certificate provided to the animal control authority with certain exceptions. This provision has proved unclear and difficult. This bill narrows the public records exemption by limiting the exemption to the animal owner's name, street address, and phone number, and the animal tag number. It also narrows the exemption by only making such information exempt from public disclosure rather than confidential and exempt, as there are a number of exceptions to the current exemption.

This bill removes the vague provision whereby one may view rabies vaccination certificates one record at a time upon written request, because the provision is unclear as to whether the

requestor is permitted to view exempt information contained in rabies vaccination certificates while viewing them one record at a time. This change makes it clear that the only persons permitted access to the exempt information are those listed in the current exceptions to the public records exemption. The related requirement to provide a written request to view the records one at a time is also removed because it is not necessary and because many of the animal control authorities currently request personal information regarding the records requestor, as well as ask for reasons for needing to view the certificate one record at a time. Chapter 119, F.S., requires no showing of purpose or special interest as a condition of access to public records, and a records custodian may not impose a rule or condition of inspection which operates to restrict or circumvent a person's right of access.

This bill also removes the redundant provision restating that information contained in an existing database is exempt. Information made exempt remains so whether it is contained in the actual rabies vaccination certificate or is further contained in a database. The location of information does not change its status as exempt. Finally, this bill adds clarifying language, makes editorial changes, and removes the review and repeal language.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 114-0

HB 1911 — Animal Fighting or Baiting

by Public Safety and Crime Prevention Committee and others (CS/SB 2350 by Agriculture Committee and Senators Klein and Posey)

This bill amends s. 828.122, F.S., which regulates certain acts associated with animal fighting or baiting. In addition to the forbidden act of baiting, the bill makes it a third-degree felony to breed, train, transport, sell, own, or possess an animal or equipment for the purpose of animal fighting. Other acts or services that facilitate animal fighting are also prohibited. Attending or betting on animal fights is raised from a misdemeanor to a third-degree felony. In instances where it is determined that the animal cruelty or animal fighting laws have been violated, authority is provided to the courts to order seizure of animals and to veterinarians to euthanize animals under appropriate circumstances. The courts are also given authority to prohibit a person convicted of animal cruelty from dealing with any animal of the same species for a discretionary period of time.

The bill amends ss. 933.02 and 933.18, F.S., so that search warrants based upon violation of Florida's animal cruelty laws can be issued without restrictions.

The revisions to Florida's Animal Cruelty law will assist in the enforcement and prosecution of violations as they eliminate arguments that the proscribed acts were legal if the animals were going to be shipped to a state or jurisdiction where animal fighting was not banned.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 108-6

TRUST FUNDS

Department of Education

The following trust funds are recreated within the department:

		Effective Date
S 744	Education Certification and Service Trust Fund	11/04/2004
S 746	Educational Aids Trust Fund	11/04/2004
S 748	Education Media and Technology Trust Fund	11/04/2004
S 750	Excellent Teaching Program Trust Fund	11/04/2004
S 752	Facility Construction Administrative Trust Fund	11/04/2004
S 754	State Student Financial Assistance Trust Fund	11/04/2004
S 756	Federal Rehabilitation Trust Fund	11/04/2004
S 758	Food and Nutrition Services Trust Fund	11/04/2004
S 760	Grants and Donations Trust Fund	11/04/2004
S 762	Institutional Assessment Trust Fund	11/04/2004
S 764	University of Florida Institute of Food Trust Fund	11/04/2004
S 766	Student Loan Operating Trust Fund	07/01/2003
S 768	Student Loan Operating Trust Fund	11/04/2004
S 770	Projects, Contracts, and Grants Trust Fund	11/04/2004
S 772	Sophomore Level Test Trust Fund	11/04/2004
S 774	Student Loan Guaranty Reserve Trust Fund	11/04/2004
S 776	Teacher Certification Examination Trust Fund	11/04/2004
S 778	Textbook Bid Trust Fund	11/04/2004
S 780	Knott Data Center Working Capital Trust Fund	11/04/2004
S 782	Workers' Compensation Administration Trust Fund	11/04/2004
S 784	Capital Facilities Matching Trust Fund	11/04/2004
S 786	Education and General Student Trust Fund	11/04/2004
S 788	Education and General Student Trust Fund	11/04/2004
S 790	University of Florida Experiment Station Trust Fund	11/04/2004
S 792	University of Florida Extension Service Trust Fund	11/04/2004
S 794	University of Florida Health Center Trust Fund	11/04/2004
S 796	University of Florida Food and Agriculture Trust Fund	11/04/2004
S 798	University of Florida Health Center Operations and Maintenance Trust Fund	07/01/2003
S 800	University of Florida Health Center Operations and Maintenance Trust Fund	11/04/2004
S 802	State University System Law Enforcement Trust Fund	07/01/2003
S 804	Law Enforcement Trust Fund	11/04/2004
S 806	Trust Fund for Major Gifts	11/04/2004
S 808	Board of Regents Operations Trust Fund	11/04/2004
S 810	Phosphate Research Trust Fund	11/04/2004
S 812	State University System Replacement Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

		Effective Date
S 814	University Concurrency Trust Fund.....	11/04/2004

Vote: Senate 38-0; House 119-0

The following trust fund is created within the department:

		Effective Date
S 816	University Concurrency Trust Fund.....	07/01/2003

Vote: Senate 38-0; House 118-0

The following bill terminates 2 trust funds in the Department of Education, Division of Colleges and Universities, and identifies 20 trust funds in the Department of Education as exempt from automatic termination.

		Effective Date
S 818	University Concurrency Trust Fund.....	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Environmental Protection

The following trust funds are recreated within the department:

		Effective Date
S 820	Administrative Trust Fund	11/04/2004
S 826	Drinking Water Revolving Loan Trust Fund	11/04/2004
S 828	Environmental Laboratory Trust Fund.....	11/04/2004
S 838	Save Our Everglades Trust Fund	07/01/2004
S 842	Grants and Donations Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

S 848	Minerals Trust Fund.....	11/04/2004

Vote: Senate 40-0; House 118-0

S 852	Florida Permit Fee Trust Fund	11/04/2004
S 856	Wastewater Management Revolving Trust Fund	11/04/2004
S 864	Working Capital Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Citrus

The following trust funds are recreated within the department:

		Effective Date
S 868	Florida Citrus Advertising Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Management Services

The following trust funds are recreated within the department:

		Effective Date
S 870	Motor Vehicle Operating Trust Fund	11/04/2004
S 872	Public Employees Relations Commission Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Revenue

The following trust funds are recreated within the department:

		Effective Date
S 874	Administrative Trust Fund	11/04/2004
S 876	Child Support Incentive Trust Fund	11/04/2004
S 878	Certification Program Trust Fund	11/04/2004
S 880	Child Support Enforcement Revenue Trust Fund	11/04/2004
S 882	Clerk of Court Child Support Trust Fund	11/04/2004
S 886	Firefighters' Supplemental Compensation Trust Fund	11/04/2004
S 888	Grants and Donations Trust Fund	11/04/2004
S 890	Intangible Tax Trust Fund	11/04/2004
S 892	Working Capital Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

The following trust fund is terminated and recreated within the department:

		Effective Date
S 894	Department of Revenue	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Business and Professional Regulation

The following trust funds are recreated within the department:

		Effective Date
S 896	Administrative Trust Fund	11/04/2004
S 902	Child Labor Law Trust Fund	11/04/2004

S 908	Crew Chief Registration Trust Fund	11/04/2004
S 910	Division of Florida Land Sales Trust Fund	11/04/2004
S 912	Hotel and Restaurant Trust Fund	11/04/2004
S 916	Professional Regulation Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

The following trust funds are terminated and recreated within the department:

		Effective Date
S 918	Federal Law Enforcement Trust Fund	11/04/2004
S 920	Florida Mobile Home Relocation Trust Fund	11/04/2004
S 922	Workers' Compensation Administration Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Executive Office of the Governor

The following trust funds are recreated within the department:

		Effective Date
S 926	Brownfield Property Clearance Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Military Affairs

The following trust funds are terminated and recreated within the department:

		Effective Date
S 928	Federal Law Enforcement Trust Fund	11/04/2004
S 930	Emergency Response Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Highway Safety and Motor Vehicles

The following trust funds are terminated and recreated within the department:

		Effective Date
S 932	Federal Law Enforcement Trust Fund	11/04/2004

Vote: Senate 38-0; House 118-0

State Courts System

The following trust funds are recreated within the department:

		Effective Date
S 940	Court Education Trust Fund.....	11/04/2004

Vote: Senate 38-0; House 118-0

Department of Legal Affairs and Department of Corrections

The following bill terminated specified trust funds within the department(s):

		Effective Date
S 954	Trust Funds	07/01/2003

Vote: Senate 38-0; House 119-0

GOVERNMENTAL REORGANIZATION – DEPARTMENT OF FINANCIAL SERVICES

CS/CS/SB 1712 — Governmental Reorganization (Department of Financial Services)

by Governmental Oversight and Productivity Committee and Banking and Insurance Committee

The bill makes changes to the Florida Statutes to conform to the constitutional amendment that created the office of the Chief Financial Officer and to the 2002 act (ch. 2002-404, L.O.F.) that created the Department of Financial Services and the Financial Services Commission, both of which were effective January 7, 2003. A separate bill, SB 1488, makes conforming changes related to the restructuring of the Cabinet pursuant to the constitutional amendment.

The 2002 act created s. 20.121, F.S., which prescribes the organizational structure and regulatory duties of the Department of Financial Services (department), headed by the Chief Financial Officer. That act also created the Financial Services Commission (commission), headed by the Governor and Cabinet, as an independent body within the department. Two offices were created under the commission: the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation, each headed by a director appointed by the commission, except that the commission is agency head for all rulemaking of each office. The 2002 act transferred the programs, employees, and trust funds of the Department of Insurance and the Department of Banking and Finance to the new department and commission, but did not make conforming changes to the Florida Statutes, which this bill addresses.

This year's bill amends various Florida Statutes to provide all state fiscal powers to the Chief Financial Officer (or the Department of Financial Services), which were previously assigned to the Treasurer or Comptroller. The bill consolidates in an amended ch. 17, F.S., all of the constitutional duties of the Chief Financial Officer for the accounting and auditing of state funds and the keeping of all state funds and securities.

The Department of Financial Services, headed by the Chief Financial Officer, is also authorized to:

- Approve financial institutions as qualified public depositories.
- Administer the Unclaimed Property Program.
- Administer the Deferred Compensation program for state employees.
- Have all duties of the State Fire Marshal.
- Administer the state's Risk Management (self-insurance) program.

- Have powers of investigation and arrest of insurance fraud crimes.
- Petition a circuit court for an order in a delinquency proceeding against an insurer or other risk bearing entity, upon being required to do so by the Office of Insurance Regulation, and to be appointed as receiver, liquidator, or rehabilitator.
- Approve plans of operation and have oversight responsibilities for insurance guaranty associations.
- License and regulate insurance agents and agencies, customer representatives, service representatives, viatical settlement brokers, reinsurance intermediaries, and bail bond agents.
- License and regulate cemeteries and pre-need funeral and burial contracts;
- Administer the workers' compensation act (ch. 440, F.S.), including enforcement of employer compliance, monitoring carrier compliance and sanctioning carriers for non-compliance, assisting employees with obtaining compensation, and approving and regulating individual self-insured employers and the guaranty fund for such employers.
- Have the powers of the Office of Insurance Consumer Advocate to represent the general public in any insurance matter or hearing.
- Have authority provided to the Division of Consumer Services to receive inquiries and complaints related to insurance or financial institutions from consumers, to fine insurers and others who fail to respond to requests for information, to provide assistance and advocacy to consumers, and to prepare and disseminate information about regulated products and services.
- Administer mediation of property and motor vehicle insurance claims.
- Administer insurance claims of Holocaust victims.
- Have the CFO act as agent for service of process in all cases where the Insurance Commissioner so acted.
- Receive notices of civil remedy actions against insurers and other entities.
- Hold or arrange for financial institutions to hold statutory deposits of persons regulated by either the department or the Office of Insurance Regulation.

The Financial Services Commission and its Office of Financial Regulation would be provided substantially all of the regulatory (non-constitutional) powers and duties of the former Department of Banking and Finance. This includes all activities relating to the regulation of banks, credit unions, mortgage brokers and lenders, the securities industry, finance companies, retail installment sales providers, title lenders, collection agencies, check cashers, deferred presentment ("pay-day loan") providers, money transmitters, certified capital companies, and other financial institutions.

The Financial Services Commission and its Office of Insurance Regulation would be authorized to have those powers and duties of the former Department of Insurance related to the regulation of insurers and other entities, including the authority to:

- License and regulate insurers, multiple employer welfare arrangements, commercial self-insurance funds (including workers' compensation group self-insurance funds), viatical settlement providers and contracts, purchasing groups and risk retention groups, fraternal benefit societies, warranty associations, prepaid limited health service organizations, health maintenance organizations, prepaid health clinics, legal expense corporations, and continuing care facilities.
- Conduct financial and market conduct examinations of insurers.
- Regulate all accounting, financial, solvency-related matters of insurers, including administrative supervision of insurers.
- License and regulate insurance adjusters, administrators, service companies, and premium finance companies and agreements.
- Approve eligible surplus lines insurers.
- Approve policy forms and rates for insurers.
- Approve plans of operation and regulate joint underwriting associations (not including appointment of board members).
- Approve donor annuity agreements.
- Receive reports of claims information from insurers.
- Approve local government self-insurance plans for health coverage.

The bill requires the Department of Financial Services and the two offices to each have an Office of Inspector General, and exempts each office from the requirement that written approval of the Attorney General be obtained before contracting with private attorneys.

The bill revises appointments to all boards and commissions for which appointments were formerly made by the Comptroller, Treasurer, Insurance Commissioner, or State Fire Marshal, for which most of such appointments are provided to the Chief Financial Officer.

The bill repeals the current laws (ss. 627.0623 and 655.019, F.S.) which limit campaign contributions to the Treasurer and Comptroller, respectively, and also repeals s. 624.305, F.S., which prohibits the Insurance Commissioner and employees of the Department of Insurance from having a financial interest in an insurer or agency. Other laws limiting campaign contributions and establishing standards of conduct for public officers and employees would still apply.

The bill repeals or deletes outdated provisions of the statutes related to the regulation of banking and insurance; changes references from the Florida Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association to the Citizens Property Insurance Corporation (Citizens) to conform to the act creating Citizens; updates references to the latest edition of publications that are cited in the Insurance Code for purposes of establishing accounting and actuarial standards for insurers and HMOs; allows for electronic (Internet) filing of certain insurance-related filings; and amends the law specifying percentage voting requirements for elected officials who are members of the state executive committee of a political party (to conform to the re-structuring of the Cabinet).

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

GOVERNMENTAL REORGANIZATION – CABINET ISSUES

SB 1488 — Governmental Reorganization

by Banking and Insurance Committee and Senator Atwater

In November 1998, the voters of Florida approved an amendment to s. 4, Art. IV, State Constitution, which substantially restructured the Cabinet by merging two cabinet offices, the Comptroller and the Treasurer, into the newly created Chief Financial Officer and eliminating the Secretary of State and Commissioner of Education from the Cabinet. As a result, the new state Cabinet consists of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. These provisions were effective January 7, 2003.

This bill (Chapter 2003-6, L.O.F.) provides the following conforming, statutory changes relating to the Governor, Cabinet, and the Governor and the Cabinet collectively, or the Governor and certain members of the Cabinet sitting as boards, commissions, or other collegial bodies, since these provisions were affected by the enactment of the amendment to the State Constitution restructuring the Cabinet:

- Clarifies the constitutional provision that in the event of a tie vote by the Governor and Cabinet, the side on which the Governor votes prevails. This applies to the Governor and Cabinet sitting in any capacity, unless otherwise provided by law. The Legislature may still require a super-majority vote, but if the law simply requires a majority vote, the side on which the Governor votes prevails.
- Requires a vote of at least three out of four, rather than at least five out of seven members of the Governor and Cabinet sitting as the Board of the Internal Improvement Trust Fund

and the Land Acquisition Trust Fund, in order to dispose of any lands for which title is vested in the board.

- Requires the approval of the Governor and at least two other members, rather than three, of the Cabinet sitting as the Administration Commission.
- Revises the clemency voting requirements to require the approval of the Governor and two other members of the Cabinet, rather than three other members. This would also apply to releasing any child on probation who has been convicted of a capital felony.
- Revises the appointments to the Florida Commission on the Status of Women, to delete the former Cabinet members from making appointments, but maintaining the current size of the commission by increasing appointments made by other officers.
- Provides that only the current Cabinet members would be subject to the prohibition against being absent from the state for more than 60 days without the approval of the Governor and Cabinet.
- Revises references to State Board of Administration to conform to the constitutional requirement that the State Board of Administration would consist of the Governor, the Chief Financial Officer, and the Attorney General. This also applies to the Division of Bond Finance, the Financial Management Information Board, and the coordinating council to the State Board of Administration.
- Changes the membership of the Governor's Committee on Interstate Cooperation to the current Cabinet members.
- Deletes provisions creating the Public Employee Optional Retirement Program Advisory Committee, since that committee has completed its recommendations.

These provisions became law upon approval by the Governor on April 1, 2003.
Vote: Senate 40-0; House 116-0

INSURANCE FRAUD

CS/CS/SB 1694 — Insurance Fraud

by Governmental Oversight and Productivity Committee; Banking and Insurance Committee; and Senators Posey, Fasano, and Atwater

This bill creates the "Pete Orr Insurance Anti-Fraud Act," that provides for the following:

- Allows a party to bring a civil action against an unauthorized insurer if such party is damaged by that insurer. An unauthorized insurer is an entity which has not obtained a certificate of authority to operate as an insurer from the Office of Insurance Regulation, as required under the Insurance Code.

- Makes it a third-degree felony for an affiliated party, who is removed or prohibited from participating in the affairs of an insurer, or for a licensee, whose rights and privileges under such license have been suspended or revoked, to knowingly act as an affiliated party or to knowingly transact insurance until expressly authorized by the Department of Financial Services or the Office of Insurance Regulation. The authorization by the department or office may not be provided unless the affiliated party or licensee has made restitution to all parties damaged by the actions of the party or licensee.
- Provides that a person who acts as an insurer without obtaining a certificate of authority commits insurance fraud and is subject to escalating criminal penalties depending upon the amount of premium involved.
- Provides investigators employed by the Division of Insurance Fraud within the Department of Financial Services with full statutory arrest and search powers.
- Increases the penalty from a first-degree misdemeanor to a third-degree felony for selling used motor vehicle goods as new, when charges are paid from the proceeds of a motor vehicle insurance policy.
- Increases the penalty from a second-degree misdemeanor to a third-degree felony for overcharging for motor vehicle repairs and parts which are paid from the proceeds of a motor vehicle insurance policy.
- Increases the ranking of specified insurance-related offenses on the Offense Severity Ranking Chart law within the Criminal Punishment Code.

The bill is named for Pete Orr, a former NASCAR-circuit driver from Monteverde, Florida, who died of cancer. Mr. Orr had purchased a health insurance policy from an out-of-state insurance company that was later determined to be an unauthorized insurer. Mr. Orr subsequently developed cancer and applied for benefits with his health insurer, but the company did not pay any of his claims. Under the provisions of this bill, an individual will be able to sue an unauthorized insurer if damaged by an unauthorized insurer.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 108-0

INSURANCE (MISCELLANEOUS)

CS/CS/SB 204 — Use of Credit Reports and Credit Scores by Insurers

by Commerce, Economic Opportunities, and Consumer Services Committee; Banking and Insurance Committee; and Senator Miller

This bill regulates and limits the use of credit reports and credit scores by insurers for underwriting and rating personal lines motor vehicle insurance and personal lines residential insurance. However, the bill provides that its January 1, 2004 effective date is contingent upon HB 1895 becoming a law, providing a public records exemption for trade secrets for credit scoring methodologies and related data required to be filed with the Office of Insurance Regulation.

If effective, the bill would require that a rate filing that uses credit reports or credit scores must comply with the requirements of s. 627.062, F.S., or s. 627.0651, F.S., to ensure that rates are not excessive, inadequate, or unfairly discriminatory.

Insurers would be required to notify an applicant or insured, in the same medium as the application is received, that a credit report is being requested for underwriting or rating purposes. An insurer would be prohibited from requesting a credit report based upon the race, color, religion, marital status, age, gender, income, national origin, or place of residence of the applicant or insured. In the event an insurer makes an adverse underwriting or rating decision based upon a credit report, the insurer, or a designated third party, would be required to provide a copy of the credit report to the applicant or insured. The insurer would be required to include the four primary reasons, or fewer if applicable, that were the primary influences of the adverse decision. The bill would establish rights and responsibilities for the insured or applicant and the insurer to address adverse underwriting or rating decisions made by the insurer and would establish an appeal process for an insured or applicant whose credit report or credit score is unduly influenced by the death of a spouse or temporary loss of employment.

The bill would prohibit an insurer from making an adverse decision relating to underwriting or rating solely because of the credit information contained in a credit report or credit score. An insurer would be prohibited from making an adverse decision if based, in whole or in part, on any of the following factors: 1) the absence of, or insufficient credit history, in which case the insurer must treat the consumer as otherwise approved by the Department of Financial Services if the insurer presents information that such an absence or inability is related to the risk for the insurer; 2) collection accounts with a medical industry code, if so identified on the consumer's credit report; 3) place of residence; or 4) any other special circumstance that the Financial Services Commission determines, by rule, lacks sufficient statistical correlation and actuarial justification as a predictor of insurance risk. An insurer would be authorized to use the number of credit inquiries requested or made regarding the applicant or insured except in certain circumstances.

An insurer would be required to re-evaluate the credit history of an insured that was adversely impacted by the use of the insured's credit history, at the initial rating of the policy or at a subsequent renewal, every 2 years or upon the request of the insured, whichever occurs first. As an alternative, an insurer could re-evaluate the insured within the first 3 years after the inception of the policy based on other allowable underwriting or rating factors, excluding credit information, provided that the insurer does not increase the rates or premium charged to the insured based on the exclusion of credit reports or credit scores.

The Financial Services Commission would be authorized to adopt rules to administer the provisions of this act and the rules may include: 1) certain information in the filings to demonstrate compliance relating to adverse decisions by the insurer; 2) statistical information an insurer must retain and report annually to the Office of Insurance Regulation; 3) standards that ensure that the use of a credit report or credit score does not unfairly discriminate, based upon race, color, religion, marital status, age, gender, income, national origin, or place of residence; and 4) standards for reviewing methods to grade or rank credit report data.

If approved by the Governor, these provisions take effect January 1, 2004.
Vote: Senate 35-1; House 115-1

HB 235 — Mutual Insurance Holding Companies

by Rep. Clarke (CS/SB 1464 by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Bennett)

This bill revises several provisions in ch. 628, F.S., relating to mutual insurance holding companies. A mutual insurance holding company is a form of domestic insurance corporate organization established as an alternative method for a domestic mutual (policyholder-owned) insurance company to convert to a stock (stockholder-owned) insurance company. There are several advantages to converting into a stock insurance company, including that the conversion may significantly enhance an insurer's ability to raise capital, issue debt, and engage in mergers and acquisitions.

Membership Criteria of a Mutual Insurance Holding Company

The bill amends the definition of a paid premium to mean all premiums paid for insurance by a member of a mutual insurance holding company to a subsidiary insurance company. The bill also revises the membership criteria of mutual insurance holding companies in the following ways:

- After the formation of a mutual insurance holding company, membership in the holding company is governed by ch. 628.727, F.S., which states that membership is to be based on the mutual insurance company's bylaws. The criteria for membership must be based upon each member holding a policy of insurance with a subsidiary insurer or a contract with a subsidiary HMO.

- At the time a mutual insurance holding company is formed, policyholders of another subsidiary of the mutual insurance holding company cannot be members of the holding company unless the subsidiary they belong to was a mutual insurer which merged with the holding company.

Calculation of Distributive Shares and Corporate Equity

The bill also specifies the methods used to calculate the distributive shares and corporate equity of mutual insurance holding company members. In the event of the voluntary dissolution or merger of the mutual holding company, the distributive share of each member is based upon a ratio comparing the total amount of premiums the member paid in the 3 years prior to dissolution or merger versus the total amount of premiums paid by all members during that period. When a mutual insurance holding company is converted, the corporate equity of each member is determined by the same ratio, so long as the equity is not based upon more than the company's net assets. Alternatively, a different formula may be used to calculate distributive shares or corporate equity if approved by the Department of Financial Services. If the mutual insurance holding company only owns life and health insurance subsidiaries, then the distributive share is to be determined by a reasonable formula that the Department of Financial Services may approve.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

SB 2190 — Continuing Education for Public Adjusters

by Senator Margolis

The bill increases the continuing education requirements for public adjusters by amending s. 626.869, F.S. A public adjuster is an adjuster who works on behalf of a claimant, not an insurance company. Public adjusters aid claimants in filing insurance claims, investigating claims, and negotiating the settlement of a claim (s. 626.855, F.S.).

To ensure that public adjusters will have the necessary knowledge to adjust claims in accordance with the given policy or contract, and with the insurance laws of Florida, the Legislature increased continuing education requirements. The bill requires licensed public adjusters to complete 24 hours of continuing education courses every 2 years, with 2 of the course hours relating to ethics. The courses will cover subject areas designed to inform the licensee regarding current Florida law pertaining to all lines of insurance, except for life and annuity insurance. The bill also specifies that the Financial Services Commission shall adopt rules necessary to implement and administer the continuing education requirements of this bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-0

CS/CS/SB 2264 — Health Insurance

by Health, Aging, and Long-Term Care Committee; Banking and Insurance Committee; and Senator Atwater

The bill revises the criteria for a policy issued to a group outside of Florida, but which covers Florida residents ("out-of-state group policy"), to be exempt from the requirements that apply to group health insurance policies issued in Florida related to disclosures on applications for certificates of coverage, unfairly discriminatory rating practices, rights to conversion policies, and other requirements of part VII of ch. 627, F.S. Currently, out-of-state group policies are exempt from most of the requirements that apply to group policies issued in Florida, including rate filing and approval requirements, if certain criteria are met.

The bill adds new criteria that must be met for out-of-state group policies to be exempt. Out-of-state group policies are 1) prohibited from using any pricing structure that results in rate escalations producing a death spiral, which the bill constitutes as a form of unfair discrimination; 2) required to provide an insured within such a group, upon termination, the option of a conversion policy; and 3) required to provide additional disclosures, with exceptions, in an application for coverage offered to Florida residents that specify that the policy is primarily regulated by another state and, as a result, all of the rating laws of Florida would not apply to the coverage. The Financial Services Commission is authorized to adopt rules to define other unfairly discriminatory or predatory health insurance rating practices.

The bill also revises the grounds for disapproval of rate filings for health insurance policies issued in Florida by providing more specific criteria. Health insurance policies must meet a minimum loss ratio of at least 65 percent, meaning that at least 65 percent of the premium dollar must be used to pay claims. A policy would be disapproved if it contained provisions that apply rating practices that result in unfair discrimination, between individuals of the same actuarially supportable class in premiums, fees, or rates, at the original time of issuance of the coverage, as provided in s. 626.9541(1)(g)2., F.S.

Current law generally exempts out-of-state group policies from rate filing and approval requirements, which the bill does *not* change. The impact of the bill, however, would effectively require insurers to make one of three choices, to either: 1) meet the new criteria for an exemption from Florida's group insurance requirements; 2) issue individual health insurance policies in Florida, subject to the amended rating law requirements; or 3) withdraw from the Florida market and cease issuing new coverage in the state.

The bill also exempts health maintenance organizations (HMOs) from certain regulatory requirements relating to contracts for groups of 51 or more persons which were authorized for a group health insurance policy insuring 51 or more persons last session. The bill provides that any law restricting or limiting deductibles, coinsurance, copayments, or annual or lifetime maximum

payments would not apply to any HMO contract that provides health insurance coverage consisting of medical care offered or delivered to an individual or a group of 51 or more persons. The bill also exempts certain group HMO contracts insuring 51 or more persons from the requirement of filing any changes in rates 30 days in advance of the effective date.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 116-0

CS/SB 2364 — Insurance

by Banking and Insurance Committee and Senator Diaz de la Portilla

This bill provides for comprehensive changes to Florida's insurance agent licensing laws as well as other changes to the state's Insurance Code as noted below:

- Conforms insurance agent licensing provisions to the National Association of Insurance Commissioner's (NAIC) "Model Act" to provide that applicants for licensure must be at least 18 years of age and United States citizens, or legal aliens who possess work authorization from the U.S. Immigration and Naturalization Service (INS).
- Conforms insurance continuing education (CE) and prelicensing education to the NAIC Model Act by reducing the number of required hours for most types of insurance agents from 28 hours to 24 hours every 2 years, and requiring that all courses include 3 hours of training on ethics. Provides that specified public adjusters complete 24 hours of courses, 2 hours of which relate to ethics, in subjects relating to current laws relating to all lines of insurance other than life and annuities. Provides for the Financial Services Commission to adopt rules pertaining to continuing education.
- Provides that the prohibition against "sliding" applies to all lines of insurance, not just motor vehicle insurance. This is a prohibition against selling an ancillary coverage or product as part of the policy and representing that it is required by law, included without an additional charge, or sold without informed consent.
- Provides for compliance with the Federal Bureau of Investigation's (FBI) requirement that Florida's insurance licensing provisions expressly authorize the use of FBI records for the screening of applicants for licensure.
- Provides for the automation of appointments of agents by insurers to permit persons designated by the Department of Financial Services (Department) to carry out the appointment process.
- Increases the allowable maximum face value of a preneed burial insurance contract that agents may sell under contract with a funeral director from $10,000 to $12,500 plus an annual percentage increase based on the annual consumer price index.

- Increases the per-policy fee cap from $10 to $20 that a general lines agent may charge on motor vehicle policies, and allowing the fee for all motor vehicle policies, not just policies limited to the minimum mandatory coverage of PIP and property damage liability.
- Provides for late renewal filing fees and delinquent fees pertaining to appointments and for continuing education fees applicable only to adjusters.
- Clarifies that the applicant for a temporary bail bond license must be employed full-time by a licensed bail bond agent at the time of application and provides for rule authority for the Department to establish standards for such employment. Provides a presumption that the insurer performed a background investigation and found the applicant to be of good moral character.
- Simplifies the application process for all limited lines agents to require only one application for a license which may cover multiple locations.
- Requires licensees to advise the Department in writing within 30 days after having been found guilty of or having pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under federal or state laws.
- Provides for technical changes including: deleting references to "solicitor," "runner," and "administrative agent"; clarifies certain dates for expiration of appointments; provides the Department with rulemaking authority in specified instances; updates the reference to the Florida Association of Insurance and Financial Advisors (FAIFA); and provides for delinquent fees, late filing fees, and continuing education fees.

The bill further amends Florida's Insurance Code as follows:

- Amends s. 627.4035, F.S., to clarify that premiums for insurance may be paid by debit card, credit card, automatic electronic funds transfer, or payroll deduction plan.
- Amends s. 627.7015, F.S., to exempt certain types of claim disputes from the statutory mediation program for the resolution of property insurance claims, to codify exemptions that are currently in rule, and to exempt claims for which the insurer has a reasonable basis to believe that the claimant has intentionally made a material misrepresentation of fact.
- Amends s. 627.901, F.S., to allow insurers and general lines agents to charge a service charge of $3 per payment installment, if an annual premium is paid monthly or in installments, with a maximum annual service charge of $36 (as an alternative to the current law allowing a rate of interest not exceeding 18 percent simple interest per year on the unpaid balance).
- Amends s. 626.9541(1)(o), F.S., by limiting the applicability of the current unfair or deceptive practices law, which prohibits insurers from charging rates in excess of or less

than those specified in the policy, for premiums or rates that are not required to be filed or approved by the Office of Insurance Regulation. As amended, this would apply only to premiums and charges "collected from a Florida resident."

- Amends s. 626.9541(1)(x), F.S., to prohibit insurers from refusing to insure any individual or risk solely because of the fact that the insured or applicant is a public official.
- Amends s. 631.914, F.S., by expanding the assessment base for funding the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA or "association"), which pays workers' compensation claims of insolvent insurers and self-insurance funds. It provides that the assessments levied against insurers and self-insurers of a specified percentage of workers' compensation premiums written in the state, would be applied to the full policy premium value, without taking into account any discount or credit for deductibles. This provision does not increase the percentage caps on assessments, but the expanded assessment base significantly increases funding for FWCIGA, which is facing mounting liabilities. (This provision and the following two paragraphs were originally included in CS/SB 1766. See the Senate staff analysis of that bill for additional information.)
- Amends s. 631.913, F.S., to provide that the FWCIGA's obligation to return any unearned premium to an employer shall not exceed $50,000 per policy.
- Amends s. 631.924, F.S., to provide for a 6-month stay of all legal proceedings in which an insolvent insurer is a party, as the law currently provides if a self-insurance fund is a party to a legal proceeding.
- Amends s. 624.406, F.S., to provide that a health insurer may transact reinsurance for the medical and lost wages benefits provided under a workers' compensation insurance policy.
- Amends s. 631.141, F.S., to provide a contingent appropriation relating to delinquency proceedings. It provides that if, at the initiation of such a proceeding, either the Department of Financial Services is not appointed as a receiver, or if the funds of an insurer for which the department is appointed as receiver are not sufficient to cover costs of compensating attorneys, agents, or assistants, there is appropriated, upon the approval of the Chief Financial Officer and the Legislative Budget Commission, from the Insurance Regulation Trust Fund to the Division of Rehabilitation and Liquidation, a sum that is sufficient to cover the unreimbursed costs.
- Amends s. 627.679, F.S., relating to credit life insurance. Current law requires certain written disclosures to be made to borrowers before credit life insurance may be sold. This provision limits these disclosures to credit life insurance sold in connection with a specific installment loan or home equity line of credit. It further provides that such disclosures do not apply to credit life insurance relating to open-end or revolving credit arrangements (such as credit cards).

- Amends s. 648.50, F.S., to provide that one or more taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may provide financial responsibility by providing evidence of holding a motor vehicle liability policy with minimum limits of $125,000/$250,000/$50,000. Currently, such vehicles must obtain liability policies with minimum limits of $10,000/$20,000/$10,000. (Other options for meeting financial responsibility requirements, such as self-insurance or deposits are not changed.)

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 513 — Insurance Claims and Premium Payments

by Rep. Benson and others (CS/SB 2428 by Banking and Insurance Committee and Senators Atwater and Siplin; CS/SB 1308 by Banking and Insurance Committee and Senator Alexander)

This bill makes various changes to the laws related to insurance, as follows:

- Amends s. 627.4035, F.S., to clarify that premiums for insurance may be paid by debit card, credit card, automatic electronic funds transfer, or payroll deduction plan.
- Amends s. 627.7015, F.S., to exempt certain types of claim disputes from the statutory mediation program for the resolution of property insurance claims, to codify exemptions that are currently in rule, and to exempt claims for which the insurer has a reasonable basis to believe that the claimant has intentionally made a material misrepresentation of fact.
- Amends s. 627.901, F.S., to allow insurers and general lines agents to charge a service charge of $3 per payment installment, if an annual premium is paid monthly or in installments, with a maximum annual service charge of $36 (as an alternative to the current law allowing a rate of interest not exceeding 18 percent simple interest per year on the unpaid balance).
- Amends various sections in ch. 626, F.S., related to insurance agents, which are also contained in CS/SB 2364. (See the summary of that bill for details.)
- Amends s. 627.351(6), F.S., related to rates charged by Citizens Property Insurance Corporation (Citizens). (These provisions are similar to provisions contained in CS/SB 1308, which did not pass. See the Senate staff analysis of that bill for additional background.) The Legislature created Citizens in 2002 to assume the operations of the former Florida Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). In general, Citizens provides residential property insurance in all areas of the state (like the former RRPCJUA) and provides wind-only coverage for both residential and non-residential risks in designated coastal areas (like the former FWUA). The bill provides as follows:

- The maximum allowable rate increase is 20 percent for personal lines residential wind-only policies (formerly, FWUA policies) issued or renewed between July 1, 2003, and June 30, 2004, as compared to the rate in effect on June 30, 2003, as adjusted for coverage changes and seasonal occupancy surcharges.
- Requires Citizens, in conjunction with the Office of Insurance Regulation (office), to develop a wind-only rate-making methodology to be contained in a rate filing made by January 1, 2004, to implement the requirement that such rates be non-competitive with rates charged by authorized insurers. The office must provide a report on the methodology to the Senate and the House of Representatives by January 31, 2004.
- Citizens must certify to the office at least twice annually that its personal lines rates comply with the current requirement that its average rates for each county (excluding wind-only policies, which are addressed in the above paragraph) must be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state. To assist Citizens in this regard, it must appoint a rate methodology panel consisting of representatives of specified associations, insurers, and public officials. By January 1, 2004, the panel must provide a report to Citizens of its findings and recommendations, and within 30 days after such report, Citizens must present a plan to the Senate and House of Representatives for implementing the ratemaking methods and an outline of any needed legislation.
- The above plan must include a provision that producer (agent) commissions shall not be calculated to include any rate-equalization surcharge. However, regardless of the report, commissions must remain fixed until January 1, 2004.
- By January 1, 2004, Citizens must develop a notice to policyholders or applicants that its rates are intended to be higher than the rates of any admitted carrier and providing other information to assist consumers in finding other coverage.

- Provides that it shall not be considered insurance if a telecommunication company, public utility, or water system charges customers for an optional waiver of liability, at the election of the customer, where the entity agrees to waive all or a portion of the customer's liability for service from a defined period, in the event of the customer's death, disability, call to active military service, involuntary unemployment, qualification for family leave, or similar qualifying event. (This provision was originally adopted as an amendment by the Banking and Insurance Committee to SB 2466.)
- The bill creates s. 717.1071, F.S., related to unclaimed property, providing that property that becomes distributable over the course of an insurance company's demutualization, rehabilitation or related organization is considered abandoned 2 years after the distribution if certain conditions are met. First, at the time of distribution, the last known address of the owner of property (in possession of the holder of the property) must be

known to be incorrect or the distribution or statement is returned by the post office as undeliverable. The second requirement is that the owner does not communicate in writing or otherwise to the holder of property, regarding the property interest. Property from a demutualization that is not covered by these provisions is reportable as otherwise provided by ch. 717, F.S. Property subject to s. 717.1071, F.S., must be reported and delivered no later than May 1 for the preceding year. (This provision may be in conflict with SB 2680, which also creates s. 717.1071, but contains different language regarding when property is considered unclaimed.)

- Amends s. 624.430, F.S., to require an insurer that is surrendering its certificate of authority, withdrawing from the state, or discontinuing the writing or any kind or line of insurance, to avail itself of all reasonably available reinsurance. Such insurer must engage an independent third party to search for unrealized reinsurance and certify to the Office of Insurance Regulation that it has done so. The compensation to the third party may be a percentage of unrealized reinsurance identified and collected. The bill also amends s. 624.81, F.S. to impose these same requirements on any insurer subject to administrative supervision.

- Amends s. 626.7451, F.S., to increase the maximum allowable per-policy fee that a managing general agent may charge from $25 to $40. It further provides that if a managing general agent collects a per-policy fee, it must remit at least $5 per policy to the Division of Insurance Fraud of the Department of Financial Services, which must be dedicated to the prevention and detection of motor vehicle insurance fraud. It must remit an additional $5 per policy, 95 percent of which ($4.75) to the Justice Administration Commission, which must distribute the fees to the state attorneys of the 20 judicial circuits for investigating and prosecuting cases of motor vehicle insurance fraud. The remaining 5 percent ($0.25) must be remitted to the Office of Statewide Prosecution for the same purposes. By July 1, 2005, the state attorneys and the Office of Statewide Prosecutor must provide a report to the Senate and the House of Representatives evaluating the effectiveness of the investigation, detection, and prosecution of motor vehicle insurance fraud related to such funds.

- Creates s. 624.4623, F.S., to allow any two or more independent nonprofit colleges or universities accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, or independent, nonprofit, accredited secondary educational institutions, located in an chartered by the state of Florida to form a self-insurance fund for any property or casualty risk or surety insurance or securing the payment of workers' compensation benefits. The bill establishes certain criteria that must be met for any such self-insurance fund.

- Amends s. 626.9541(1)(x), F.S., to prohibit insurers from refusing to insure any individual or risk solely because of the fact that the insured or applicant is a public official.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-1

SB 2466 — Premium Finance Company Applications

by Senator Diaz de la Portilla

This bill amends s. 627.826, F.S., to revise the definition of a "premium finance company" to exempt any person who purchases or acquires premium finance agreements from a licensee (premium finance company), if the licensee retains the possession of and the legal obligation to service the agreements, collects payments due under the agreements, and remains responsible for the premium finance agreements being administered.

Pursuant to the Insurance Code, consumers may finance their insurance premiums through premium finance companies. Under this financial arrangement, the premium finance company advances money to the consumer in the form of payment of premiums on an insurance contract. Such companies are licensed by the Office of Insurance Regulation and must meet specified net worth and other requirements.

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

HB 821 — Florida Automobile Joint Underwriting Association/Service of Process

by Rep. Gannon (CS/SB 1960 by Banking and Insurance Committee and Senator Margolis)

This bill amends s. 627.311(6), F.S., to designate the General Manager of the Florida Automobile Joint Underwriting Association (FAJUA) as the agent to receive service of all legal process issued against the FAJUA in any civil action or proceeding in this state and that the process so served is valid and binding upon the FAJUA. It provides that service of process upon the General Manager is the sole method of service of process upon the association.

Under current Florida law, there is no statutory provision for service of process on the FAJUA and lawsuits are often served upon incorrect parties, which has caused unnecessary delays for the FAJUA to respond to such lawsuits.

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

FINANCIAL SERVICES (MISCELLANEOUS)

HB 283 — Secured Transactions: Uniform Commercial Code

by Rep. Seiler (CS/SB 218 by Banking and Insurance Committee and Senator Campbell)

The bill revises two provisions related to secured transactions, as part of the Florida law that incorporates provisions of the Uniform Commercial Code. The first revised provision is the creation of two additional requirements in s. 679.509(3), F.S., for filing certain amendments to financing statements. The additional requirements are that the debtor must authorize the filing of the termination statement, and that the termination statement must indicate that the debtor authorized it to be filed.

The second revised provision amends s. 679.513(4), F.S., and provides that if a termination statement falls under the provisions of s. 679.510, F.S., then the provisions of that section govern the termination statement to the extent they are in conflict with s. 679.513(4), F.S. The bill also corrects an incorrect citation in s. 679.509(3), F.S. The purpose of the bill is to better enable creditors to challenge fraudulent termination statements, and make the Florida Commercial Code more consistent with the statutory commercial codes of other states.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 117-0

CS/SB 738 — Worthless Checks

by Judiciary Committee and Senator Bennett

This bill amends s. 68.065, F.S., which contains the procedures for filing a civil action for the recovery of a worthless check. A civil action may be brought to collect a check, draft, or order of payment when payment was refused by the drawee because of lack of funds, credit, or an account, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand from the payee. If the payee prevails in the civil action, the maker or drawer is liable to the payee for the amount owing on the check plus damages of three times the amount owing, court costs, and reasonable attorney's fees incurred by the payee in the civil action.

Before recovery for a worthless check may be claimed in a civil action, written notice must be delivered to the maker or the drawer of the check. This bill allows notice to be delivered by first-class mail, evidenced by an affidavit of service of mail as an alternative to notice may be delivered by certified or registered mail, evidenced by return receipt. The bill also states that notice is to be mailed to the address on the check, the address given by the drawer when the instrument was issued, or to the drawer's last known address.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 118-0

SB 2680 — Unclaimed Property

by Senator Campbell

The bill amends ch. 717, F.S., The Florida Unclaimed Property Act, which provides the statutory procedure for the escheat (reversion) and disposition of presumed abandoned property to the state. Unclaimed property constitutes funds or other property that has remained unclaimed by the owner for a certain number of years. If the property remains unclaimed, all proceeds from abandoned property are then deposited by the Department of Financial Services into the Department of Education School Trust Fund (State School Fund), except for an $8 million balance that is retained in a separate account for the prompt payment of verified claims by the rightful owners of property. The general purpose of the Act is to protect the interest of missing owners of property while the state derives a benefit from the unclaimed and abandoned property until the property is claimed, if ever.

The bill amends or creates four sections of ch. 717, F.S. The definition of "intangible property" contained in s. 717.101, F.S., is amended to include bearer bonds and original issue discount bonds. This change makes bearer bonds and original issue discount bonds subject to s. 717.102, F.S., which states that intangible property held for more than 5 years after the property becomes payable or distributable is presumed unclaimed.

The bill creates s. 717.1071, F.S., to govern when property from the demutualization of an insurance company is presumed unclaimed. Property that becomes payable or distributable in the course of the demutualization of an insurance policy is presumed unclaimed 5 years after the earlier of the date of last contact with the policyholder or the date the property became available or distributable. (House Bill 513 also creates s. 717.1071, F.S., with provisions that may be in conflict with the version enacted by this bill.)

Section 717.1101, F.S., is revised with its title changed to "unclaimed equity and debt of business associations." The section explains when stock or other equity interest in a business association is presumed unclaimed, and provides guidelines for the handling of investments that do not pay out actual dividends. Stock or another equity interest in a business association is presumed unclaimed 5 years after the earliest of the following dates:

- The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner.
- The date of a statement of account or other notification or communication that was returned as undeliverable.

- The date the holder discontinued mailings, notifications, or communications to the apparent owner.

The changes to s. 717.1101, F.S., also state that unmatured or unredeemed debt is presumed unclaimed 5 years after the date of the most recent interest payment unclaimed by the owner. Matured or redeemed debt is presumed unclaimed 5 years after the date of maturity or redemption.

The 5-year period that determines if property is considered unclaimed ceases to run when the owner or person entitled to the property communicates with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest. The 5-year period also ends if the owner or entitled person presents an instrument issued to pay interest or a dividend or other cash distribution.

This bill amends s. 717.119, F.S., to mandate that firearms or ammunition found in an unclaimed safe deposit box or other repository is to be delivered by the holder to a law enforcement agency for disposal.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

WARRANTY ASSOCIATIONS

CS/SB 2278 — Motor Vehicle Service Agreements

by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Atwater

The bill amends ss. 634.011, 634.041, and 634.121, F.S., relating to motor vehicle service agreements to revise the requirements for coverage of "vehicle protection expenses," including allowance for benefits that are payable in the form of a pre-established flat amount of $5,000 or less.

Legislation in 2002 allowed motor vehicle service agreement companies to provide coverage for vehicle protection expenses, which is a type of vehicle theft protection warranty, when theft protection products such as car alarms, window-etched vehicle ID numbers, and other applications are installed in motor vehicles. Vehicle protection expenses are payable if loss or damage to the vehicle results from the failure of the vehicle protection product to prevent the theft of the motor vehicle or to assist in its recovery. The 2002 act specified the types of benefits that must be paid, including the deductible under the comprehensive coverage of the contract holder's motor vehicle insurance policy; temporary vehicle rental expenses; sales taxes and registration fees on a like replacement vehicle; and the difference between the benefits paid for

the stolen vehicle under the comprehensive coverage and the actual cost of a like replacement vehicle. The 2002 law also allowed payment of a preestablished flat amount, but provided that payments could not duplicate any benefits or expenses paid to the contract holder by an insurer providing comprehensive coverage under a motor vehicle insurance policy.

The bill specifies that motor vehicle service agreements paying a flat amount of $5,000 or less do not violate the prohibition against duplicating benefits payable under a comprehensive motor vehicle insurance policy. If a motor vehicle service agreement provides vehicle protection expenses of a flat amount, the agreement must clearly state the amount.

The bill also requires a company offering vehicle protection expense coverage to maintain contractual liability insurance covering 100 percent of its vehicle protection claim exposure. Additionally, the bill allows a company that maintains an unearned premium reserve on all of its current service agreements to offer vehicle protection expense coverage if it maintains contractual liability insurance on any future service agreements providing such coverage. The company must continue to maintain the 50 percent reserve for all other types of service agreements.

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

SB 2294 — Communications Equipment Property Insurance

by Senator Alexander

The bill amends s. 626.321, F.S., dealing with limited licenses to sell communications equipment property insurance.

The bill permits limited insurance agent licensees to sell communications equipment property insurance certificates to consumers under a group master policy. The bill also states that persons holding or applying for a limited license to sell communications equipment property insurance are exempt from the fingerprint requirements of ch. 626, F.S. The bill also states that a "person" (an individual or corporation) who applies for or holds a limited license is subject to the same requirements and responsibilities that apply to general lines agents, unless otherwise expressly provided. Previously, the responsibilities and exceptions were applicable to "individuals," a term that does not include corporations. This change in tandem with the elimination of the fingerprint requirement means that corporate directors will no longer have to submit their fingerprints in order to hold a limited license for the sale of communications equipment property insurance.

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

HB 721 — Warranty Association Regulation

by Rep. Llorente and others (CS/CS/SB 2414 by Finance and Taxation Committee; Banking and Insurance Committee; and Senator Diaz de la Portilla)

The bill amends ss. 634.031, 634.303, and 634.403, F.S., all of which relate to warranty association regulation. Chapter 634, F.S., governs warranty associations in the state, and is divided into three parts for the regulation of three types of warranty associations. Part I covers motor vehicle service agreement companies. Part II covers home warranty associations. Part III covers service warranty associations. An entity must have a license issued by the Office of Insurance Regulation in order to transact, administer, or market any of these three types of warranty association agreements.

The bill creates an exemption from licensure for affiliates of domestic insurers that issue motor vehicle service agreement policies, home warranties, or service warranties under certain conditions. Licensure is not necessary if the affiliate does not issue, market, or cause to be marketed, such warranty policies to residents of Florida and does not administer policies that were originally issued to a Florida resident who then moved out of state.

A domestic insurer or its wholly owned Florida licensed insurer must be the direct obligor of all motor vehicle service agreements, home warranties, or service warranties issued by the affiliate, or must issue a contractual liability insurance policy to the affiliate that meets the requirements of s. 634.041(8)(b), F.S. The bill also provides that the affiliate will be subject to licensure if the Office of Insurance Regulation determines, after notice and an opportunity for a hearing, that the affiliate is not complying with the conditions of the exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

PUBLIC RECORDS EXEMPTIONS

HB 1041 — Florida Automobile Joint Underwriting Association/Public Records

by State Administration Committee and others (CS/CS/SB 280 by Governmental Oversight and Productivity Committee and Banking and Insurance Committee)

This bill reenacts with certain changes the public records and public meetings exemptions for the Florida Automobile Joint Underwriting Association (FAJUA) pertaining to open claims, underwriting, and audit files; proprietary information; specified employee records; on-going negotiations; and portions of meetings relating to open claims and underwriting files. The bill removes the public records exemption for "matters reasonably encompassed in privileged attorney client communications" because current law already provides a public records

exemption for such information under ch. 119, F.S. The bill further adds technical conforming language and makes changes to conform to ch. 2002-404, L.O.F., which abolished the Department of Insurance and created the Department of Financial Services, the Office of Insurance Regulation, and the office of the Chief Financial Officer.

This bill is the result of an Open Government Sunset Review performed by the Banking and Insurance Committee during the interim. The exemption would have been repealed on October 2, 2003, unless the Legislature abrogated the repeal.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 112-0

HB 1035 — Workers' Compensation/Public Records

by State Administration Committee and others (CS/SB 284 by Governmental Oversight and Productivity Committee and Banking and Insurance Committee)

This bill reenacts an exemption for certain investigatory records of the Division of Workers' Compensation of the Department of Financial Services relating to workers' compensation employer compliance. The bill also authorizes the department to share such investigatory records with administrative and law enforcement agencies, if such agencies maintain the confidentiality of such records, as specified by s. 440.108, F.S.

This bill is the result of an Open Government Sunset Review performed by the Banking and Insurance Committee during the interim. The exemption would have been repealed on October 2, 2003, unless the Legislature abrogated the repeal.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 114-0

CHILD WELFARE

CS/CS/SB 1318 — Rilya Wilson Act

by Appropriations Committee; Children and Families Committee; and Senators Wilson, Miller, Dawson, Lynn, Lawson, Campbell, Siplin, Hill, and Bullard

This bill creates the Rilya Wilson Act which requires children, ages 3 years to school entry, who have been abused, neglected, or abandoned and who are enrolled in early education or child care programs as a result of being in the care of the state pursuant to ch. 39, F.S., to participate in the program 5 days a week. The bill sets forth requirements for attendance and reporting absences to facilitate the quick identification of children who are missing. A study is required to examine these children and the role participation in licensed early education or child care programs has in ensuring their safety. The eligibility for school readiness programs is modified to provide priority for children, ages 3 years to school entry, who are served by the Department of Children and Families or a community-based lead agency pursuant to ch. 39, F.S., for whom child care is needed to minimize the risk of further abuse, neglect, or abandonment.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

CS/SB 1442 — Child Protective Investigations

by Children and Families Committee

The focus of this bill is the retention of child protective investigators.

- The bill modifies the child protective investigation process to provide a two-tiered process with different levels of investigative activities.
- A Protective Investigative Retention Workgroup is established to address a number of issues pertaining to the retention of protective investigators with a report to the Legislature. The activities assigned to the workgroup include further examination of the investigative process to identify efficiencies, determining the appropriate handling of child abuse allegations in Department of Juvenile Justice facilities, examining the qualifications desired for protective investigators and their supervisors, developing a plan for training protective investigators, and developing a plan for building communication with and recognition of staff.
- The process for accepting reports for investigation is clarified.

- The central abuse hotline is authorized to determine the response time for institutional child abuse rather than requiring that the response be immediate.
- The requirement that Temporary Assistance to Needy Families (TANF) non-compliance cases be referred for protective intervention is removed.
- The directive to proceed with an assessment for child-on-child sexual abuse reports is clarified.
- The Department of Children and Families is prohibited from amending its operating budget to shift funds or positions for protective investigators to other functions.
- Finally, the Office of Program Policy Analysis and Government Accountability is directed to conduct a study on the impact that availability of services to families has on the turnover of protective investigators and on the families' re-entry into the child protective system.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 101-0

HB 1593 — Family Foster Homes/Public Records

by State Administration Committee and others (CS/SB 1444 by Governmental Oversight and Productivity Committee and Children and Families Committee)

This bill reenacts the public records exemption for certain information regarding licensed foster parents. It expands the exemption to include medical records of a licensed foster parent and such parent's spouse, minor children, and other adult household members. The bill further expands the exemption to apply to a foster parent applicant and the applicant's family and to a foster parent who is no longer licensed and the foster parent's family, even if the foster parent does not become an adoptive parent. The public records exemption for the personal identifying information contained in neighbor references is narrowed by exempting only the name, address, and telephone number of the persons providing character and neighbor references regarding the foster parent applicants and licensed foster parents. A new 5-year repeal for the expanded exemptions is provided by the bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 111-0

CS/CS/SB 1454 — Social Services

by Appropriations Committee; Comprehensive Planning Committee; and Senators Atwater, Dawson, Bennett, Geller, Peaden, Fasano, Lee, Clary, Campbell, Saunders, Siplin, Bullard, Klein, Aronberg, Wilson, and Crist

Please refer to the Community Services part of this section for further discussion of this bill.

This bill provides for the following relating to social services:

- Permits and provides the parameters for releasing confidential information to law enforcement and to the public from the Department of Children and Families' records for children who have been identified as missing.
- Permits missing children reports to be filed in the county or municipality where the child was last seen.
- Provides access to the department's child abuse records for school principals and domestic violence centers and clarifies the access for the child's attorney.
- Directs the Department of Children and Families to adopt rules that distinguish between child care programs requiring licensure and after-school programs that do not require licensure.
- Establishes minimum requirements for the development of training for staff delivering child welfare services and for contracting to develop the curricula and deliver the training.
- Creates the Florida Child Welfare Student Loan Forgiveness Program to attract students to child welfare professions.
- Modifies the Independent Living Transition Services program to provide that property purchased for the youth is not state-owned property but can be retained by the youth and establishes a workgroup to work with the Department of Children and Families in continued implementation of this program and to provide a report to Legislative committees by December 31, 2003 and December 31, 2004.
- Replaces the requirement for a Medicaid Comprehensive Behavioral Health Assessment when the number of children in a family foster home is to exceed five with a quicker assessment completed by a family services counselor.
- Authorizes the Department of Children and Families to petition the court to establish custody of an unaccompanied minor in the Refugee Assistance program in accordance with federal regulation which allows for the use of federal funds for the placement instead of the state foster care funds or out-of-state placement.

- Directs the Office of Program Policy Analysis and Government Accountability to evaluate the child welfare legal services and examine different models of providing legal services in dependency proceedings on behalf of the state with a report to the Legislature by December 31, 2003.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 116-0

CS/CS/SB 2446 — Child Care

by Education Committee; Children and Families Committee; and Senator Wasserman Schultz

This bill adds literacy and language development for children age birth to 5 years to the training required by child care center personnel and operators of family day care homes and large family child care homes. The annual in-service training requirement for child care center personnel is increased and may be earned in continuing education units (CEUs). Annual in-service training is added to the training requirements for operators of family day care homes and large family child care homes. Operators of registered family day care homes are required to annually complete a health and safety home inspection self-evaluation check list and provide this completed checklist to the parents. The Department of Children and Families is provided authority to seek an injunction to close a licensed or registered family day care home or licensed large family child care home. The department is also directed to adopt rules related to the definition of child care to distinguish between child care programs that require licensure and after-school programs that do not require licensure.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-1; House 112-1

ADULT SERVICES / DOMESTIC VIOLENCE

HB 1099 — Domestic Violence Centers

by Rep. Littlefield and others (CS/SB 1216 by Children and Families Committee and Senators Bennett and Lynn)

This bill (Chapter 2003-11, L.O.F.) shifts the direct responsibility for managing the domestic violence center contracts from the Department of Children and Families to the Florida Coalition Against Domestic Violence. With this bill, the coalition will be responsible for implementing, administering, and evaluating the services provided by the domestic violence centers using the domestic violence funding collected and allocated by the department for the centers. The bill requires that the distribution of the funds by the coalition to the centers be based on an allocation formula approved by the department. The current stipulated percentage of the domestic violence

trust fund dollars that is to be provided to the coalition is deleted and will instead be determined through negotiation with the department.

These provisions were approved by the Governor and take effect January 1, 2004.
Vote: Senate 39-0; House 118-0

HB 1763 — Domestic Violence Victims/Public Records

by State Administration Committee and others (SB 1440 by Children and Families Committee)

This bill reenacts the public records exemption for the addresses, telephone numbers, and social security numbers of program participants of the Address Confidentiality Program for victims of domestic violence. The separate statutory provision prohibiting the Office of the Attorney General from disclosing this information is repealed and replaced with the specification that the reenacted public records exemption applies to the information held by the Office of the Attorney General. The separate statutory provision prohibiting the supervisors of elections from disclosing this information is also repealed and replaced with a new subsection that explicitly provides for the public records exemption of this information held by the supervisors of elections. The required 5-year repeal for the new exemption for the supervisors of elections is provided for by the bill.

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

CS/SB 2568 — Vulnerable Persons

by Children and Families Committee and Senator Lynn

Please refer to other parts in this section, as well as the Health, Aging, and Long-Term Care Committee section, for further discussion of this bill.

This bill sets forth a number of provisions relating to vulnerable persons, including the following:

- The definitions of "abuse" and "vulnerable adult" as used for adult protective services are amended. "Abuse" is narrowed to acts of abuse committed by a caregiver. "Vulnerable adult" is revised to exclude persons with short term physical impairments.
- The Florida Guardianship Law, as it affects the practice and regulation of professional and public guardians, is revised to:
    - Place the Statewide Public Guardianship Office under the direct auspice and control of the Department of Elderly Affairs and its Secretary.

- Require the Department of Elderly Affairs to contract with the Florida Guardianship Foundation or another not-for-profit entity to perform functions associated with the registration of professional guardians.
- Require a public guardian to be considered a professional guardian for the purposes of regulation, education, and registration.
- Revise provisions for statewide registration of professional guardians and expand the registry requirement to public guardians.
- Provide that a state college or university or independent college or university may, but shall not be required to, register as a professional guardian.
- Require professional and public guardians to undergo revised credit checks and criminal background screening and to take a state competency exam as a prerequisite to appointment.
- Allow plenary and limited guardians to provide confidential ward information under specified terms to local ombudsman council members for investigative purposes.
- Require guardians to obtain court approval of the annual accounting in order to pay or reimburse costs incurred and reasonable fees or compensation to persons, including attorneys, employed by the guardian, from assets of the guardianship estate.
- Provide that when court proceedings are instituted to review or determine a guardian's or an attorney's fees, such proceedings are part of the guardianship administration process and the costs, including fees for the guardian's attorney, shall be determined by the court and paid from the assets of the guardianship estate, unless the court finds the requested compensation unreasonable.
- Reduce the educational requirements for a person serving as a guardian for his or her own minor child from 8 hours to 4 hours.
- Create a 10-member Guardianship Task Force and set forth its duties including the submission of a preliminary and final report to the Governor and the Legislature regarding the status of the guardianship delivery system and recommendations for improvements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

CS/SB 1822— Adult Protective Services

by Children and Families Committee and Senator Margolis

This bill amends s. 415.1045, F.S., directing the Department of Children and Family Services to enter into working agreements by March 1, 2004, with law enforcement agencies having jurisdiction to conduct criminal investigations arising from allegations of abuse, neglect, or exploitation of vulnerable adults. The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to conduct a review of the efficacy of the agreements by March 1, 2005.

Section 415.1102, F.S., is amended and provides a definition of the term "multidisciplinary adult protection team" as two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly persons as defined in s. 430.602, F.S., or of dependent persons and who are qualified to provide a broad range of services related to abuse of elderly or dependent persons. The composition of this team is suggested to include mental health, medical, and law enforcement personnel.

The department must provide a report to the Legislature by December 1, 2003, reflecting the status of its compliance with the recommendations included in Report No. 03-08, by OPPAGA, relating to improving the programmatic effectiveness of the Adult Services Program. This report must analyze the effects of, and provide a plan for implementing, at least one multidisciplinary adult protection team in each of its districts.

A Guardianship Task Force is created within the Department of Elderly Affairs (DOEA) for the purpose of examining issues pertaining to guardianship and incapacity and to make recommendations for improvement to the Governor and the Legislature. The Task Force is directed to submit a preliminary report to the Governor, the Secretary of Elderly Affairs and the Legislature no later than January 1, 2004 and a final report no later than January 1, 2005. The Task Force is to be terminated May 6, 2005.

This bill also amends s. 744.7021, F.S., and changes the relationship of The Office of Public Guardianship to DOEA: the office would now come under the direction of the Secretary. The Secretary of DOEA rather than the Governor is to appoint an executive director for the Statewide Public Guardianship Office. The executive director is required to provide status reports and recommendations pertaining to public guardianship services to the Secretary by January 1, 2004, and by January 1 each year thereafter.

If approved by the Governor, these provisions shall take effect July 1, 2003.
Vote: Senate 39-0; House 117-0

COMMUNITY SERVICES

CS/CS/SB 1454 — Social Services

by Appropriations Committee; Comprehensive Planning Committee; and Senators Atwater, Dawson, Bennett, Geller, Peaden, Fasano, Lee, Clary, Campbell, Saunders, Siplin, Bullard, Klein, Aronberg, Wilson, and Crist

Please refer to the Child Welfare part of this section for further discussion of this bill.

This bill includes a number of provisions relating to community-based social services.

- It creates the "Local Funding Revenue Maximization Act" to enhance the abilities of agencies and local political subdivisions to achieve maximum federal matching of funds for as many clients and health and human service needs as possible. With this bill, local funding may be used to draw down federal matching funds to meet local, critical human services needs. The bill sets forth the guidelines for this revenue maximization program including requiring the identified state agencies to establish mechanisms to use local funds for federal programs, defining the local matching funds that may be used, specifying the timeframes for providing federal reimbursements to the local political subdivisions, identifying the administrative costs permitted to be retained by the state agency, and reporting annually to the Legislature on the activities undertaken during the year.
- The bill amends the community-based care initiative for privatizing foster care and related services as follows:
    - Requires a readiness assessment before the Department of Children and Families may transfer services to a community-based care lead agency.
    - Directs the Auditor General and the Office of Program Policy Analysis and Government Accountability, in consultation with the Child Welfare League of America and the Louis de la Parte Florida Mental Health Institute, to conduct an evaluation of the Department of Children and Families' process for determining the readiness of the department's districts and the community-based care lead agencies.
    - Directs the department to provide reasonable administrative costs in each community-based care lead agency contract.
    - Eliminates the community-based care lead agency requirement for prior notification to the department before discontinuing voluntary services.
    - Directs the department to use the independent financial audits of the community-based care lead agencies to reduce contract and administrative reviews.

- Excludes certain counties from the community-based care requirements and provides for them to contract directly with the department.
- Eliminates the requirement that the Office of the Attorney General or the state attorney provide child welfare legal services for the community-based care initiatives in Sarasota, Broward, and Manatee counties.
- Reduces the match requirement for the community partnership matching grant program for prevention and in-home services from $825,000 to $250,000.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 116-0

CS/SB 2568 — Vulnerable Persons

by Children and Families Committee and Senator Lynn

> Please refer to other parts in this section, as well as the Health, Aging, and Long-Term Care Committee section, for further discussion of this bill.

This bill sets forth a number of provisions relating to vulnerable persons, including removing the limitation to the consideration of offenses committed prior to October 1, 1995 in employment and licensure background screening pursuant to ch. 435, F.S. With this bill, the Department of Children and Families will be able to consider offenses committed by foster parent applicants, relatives, and other adults prior to October 1, 1995, in the placement of children in the child welfare system.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

CS/SB 480 — Commission on Marriage and Family

by Governmental Oversight and Productivity Committee and Senator Lynn

This bill replaces the Commission on Responsible Fatherhood with the Commission on Marriage and Family Support Initiatives. This newly created commission is established within the Department of Children and Families as an independent entity not subject to departmental control. The responsibilities of the commission include developing comprehensive statewide strategies to facilitate the connection of responsible fathers and mothers with their families and children, to increase the availability of and access to parenting and relationship skills education and training, and to encourage and support the formation and maintenance of two-parent families. The commission is to consist of 18 members from the public and private sectors with the Governor, the President of the Senate, and the Speaker of the House of Representatives each appointing six members. The bill requires that the commission coordinate with community-based

organizations, prepare a number of reports that are to be submitted to the Governor and the Legislature, and submit an annual report. The funding allocated for the Commission on Responsible Fatherhood is provided for the newly established Commission on Marriage and Family Support Initiatives.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 93-14

MENTAL HEALTH AND SUBSTANCE ABUSE

CS/SB 2404 — Substance Abuse and Mental Health

by Children and Families Committee and Senator Lynn

The Florida Substance Abuse and Mental Health Corporation, Inc.

This bill creates s. 394.655, F.S., creating a not-for-profit organization known as the Florida Substance Abuse and Mental Health Corporation, Inc., referred to as "the corporation." This corporation is to provide oversight and policy recommendations for the substance abuse and mental health systems and is subject to the direction of the Legislature.

The corporation is to work with the Department of Children and Family Services (DCF or the department), the Agency for Healthcare Administration (AHCA or the agency), and other agencies of state government to work toward fully developed and integrated mental health and substance abuse systems.

A memorandum of understanding is to be developed between the corporation and DCF requiring the department to consider and respond to the recommendations of the corporation. Requests made by the corporation to the department are to be responded to in a timely manner.

This bill provides direction for 12 members to be appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor is to appoint the chair of this corporation, who may not be a public sector employee.

An organizational structure is specified in s. 20.19, F.S., for the department's substance abuse and mental health program offices. This structure provides for the appointment of an Assistant Secretary and Program Directors by the Secretary of the department who are to have direct control of budgets and contracts including line of authority over district program staff.

The bill also requires that beginning December, 2004, annual financial and program evaluation reports be provided by the corporation. These reports are to address the status of the state's publicly funded substance abuse and mental health systems and be submitted to the Governor

and the Legislature. These reports must also address whether the department and the corporation are complying with the terms of the contract in a manner that is consistent with the goals and purposes of the corporation and in the best interest of the state.

The Office of Program Policy Analysis and Government Accountability and the Auditor General are to jointly conduct an evaluation of the state's substance abuse and mental health systems and their management. The evaluation is to address at a minimum the extent to which the corporation has carried out its duties, the degree to which the department and other affected state agencies have cooperated with the corporation, and the impact of the organizational changes on the substance abuse and mental health systems in specified areas. The evaluation is to commence with the initial operation of the corporation and reports are to be submitted to the Governor and the Legislature by February 1, 2005, and February 1, 2006. The final report must include recommendations concerning the future of the corporation and the structure of the substance abuse and mental health authority and placement.

The section of law authorizing the corporation expires on October 1, 2006, unless it is reviewed and re-enacted by the Legislature prior to that date. Newly created s. 20.19 (2)(c), F.S., that directs the organizational structure for the substance abuse and mental health programs, and s. 20.19 (4)(b) 6. and 8., F.S., the current authority in law for DCF to operate the substance abuse and mental health programs, expire on October 1, 2006 unless re-enacted by the Legislature based on the demonstration that those programs are operating effectively within DCF.

Departmental Contracting

This bill amends s. 394.74, F.S., authorizing the department to adopt by rule new payment methodologies that include fee-for-service, prepaid case rate or prepaid capitation contract payment mechanisms for purchasing mental health or substance abuse services. This authority will provide additional contracting flexibility to the department and improve language consistency with other sections of the statute. The bill prohibits the rule from changing the ratio of state to local resources or changing the sources of matching funds. It additionally prohibits the increase of local matching funds.

Monitoring and Accreditation

This bill amends the accreditation requirements for behavioral health care services reflected in s. 394.741, F.S., directing the department and the Agency for Health Care Administration to adopt rules in order to conduct monitoring of accredited service providers. The bill requires the department to follow only properly adopted and applicable federal and state statutes and rules when monitoring service providers and specifies that the department may also monitor an organization to ensure that services billed to the department were provided.

The bill also requires the department to file a State Project Compliance Supplement for behavioral health services and to conduct only desk reviews of audit reports unless problems

have been identified by the audit. If problems are identified by the report, then the department may conduct onsite financial monitoring.

Strategy Areas

The bill amends s. 394.9082, F.S., to reflect that the managing entity, that is responsible for the provision and coordination of behavioral healthcare services within a geographic area, is accountable for behavioral health care services that are specified and funded by the department and the agency. The bill also creates new language regarding the data systems and reporting requirements of the strategy areas, creating reporting flexibility that is needed in the strategy areas.

The bill also directs the expansion of the "managing entity" concept into Districts 4 and 12 specifically for substance abuse services and restricts service expansion in those districts to the area of substance abuse. In these districts, a managing entity is to be accountable for the provision of substance abuse services to the recipients of child protective services. The department is directed to work with stakeholders to develop a phase-in of services, provide technical assistance to assure district and provider readiness, and enter into a contract with a managing entity.

The department must maintain detailed information on the methodology used for selecting the managing entity. A non-competitive contract may be entered into with a selected managing entity. Contract performance objectives must be developed ensuring that services delivered directly impact the child's permanency plan. Existing statutory requirements relating to the goals and essential elements of service strategies are waived during the initial implementation of this expansion project.

The department is directed to implement this project and provide status reports to the appropriate substantive committees of the Senate and the House of Representatives no later than February 29, 2004, and February 28, 2005. The integration of all services agreed upon by the managing entity and authorized by the department must be completed within 2 years after project initiation.

The bill provides additional direction for the study currently required to be conducted by the Florida Mental Health Institute (FMHI), as a part of the ongoing evaluation of the strategies. The state must address the strategies implemented in Districts 1, 8, 4 and 12, and, based upon this study, the department and AHCA must provide a report no later than December 31, 2006, to the Governor and the Legislature. The report must contain recommendations for the statewide implementation of successful strategies, including any modifications to the strategies currently in use and target dates for statewide implementation.

Medicaid

Section 409.912, F.S., is amended requiring the Agency for Health Care Administration to seek federal approval to contract with a single entity to provide comprehensive behavioral health care services to all Medicaid recipients in an AHCA area. Each entity must offer a sufficient choice of providers. The network is to include all public health hospitals.

The department and AHCA will collaborate on all policy, budgets, contracts, and monitoring plans and shall contract to provide comprehensive mental health and substance abuse services through capitated pre-paid arrangements in each AHCA area except area 6 (Hardee, Highlands, Hillsborough, and Manatee counties). The bill requires that AHCA submit a plan for fully implementing capitated prepaid behavioral health care services throughout the state and provides for the implementation of a plan that would vary by the size of the Medicaid eligible population. The bill also allows for capitation rates to be changed if the rates are insufficient to provide appropriate services and allows for general revenue to be used to meet additional match. The over obligation of existing funds on an annualized basis is prohibited. The plan must be submitted to the Governor and the Legislature.

A plan must also be developed to implement new Medicaid procedure codes for emergency and crisis care, residential services and other services. The plan must describe specific procedure codes to be implemented, a projection of the number of procedures to be delivered, and a financial analysis that includes projected earnings and sources of state match. This plan may not be implemented until approved by the Legislative Budget Commission.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 111-0.

CS/SB 2568 — Vulnerable Persons

by Children and Families Committee and Senator Lynn

Please refer to other parts in this section, as well as the Health, Aging, and Long-Term Care Committee section, for further discussion of this bill.

This bill sets forth a number of provisions relating to vulnerable persons, including providing the Department of Children and Families with the flexibility to use fee for service, case rate, or capitated contract methods, in addition to unit cost methods, in order to purchase and account for mental health and substance abuse services.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

DEVELOPMENTAL DISABILITIES

CS/SB 2568 — Vulnerable Persons

by Children and Families Committee and Senator Lynn

> Please refer to other parts in this section, as well as the Health, Aging, and Long-Term Care Committee section, for further discussion of this bill.

This bill sets forth a number of provisions relating to vulnerable persons, including the following:

- Non-licensed direct care staff in day programs and intermediate care facilities for the developmentally disabled are permitted to administer prescription medications to persons with developmental disabilities. Training of designated staff by either a registered nurse or physician is required, as are policies and procedures to ensure the safe handling, storage, and administration of the prescription medication.
- The health care proxy statute is revised to provide for appointment of a clinical social worker as a proxy in those cases where the incapacitated person or person with a developmental disability has not appointed a surrogate, does not have a guardian or a living will, and has no person among the various parties provided for in statute to be a decision maker for him or her. The appointment of such a proxy must be made through the facility's bioethics committee or, in the absence of such a committee at the facility, by the bioethics committee of another facility.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

ECONOMIC DEVELOPMENT

HB 691 — Economic Development Incentive Programs

by Rep. Hasner (CS/CS/SB 2410 by Finance and Taxation Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senator Garcia)

This bill revises laws relating to several of the state's economic development incentive programs.

Capital Investment Tax Credit Program

Under the Capital Investment Tax Credit (CITC) Program, a "qualifying business" that establishes a "qualifying project" in this state is eligible to receive an annual credit against the business's corporate income tax liability or the premium tax liability generated by the project. The bill modifies the definition of a "qualifying project" eligible to receive a capital investment tax credit to expressly include:

> a new financial services facility in this state which creates at least 2,000 new jobs in this state, pays an average annual wage of $50,000, and makes a cumulative capital investment of at least $30 million.

Tax Refund Program for Qualified Defense Contractors

The bill modifies the definition of "Department of Defense contract" in the Qualified Defense Contractor Tax Refund Program to include certain contracts for products or services for homeland security. Under the revised definition, eligible contracts may be made with the Department of Homeland Security. Businesses having Department of Defense contracts may be eligible for refunds of specified taxes paid to this state.

Tax Refund Program for Qualified Target Industry Businesses

The Office of Tourism, Trade, and Economic Development and Enterprise Florida, Inc., are expressly directed by the bill to consider the development of strong industrial clusters which include defense and homeland security businesses when identifying target industry businesses under the Qualified Target Industry (QTI) Tax Refund Program. The bill also extends the deadline to June 30, 2004, for a qualified target industry business to apply for an economic-stimulus exemption from its contractual obligations with the Office of Tourism, Trade, and Economic Development (OTTED). An economic-stimulus exemption will enable a qualified target industry business to remain in the QTI Tax Refund Program if it has been unable to

comply with its contractual obligations with OTTED due to economic conditions or terrorism. The business will be able to receive the exemption in lieu of a tax refund.

Quick Action Closing Fund

The bill revises the Quick Action Closing Fund to allow the Governor to disburse such funds to an eligible economic development project without consulting the Legislative Budget Commission through the process prescribed in s. 216.177, F.S. The bill also allows the Governor, in consultation with the President of the Senate and the Speaker of the House of Representatives, to request a budget amendment from the Legislative Budget Commission for authority to reallocate unencumbered funds in the Quick Action Closing Fund to other economic development programs and operations in an emergency or special circumstance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 116-0

HB 1149 — Entertainment Industry

by Rep. D. Davis and others (CS/CS/SB 1756 by Appropriations Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Saunders, Bullard, and Crist)

This bill creates an entertainment industry financial incentive program, subject to appropriation, which provides for the payment of financial incentives to qualified productions of filmed entertainment and digital-media-effects companies for expenditures made in Florida and to filmed entertainment projects that relocate to Florida from other states. The bill provides for an application process to be administered by the Governor's Office of Film and Entertainment, with oversight by the Office of Tourism, Trade, and Economic Development. The bill specifies eligibility requirements for qualified productions and projects, requires an annual report on the state's return on investment from these financial incentives, and provides that annual funding for the entertainment industry financial incentive program is subject to legislative appropriation. The bill also provides a conforming change to the definition of the term "entertainment industry."

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 112-0

CS/SB 2624 — Florida Black Business Investment Board, Inc.

by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Miller

This committee substitute authorizes the Florida Black Business Investment Board, Inc., (BBIB) and the black business investment corporations to participate in the Florida Minority Business Loan Mobilization Program; increases the authority of the BBIB over its bylaws and policies by eliminating the requirement that certain policies be approved by the black business investment

corporations; requires black business investment corporations to be certified by the BBIB every 5 years; and changes the due date for the BBIB's annual report from February 1 to May 1.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 116-0

SB 2164 — Enterprise Zones

by Senators Sebesta, Bullard, and Siplin

This bill authorizes the expansion of several enterprise zones and the creation of an enterprise zone as follows:

- Enterprise zones located in communities having a population of 235,000 but less than 260,000 may expand up to 25 acres. The enterprise zones satisfying this population criteria are the St. Petersburg, Immokalee, and Leon County enterprise zones.
- Upon the recommendation of Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development (OTTED) may authorize the expansion of rural enterprise zones as defined in s. 290.004(8), F.S., to a maximum zone size of 20 square miles. Twenty of the 26 rural enterprise zones defined in s. 290.004(8), F.S., currently encompass less than 20 square miles and would be eligible to expand. The expanded areas of the rural enterprise zones will not have to satisfy the poverty requirements generally applicable to enterprise zones.
- Escambia County may apply to OTTED by December 31, 2003, for the designation of a 20-square-mile enterprise zone in addition to the existing enterprise zone in the City of Pensacola.

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

BUSINESS ENTITIES AND TRANSACTIONS

HB 1623 — Florida Business Corporation Act

by Rep. Goodlette and others (CS/SB 2362 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Klein and Lynn)

This bill substantially revises ch. 607, F.S., the Florida Business Corporation Act. Specifically, this bill:

- Expands the number of authorized signatories for documents filed by the Department of State to include all directors of the corporation.

- Permits corporate filings with the Department of State to specify a time to become effective when the filing has a delayed effective date.
- Extends the time frame for a corporation to correct a filed document from 10 to 30 days after the filing date.
- Permits multiple shareholders within a single household to receive a single notice from a corporation if the shareholders consent to receive a single notice.
- Requires domestic and foreign corporations to clearly indicate their corporate status in their names.
- Provides a process for alien business organizations to withdraw their registered agents.
- Authorizes corporate articles of incorporation to provide shareholders with preemptive rights to purchase a corporation's treasury shares, and specifies that shareholders have no preemptive rights to shares of a corporation issued pursuant to a court-approved plan of reorganization.
- Provides for shareholder participation at annual and special shareholder meetings through remote electronic communication.
- Requires shareholders wait 90 days after making a demand to obtain action by the board of directors of a corporation before initiating legal proceedings in the right of the corporation.
- Eliminates a shareholder's right to demand payment for his or her shares when a vote is taken to grant voting rights to shares that would constitute a controlling interest.
- Authorizes voting rights to be accorded to shares for which voting rights have not been approved after a control share acquisition when those shares are transferred to a person who will not have a controlling interest in the corporation.
- Repeals s. 607.0903, F.S., which was held unconstitutional in *Grand Metropolitan P.L.C. v. Butterworth*, Civ.A. No. 88-40317WS, slip op. at 15 (N.D. Fla. Nov. 28, 1988); s. 607.0903, F.S., purports to impose restrictions on the internal governance structures of corporations domiciled elsewhere.
- Renames dissenters' rights, which is shareholder's right to demand payment for his or her shares, as appraisal rights.
- Eliminates appraisal rights for shareholders of corporations that have at least 2,000 shareholders and a market value of at least $10 million.
- Establishes time frames and procedures by which shareholders must assert appraisal rights.
- Segments s. 607.1320, F.S., relating to a shareholder's right to demand payment for his or her shares, into its component parts and codifies them in ss. 607.1320-607.1332, F.S.

- Makes conforming changes relating to the execution and filing of articles of dissolution.
- Requires a dissolved corporation to publish a "Notice of Corporate Dissolution" in a newspaper or to file a notice with the Department of State to notify creditors having unknown claims against the dissolved corporation how to file a claim against the corporation.
- Streamlines the reinstatement process for administratively dissolved corporations.
- Provides express rights for directors to inspect corporate records.
- Eliminates the requirement for annual reports to include a statement of whether the corporation is liable for intangible taxes.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 117-0

CS/CS/CS/SB 592 — Corporate Affairs

by Judiciary Committee; Regulated Industries Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Geller and Lynn

This committee substitute makes the following changes to existing law governing the affairs of corporations not for profit, condominiums, cooperatives, and homeowners' associations:

- Defines the term "electronic transmission" for purposes of ch. 617, F.S., the Florida Not For Profit Corporation Act as:

  > any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process.

- Provides criteria to determine when an electronic transmission sent by a corporation not for profit to a member has been received.
- Authorizes foreign corporations not for profit to become domesticated in this state through a procedure similar to s. 607.1801, F.S., authorizing the domestication of foreign for-profit corporations.
- Permits members of condominiums, cooperatives, and homeowners' associations to consent to receive notice of association meetings by electronic transmission, such as facsimile or e-mail in lieu of regular mail.

- Authorizes notices of condominium, cooperative, or homeowners' association meetings to be broadcast on a closed circuit cable television system serving the association in lieu of physical posting of a conspicuous meeting notice on association property.
- Requires condominium associations, cooperative associations, and homeowners' associations to maintain the e-mail addresses of their members. The associations are not liable for the inadvertent disclosure of their members' e-mail addresses and facsimile numbers.
- Enables condominium unit owners and cooperative shareholders to vote by limited proxy to waive certain financial reporting requirements of a condominium or cooperative association.
- Permits condominium and cooperative associations to charge a reasonable fee for issuing certificates detailing the status of assessments against a condominium or cooperative unit.
- Authorizes certain condominium and cooperative unit owners or shareholders to exempt their condominium or cooperative buildings from any requirement of law to retrofit any common element or units with a fire sprinkler system or other engineered life safety system. The exemption must be secured through the affirmative vote of two-thirds of all voting interests in the affected building. Certain high-rise condominium and cooperative buildings, however, may not be exempted from these fire-safety requirements. A vote to forego retrofitting may not be obtained by general proxy or limited proxy, but must be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by a member.
- Directs the Department of Financial Services to report to the Legislature on how insurance premiums on condominiums may be reduced.
- Clarifies the responsibilities of a condominium association to insure condominium property by specifying more precisely the objects that must be covered by a hazard insurance policy.
- Defines the term mortgage for the purpose of foreclosure proceedings to include liens created pursuant to the recorded covenants of a homeowners' association.
- Specifies that legal proceedings to enforce the governing documents of a condominium or cooperative association shall not be deemed actions for specific performance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-2; House 114-0

HB 525 — Use of the Term "Chamber of Commerce"

by Rep. Gardiner and others (SB 1832 by Senators Bennett, Posey, and Aronberg)

This bill defines the term "chamber of commerce" as a not-for-profit corporation that is qualified for tax exempt status under s. 501(c)(3) or s. 501(c)(6) of the Internal Revenue Code; is dedicated to improving the economic climate and business development in the area in which the organization is located; makes appropriate filings with the Department of State and Internal Revenue Service; and is governed by a volunteer board of directors of at least 7 members who are selected from among the membership of the organization and who serve without compensation. A business entity is prohibited from using the term "chamber of commerce" in its name or to describe itself unless it meets the definition, except for certain bi-national chambers of commerce and chambers of commerce in existence on or before October 1, 1992. Unlawful use of the term "chamber of commerce" is a first-degree misdemeanor. Under the bill, chambers of commerce may sue to have any business entity that is not a chamber of commerce enjoined from using the term "chamber of commerce" in its name or to describe itself.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 37-0; House 114-0

HB 533 — County Tourism Promotion Agencies

by Rep. D. Davis and others (CS/SB 724 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Margolis and Siplin)

This bill provides authority for a county government to prohibit a business entity, other than a county tourism promotion entity, from using certain business names associated with tourism promotion entities in counties that levy the local option tourist development tax. The bill also states that county tourism promotion entities may use the following names when representing themselves as county tourism promotion entities:

- Convention and visitors bureaus.
- Visitors bureaus.
- Tourist development councils.
- Vacation bureaus.

These names generally are used by county-operated, not-for-profit, tourism-information organizations to offer tourism information to visitors. County tourism promotion entities may also use any name or names specifically designated by ordinance. The penalty for businesses violating the provisions of the bill would depend on how the county government chooses to enforce its ordinances. The bill appears to be an effort to reduce confusion for visitors of what is a government-sponsored versus a non-government-sponsored tourism-information organization

or location. Any future for-profit tourism-related organizations, and any not-for-profit tourism-information organizations not affiliated with a county, wishing to represent themselves with such names may be prevented by county ordinance from doing so.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

WORKFORCE AND EMPLOYMENT

CS/CS/SB 1448 — Unemployment Compensation

by Governmental Oversight and Productivity Committee and Commerce, Economic Opportunities, and Consumer Services Committee

This committee substitute revises the Unemployment Compensation Law (ch. 443, F.S.) and other provisions of the Florida Statutes to reflect the current agency framework for administration of the Unemployment Compensation (UC) Program, in which the program is administered by the Agency for Workforce Innovation (AWI) and the Unemployment Appeals Commission, and unemployment tax collection services are provided by the Department of Revenue (DOR) under contract with AWI. The committee substitute clarifies which functions are unemployment tax collection services by assigning duties throughout ch. 443, F.S., to the "tax collection service provider," which the committee substitute designates as DOR.

The committee substitute provides technical changes to reflect current bill drafting practices and methods, revising the text of the UC law to reflect current grammar and usage of the English language, and correcting or updating erroneous, obsolete, and archaic provisions. The committee substitute deletes obsolete historical references and replaces nonspecific cross-references (e.g., "herein," "hereto," "hereof," "hereunder," and "hereinabove") with specific cross-references to discrete subdivisions of the Florida Statutes. The committee substitute also replaces inconsistent terms (e.g., "employment record," "experience-rating record," and "employer's account") with uniform terms.

The committee substitute updates provisions of the UC law which have become obsolete due to advancements in information technology, thereby reflecting current procedures and practices used to administer the program. The committee substitute also provides conforming changes to recognize the role of the state's workforce system, including the one-stop career centers operated by the regional workforce boards under the direction of AWI and Workforce Florida, Inc.

The committee substitute clarifies that limited liability companies are "employing units" under the UC law, requires claimants to submit a valid social security number in order to receive unemployment benefits, and requires claimants whose claims are denied to continue reporting to certify for benefits during any pending appeal. The committee substitute removes a requirement

that persons who prepare and report quarterly wages and unemployment contributions or reimbursements must remit the amounts due by electronic means, requires that persons who prepare quarterly reports for 100 or more employers (rather than 5 or more employers under the prior law) must file the reports electronically, and revises the penalties imposed for failure to file a report by electronic means. The committee substitute also removes a requirement that AWI contract with one or more consumer-reporting agencies to provide creditors with secured electronic access to information contained in the quarterly wage reports submitted to DOR.

If approved by the Governor, these provisions take effect October 1, 2003, except as otherwise expressly provided in the committee substitute.
Vote: Senate 39-0; House 118-0

CS/CS/SB 1334, SB 534, and SB 360 — School Readiness Programs

by Education Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Garcia, Constantine, Carlton, and Lynn

This committee substitute prepares for implementation of Amendment No. 8 (Voluntary Universal Pre-Kindergarten Education), s. 1(b) and (c), Art. IX of the State Constitution. The committee substitute specifies that the voluntary universal prekindergarten education program shall provide a high-quality prekindergarten learning opportunity in the form of early childhood development and education which is voluntary and free for every 4-year-old child in the state. The committee substitute requires the State Board of Education to conduct a study and submit a report by October 1, 2003, to the Governor and Legislature on the curriculum, design, and standards for the new prekindergarten program. The report must include the state board's recommendations or options for implementing certain program elements (i.e., curriculum and standards, high-quality learning opportunity, quantity of instruction, delivery system, assessment and evaluation, and funding).

The committee substitute requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General to conduct audits and report findings and recommendations to the Governor and Legislature by January 15, 2004, on the existing school readiness programs administered by the Florida Partnership for School Readiness and the local school readiness coalitions. The committee substitute specifies that OPPAGA shall conduct a performance audit, which must follow up on OPPAGA's 2002 program review of the school readiness system. The audit must also:

- Monitor the State Board of Education's study on the voluntary universal prekindergarten education program.
- Evaluate the existing school readiness system's ability to implement the prekindergarten program based on the state board's recommendations or options for the curriculum, design, and standards for the program.

- Identify modifications to the existing school readiness system needed to effectively implement the prekindergarten program.

The committee substitute specifies that the Auditor General shall conduct a financial and operational audit of the school readiness system for the same audit period as OPPAGA's audit (FY 2000-2001, FY 2001-2002, and FY 2002-2003).

The committee substitute also directs local school readiness coalitions to refrain from initiating new long-term fiscal commitments while the audits are being conducted.

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

COMMUNICATIONS

HB 79 — Communications Services

by Rep. Mack and others (CS/SB 1078 by Criminal Justice Committee and Senator Atwater)

The bill expands the current statute on theft of cable television video programming to cover any communication transmitted by any means except for voice transmission over telephone landlines.

The bill broadens the offense of intercepting or receiving communications services and modifies its elements. The offense, as amended, prohibits a person from knowingly intercepting, receiving, decrypting, disrupting, transmitting, retransmitting, or acquiring access to any communications service without the express authorization of the cable operator or other communications service provider as stated in a contract or otherwise, with the intent to defraud either of them, or knowingly assist others in doing those acts with the intent to defraud either of them. The bill broadens the offense of assisting by including the sale, transfer, license, distribution, deployment, lease, manufacture, development, or assembly of any device for the purpose of committing these unlawful acts and by adding similar language relating to devices for the purpose of defeating or circumventing any technology, device, or software used to protect communications services from these unlawful acts.

The bill amends current provisions on possession of equipment used for theft of cable services and on advertising such equipment for sale to include the new terminology of communications device and the offense of assisting in using such equipment in commission of these crimes.

Violation of these provisions, theft, possession, or advertising for sale, is a first degree misdemeanor. The bill makes it a third degree felony to commit these unlawful acts willfully and for purposes of financial gain.

As to criminal penalties, the bill:

- Provides that all fines are to be imposed for each communications device and for each day a defendant is in violation of this section.
- Requires restitution as an additional penalty.
- Authorizes a court to order a convicted defendant to forfeit any communications device in the defendant's possession or control which was involved in the violation for which the defendant was convicted.

As to civil remedies, the bill:

- Authorizes the court to impound any communications device that is in the custody or control of the violator and that the court has reasonable cause to believe was involved in the alleged violation and to grant other equitable relief, including the imposition of a constructive trust, as the court considers reasonable and necessary.
- Authorizes the court to order the remedial modification or destruction of any communication device or other device used in a violation which is in the custody and control of the violator.
- Includes in actual damages the retail value of all communications services to which the violator had unauthorized access and the retail value of any communications service illegally available to each person to whom the violator directly or indirectly provided a communications device.
- Provides that the current statutory damages may be applied to each device.
- Makes the discretionary increase in damages of up to $50,000 for each violation apply to any case where the court finds that the violation was committed willfully and for purposes of financial gain, and to each communications device involved in the action and for each day the defendant was in violation of the section.

The bill provides that it is not to be construed to impose any criminal or civil liability upon any state or local law enforcement agency; any state or local agency, municipality, or authority; or any communications service provider unless such entity is acting knowingly and with intent to defraud a communications services provider.

The bill provides that a person that manufactures, produces, assembles, designs, sells, distributes, licenses, or develops a multipurpose device does not violate the bill by doing so unless the person is acting knowingly and with intent to defraud a communications service provider and the multipurpose device meets specified conditions.

The bill provides that it does not require that the design of, or design and selection of parts, software code, or components for, a communications device provide for a response to any particular technology, device, or software, or any component or part thereof, used by the provider, owner, or licensee of any communications service or of any data, audio or video programs, or transmissions to protect any of them from unauthorized receipt, acquisition, interception, access, decryption, disclosure, communication, transmission, or retransmission.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 119-0

CS/SB 654 — Telecommunications

by Communication and Public Utilities Committee and Senator Haridopolos

The committee substitute delegates to the Florida Public Service Commission authority to reduce to parity in a revenue neutral manner intrastate network access charges paid by long distance providers to local exchange telecommunications companies (LECs) upon certain conditions. The LECs must petition the commission, who may not approve the petition unless:

- Current support for basic local telecommunications services that is preventing the development of more competitive options for the benefit of residential customers is removed.
- Market entry is enhanced.
- Switched network access rates reach parity in two to four years.
- The reduction is revenue neutral.

The terms "parity," "revenue neutral," and "intrastate switched network access rate" are defined. The term "parity" means that the larger LEC's intrastate switched network access rate is equal to its interstate switched network access rate as of January 1, 2003. (Those rates are approximately as follows: BellSouth - $.0098, Verizon - $.0157, and Sprint - $.0140.) For smaller LECs, the rate is set at $.08. The term "intrastate switched network access rate" means the composite of the originating and terminating network access rate for carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching. The term "revenue neutral" means that the total revenue within the revenue category remains the same before and after the local exchange telecommunications company implements any rate adjustments. The revenue category includes basic local telecommunications rates and intrastate switched network access charges.

The bill provides for commission oversight of the deregulation of LEC service quality standards and treatment of basic services. In addition, the unnecessary regulation of the provision of voice over Internet protocol (VOIP) is found not to be in the public interest. The providers of intrastate interexchange telecommunications service are exempt from further regulation; however, such providers remain subject to certain taxation, penalty, and consumer protection regulations. Local governments are prohibited from regulating certain terms and conditions relating to the provision of broadband and information services.

Finally, the bill provides for new qualifying criteria for Lifeline Assistance a credit of up to $13 for basic local telecommunications service. Persons having an income of 125 percent or less of the federal poverty income guidelines may automatically qualify for this subsidy. Local exchange telecommunications companies are to provide promotional information in the form of pamphlets, brochures, and other materials to state agencies that provide benefits to eligible

customers. The commission must report each year to the Legislature on the number of customers enrolled in Lifeline and the effectiveness of any promotional programs.

If approved by the Governor, these provisions take effect immediately.
Vote: Senate 27-12; House 93-20

HB 1307 — Emergency Communications

by Rep. Mayfield and others (CS/CS/SB 1450 by Comprehensive Planning Committee; Communications and Public Utilities Committee; and Senator Bennett)

The bill provides for facilitation of implementation of 911 service. These provisions are to apply notwithstanding any law or local ordinance to the contrary.

Collocation of any antennae and related equipment to service the antennae on an existing above-ground structure is exempt from land development regulation, provided the height of the existing facility is not increased. Construction of the new facility is subject to local building regulations and any existing permits. The bill does not relieve the permitholder or owner of the existing facility of compliance with any applicable condition or requirement of a permit, agreement, or land development regulation, including any aesthetic requirement, or law.

Local governments are prohibited from requiring wireless companies to provide evidence of compliance with federal regulations, but are permitted to require evidence of proper federal licensure.

A local government is required to act on a properly completed application for a permit for collocation of a wireless facility within 45 business days after the date the properly completed application is submitted in accordance with applicable government application procedures, provided that the permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements, and local building regulations.

A local government is required to act on a properly completed application for a permit for the siting of a new wireless facility within 90 business days after the date the properly completed application is submitted in accordance with applicable government application procedures, provided that the permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements, and local building regulations.

The local government must notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and submitted. This determination is not to be deemed approval of the

application. The notification must set forth any deficiencies which, if cured, would make the application properly completed.

If a local government fails to act within the prescribed timeframes on a properly completed application which has been properly submitted, the permit is deemed automatically approved. To be effective, a waiver of the specified timeframes must be voluntarily agreed upon by the applicant and the local government. A local government may request a waiver but may not require one, except that, with respect to a specific permit, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

Any additional facilities needed at a secured equipment compound at an existing site are deemed a permitted use or activity. Local building and land development regulation, including aesthetic requirements, apply.

The Department of Management Services and the Department of Transportation are required to negotiate leases of state-owned property for siting of wireless facilities. Lease fees are required to be reasonable and to reflect the market rate for use of state-owned property.

Any wireless telephone service provider may report to the E911 wireless board no later than September 1, 2003, the specific locations or general areas within a county or municipality where unreasonable delays have occurred in locating wireless facilities necessary to provide the needed coverage to comply with federal Phase II E911 requirements. The provider must also provide this information to the specifically identified county or municipality by this date. If the board receives any report that unreasonable delays have occurred, it is to establish a subcommittee no later than September 30, 2003, to develop a balanced approach between the ability of wireless providers to site facilities necessary to comply with federal Phase II E911 requirements using the providers own equipment and the desire of local governments to zone and regulate land uses to achieve public welfare goals. If a subcommittee is established, it is to develop recommendations for the board and any specifically identified local government to consider regarding actions to be taken for compliance with federal Phase II E911 requirements, and the board is to include these recommendations in its annual report to the Governor and Legislature.

The bill also provides specific authority to impose the monthly wireless 911 surcharge on prepaid wireless telephone services, to provide for collection of the surcharge, and to define related terms. For prepaid wireless telephone service, the 50 cent monthly wireless 911 surcharge is collected only from each wireless service customer that has a sufficient positive balance as of the last day of each month. As direct billing may not be possible, the surcharge amount, or an equivalent number of minutes, may be reduced from the prepaid subscriber’s account.

The bill also gives new authority to the board of directors of the Wireless 911 Board to:

- Provide coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems in the state.
- Provide coordination and support for educational opportunities related to 911 issues for the 911 community in this state.
- Act as an advocate for issues related to 911 system functions, features, and operations to improve the delivery of 911 services to the residents of and visitors to this state.
- Coordinate input from this state at national forums and associations, to ensure that policies related to 911 systems and services are consistent with the policies of the 911 community in this state.
- Work cooperatively with the system director to enhance the state of 911 services in this state and to provide unified leadership for all 911 issues through planning and coordination.

After July 1, 2004, the board may secure services of an accounting firm by specified means or may hire accounting staff.

The bill also authorizes the Board to use its funding to cover costs and expenses of exercising the new authority discussed above.

Finally, the bill requires that all private branch exchanges constructed after January 1, 2004, be capable of providing automatic location identification. A private branch exchange is a private telephone system that is connected to the public switched telephone system. Automatic location identification means the automatic display at the public safety agency that receives 911 calls of the caller's telephone number, the address or location of the telephone, and supplementary emergency services information.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-5

SB 2178 — Digital Divide Trust Fund

by Senators Crist and Klein

The bill creates the Digital Divide Trust Fund within the State Technology Office for the purpose of receiving and disbursing funds to pay part or all of the costs of facilitating design and implementation of one or more programs provided for in s. 445.049, F.S. The trust fund is to be administered by the Digital Divide Council and may receive funding from sources such as, but not limited to, appropriations from the state and gifts, donations, and matching contributions

from other public agencies and private persons and entities. The trust fund is terminated July 1, 2007, unless terminated sooner, and must be reviewed before its scheduled termination.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-0

LOCAL GOVERNMENT FINANCE AND COMPLIANCE

SB 258 — Public Funds
by Senator Geller

This bill authorizes local governments to pay certain expenses by means of electronic funds transfer.

This bill amends s. 215.85, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 112-0

CS/SB 1024 — Non-Ad Valorem Assessments
by Comprehensive Planning Committee and Senator Atwater

This committee substitute expands the time frame for holding a public hearing to adopt a non-ad valorem assessment roll, and authorizes an alternative notice process for certain changes to non-ad valorem assessments.

This bill amends s. 197.3632, F.S.

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

CS/SB 1126 — Local Government Half-cent Sales Tax
by Comprehensive Planning Committee and Senator Atwater

This committee substitute allows the Department of Revenue to adjust county and municipal distributions of the Half-cent Sales Surtax proceeds when errors are made in the calculations, retroactive to October 1, 2000.

This bill amends s. 218.62, F.S.

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

SB 1162 — Taxation

by Senator Pruitt

This bill revives and reenacts provisions relating to the tourist development tax and the Florida Taxpayer's Bill of Rights which are otherwise scheduled to be repealed October 1, 2005.

This bill revives and readopts ss. 125.0104(7) and 192.0105, F.S.

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

CS/SB 1426 — Governmental Per Diem and Travel Expenses

by Governmental Oversight and Productivity Committee and Senators Posey and Dawson

The bill permits a municipality, or agency thereof, to exempt itself from the provisions of s. 112.061, F.S., which sets forth a comprehensive, uniform system for the reimbursement of public travel expenses by state and local government entities. Under the bill, s. 166.021, F.S., is amended to permit the governing board of a municipality or an agency thereof to provide its own policy regarding the per diem and travel expenses of its travelers. Further, the bill specifies that in the event such policy is provided that the municipality or agency thereof is no longer subject to s. 112.061, F.S. A municipality or agency thereof, which does not provide for a per diem and travel expense policy, remains subject to s. 112.061, F.S. These provisions apply retroactively to January 1, 2003. The bill also provides that fraudulent travel claim offenses are second degree misdemeanors and those persons receiving an allowance or reimbursement by means of a false claim are civilly liable for the amount of overpayment.

This bill allows a county, county officer, district school board, or special district to provide reimbursement rates that exceed the maximum travel reimbursement rates for nonstate travelers if adopted by the entity's governing body, or established as a written policy for a county constitutional officer. These rates must apply uniformly to all travel by the entity. An entity that is not governed by this provision or s. 166.021, F.S., remains subject to s. 112.061, F.S.

The bill amends ss. 112.061 and 166.021, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 117-0

CS/SB 1566 — Tourist Development Taxes

by Finance and Taxation Committee and Senator Jones

This committee substitute limits the use of tourist development tax monies which are specifically designated by a county for beach improvement, maintenance, re-nourishment, restoration, or erosion control from being used for any other purposes.

This bill amends s. 125.0104, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 109-0

SB 1632 — County Governments

by Senator Fasano

This bill specifies additional services for which counties may create municipal service taxing or benefit units.

This bill amends s. 125.01(1)(q), F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-0

HB 267 — Unpaid Taxes/Sale of Certificate

by Rep. Zapata and others (SB 1860 by Senator Diaz de la Portilla)

This bill authorizes counties to conduct the sale of tax certificates for unpaid taxes by electronic means.

This bill amends s. 197.432, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

CONDOMINIUMS AND HOMEOWNERS' ASSOCIATIONS

CS/SB 260 — Condominiums/Armed Services Flags

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee; and Senators Fasano and Crist

This bill allows condominium owners to fly flags representing branches of the U.S. Armed Services on military and patriotic holidays.

This bill amends s. 718.113, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-1

HB 861 — Homeowners' Associations

by Rep. Bilirakis and others (CS/SB 1410 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Fasano and Crist)

This bill allows the board of directors of an incorporated homeowners' association to preserve a covenant or restriction, or a portion of such covenant or restriction, if the action is approved by a two-thirds vote of the board of directors of the association. The bill contains requirements for a homeowners' association that is filing the notice to preserve covenants and restrictions under the marketable record title act.

The bill also allows a homeowners' association to institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members. The association is also authorized to defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation for an amount in controversy in excess of $100,000, the association must obtain the approval of a majority of voting interests at a meeting where a quorum is present. However, this provision in the bill does not limit the statutory or common-law right of an individual or class to bring any action without participation from the association.

In addition, the bill states that, unless otherwise provided in the governing documents of an association, an amendment may not materially or adversely alter the voting interest of a parcel or increase the percentage by which a parcel shares in the common expenses of a homeowners' association unless the record parcel owner and all record owners of liens join in the execution of the amendment. The bill states that a change in quorum requirements is not an alteration of voting interests. However, this provision does not affect any vested right recognized by a court order or judgment in any action commenced prior to July 1, 2003, and such vested right may not be subsequently altered without the consent of the affected parcel owner(s).

This bill amends the following sections of the Florida Statutes: 712.05, 712.06, 720.303, and 720.306.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 108-0

PUBLIC RECORD EXEMPTIONS

HB 1027 — Department of Community Affairs/Public Records

by State Administration Committee and others (SB 252 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for information, other than release or emissions data, that constitutes a trade secret and is submitted as part of a risk management plan or found in records or reports obtained during an investigation, inspection, or audit under the Accidental Release Prevention Program. The objective of the program is to prevent accidental chemical releases and minimize the consequences of such releases if they do occur.

In addition, the bill includes editorial changes for clarification.

The bill amends s. 252.943, F.S.

If approved by the Governor, these provisions take effect on October 1, 2003.
Vote: Senate 37-0; House 111-0

HB 1025 — Municipal Employees/Public Records

by State Administration Committee (SB 254 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for personnel records of a municipal employee's participation in certain alcohol, drug, or mental health programs.

This bill substantially amends s. 166.0444, F.S.

If approved by the Governor, these provisions take effect on October 1, 2003.
Vote: Senate 40-0; House 114-0

HB 1023 — County Employees/Public Records

by State Administration Committee and others (SB 256 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for personnel records of a county employee's participation in certain alcohol, drug, or mental health programs.

This bill substantially amends s. 125.585, F.S.

If approved by the Governor, these provisions take effect 0ctober 1, 2003.
Vote: Senate 39-0; House 115-0

HB 1785 — Medical Information/Public Records

by State Administration Committee and others (CS/SB 1664 by Governmental Oversight and Productivity Committee and Senator Wise)

The bill makes confidential and exempt all personal identifying information in records relating to a person's health held by local government entities or their service providers for the purpose of determining eligibility for paratransit services under Title II of the Americans with Disabilities Act or eligibility for the Transportation Disadvantaged Program as provided in part I of ch. 427, F.S. Such information may be released with the express written consent of the individual or the individual's legally authorized representative; in a medical emergency, if necessary to protect the health or life of the individual; by court order upon a showing of good cause; or for purposes of determining eligibility for paratransit services, if the individual or the individual's legally authorized representative has filed an appeal or petition before an administrative body of a local government or a court.

This bill creates s. 119.07(3)(gg), F.S.

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

PUBLIC LIBRARIES

CS/SB 726 — Libraries

by Appropriations Committee and Senators Fasano and Argenziano

This committee substitute establishes the Community Libraries In Caring program, subject to legislative appropriation, to assist libraries in specified rural communities.

This bill creates s. 257.193, F.S.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 111-1

CS/CS/SB 1434 — Public Libraries

by Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Garcia and Villalobos

This committee substitute amends s. 257.17, F.S., to make all municipalities eligible to participate in the state aid program and to directly receive state funds, including municipalities that provide or receive free library service by contract with a nonprofit library corporation or association within the municipality. Eligibility requirements are changed in the following ways:

- Political subdivisions are required to employ a professional librarian who has completed a library education program accredited by the American Library Association with at least 2 years of full-time paid professional experience after completing the library education program in a public library that is open to the public for a minimum of 40 hours per week.
- The requirement that a library have an annual operating budget of at least $20,000 from local sources is eliminated.
- A political subdivision in a county that offers library service and receives operating grants must provide the same level of service to the residents of any other political subdivision in the county receiving grants.
- At least one library or branch library be open for 40 hours or more each week.
- Libraries must have a long-range plan, annual plan of service, and an annual budget as conditions for grant eligibility.
- Libraries must engage in joint planning for coordination of services within a county or counties that receive operating grants.

The committee substitute revises provisions relating to construction grants, and specifies that initiation of a library construction project 12 months or less prior to the grant award under this section does not affect the eligibility of an applicant to receive a library construction grant.

The committee substitute also clarifies the public records exemption for library registration and circulation records and expands exceptions to it. This is identical with CS/SB 192, which passed both chambers. Specifically, s. 257.261, F.S., is amended to clarify that a parent or guardian of a child under the age of 16 can be granted access to that child's registration or circulation records for the purpose of recovering overdue books or collecting fines. The committee substitute does not, however, grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books that child checks out at the library. The committee substitute also clarifies that a patron may have access to his or her exempt information. Finally, the committee substitute does not expand the exemption to public records requirements and, therefore, does not create a new exemption.

This bill amends the following sections of the Florida Statutes: 257.17, 257.191, 257.22, 257.23, and 257.261, and repeals section 257.19.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 115-0

MOBILE HOMES

HB 1431 — Mobile Homes

by Rep. Jordan (CS/CS/SB 2550 by Transportation Committee; Comprehensive Planning Committee; and Senator Sebesta)

This committee substitute provides a mechanism by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the title to the mobile home.

This committee substitute creates s. 319.261, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

CS/CS/SB 1944 — Mobile Home Owners

by Appropriations Committee; Finance and Taxation Committee; and Senators Dockery and Bullard

This bill amends a number of provisions in ch. 723, F.S., relating to mobile home owners. Specifically, the bill provides for a $1 per mobile home lot surcharge on mobile home park owners and $1 tax surcharge on mobile home licenses to fund the Florida Mobile Home Relocation Trust Fund. Also, the bill increases park owner payments into the Florida Mobile Home Relocation Trust Fund (trust fund), and reduces the amount of money mobile home owners can receive from the Florida Mobile Home Relocation Corporation (corporation).

This bill provides for the placement, by a home owner or park owner, of a home on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the initial approval and creation of the mobile home park. The bill requires notice to tenants and occupants, in addition to the mobile home owner, as parties who may become subject to eviction by the park owner.

Further, the bill prohibits a mobile home owner from bringing a cause of action against a park owner if the owner has already received compensation from the corporation or park owner. In addition, the bill prohibits a home owner with a pending eviction action from collecting from the

corporation. This bill requires submission of additional documentation by home owners that apply for funds when it is necessary to abandon their home. Finally, the bill appropriates $500,000 from the trust fund to the corporation for fiscal year 2003-2004.

This bill substantially amends the following sections of the Florida Statutes: 48.183, 320.081, 715.101, 723.007, 723.041, 723.061, 723.0611, 723.06115, 723.06116, and 723.0612; and creates s. 320.08015.

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

WATER SUPPLY AND WATER UTILITIES

CS/CS/SB's 140, 998, and 1060 — Utilities

by Communication and Public Utilities Committee; Comprehensive Planning Committee; and Senators Argenziano, Cowin, Constantine, Fasano, and Lynn

The bill implements the recommendations of an OPPAGA report and makes conforming changes. The bill requires a separate legal entity seeking to acquire a utility provide written notice of the proposed acquisition to the relevant local government or "host government". The host government may adopt a resolution to become a member of the separate legal entity; adopt a resolution approving the acquisition; adopt a resolution prohibiting the acquisition based on a determination that the acquisition is not in the public interest; request in writing an automatic 45-day extension of the 90-day period to allow sufficient time for the host government to evaluate the proposed acquisition; or take no action, which is to be construed as a denial of the acquisition. If the host government adopts a prohibition resolution, the separate legal entity is prohibited from acquiring the utility without the host government's consent by subsequent resolution.

The bill gives a host government the right to review and approve as fair and reasonable any proposed changes to rates and terms of service and changes to the financing of the utilities which may result in increased costs to customers. The right of review and approval is subject to the obligation of the separate legal entity to establish rates that allow it to comply with bond requirements and to pay debts. If the host government reviews the proposed changes and determines that they are in the public interest, it may approve the changes. If the host government determines that the proposed changes are not in the public interest, it may negotiate with the separate legal entity to resolve the host government's concerns. If the parties are unable to reach agreement within 30 days of the determination that the proposed changes are not in the public interest, the host government may request binding arbitration through the Public Service Commission (PSC).

Further, the bill guarantees the right of a host government to acquire any separate-legal-entity-owned utility within its boundaries. If the parties cannot agree to the terms and conditions of the acquisition, the host government may request binding arbitration through the PSC. The PSC is authorized to develop and adopt administrative rules governing the arbitration processes contained in this bill and establish fees.

In addition, the bill amends the definition of "agency" for purposes of the Administrative Procedure Act to include a separate legal entity created under s. 163.01(7)(g)1., F.S. This bill excludes a separate legal entity created under s. 163.01(7)(g)1., F.S., from the definition of "governmental authority" as used in ch. 367, F.S. Finally, the bill deletes a provision in s. 367.071, F.S., that allows a utility to be sold or transferred contingent upon the approval of the PSC.

The bill substantially amends the following sections of the Florida Statutes: 163.01, 120.52, 367.021, and 367.071.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 37-0; House 94-5

CS/SB 1044 — Water Use Permits

by Natural Resources Committee and Senators Argenziano, Fasano, and Lynn

The bill provides that a water management district must provide written notice of an application for a consumptive use permit to the county and appropriate city government. The bill specifies that notice of an application for such permit may be sent by electronic mail to any person who has filed a written request for notification of pending applications for that particular area. Further, the bill requires that all permits for consumptive water use, dam and reservoir construction, and dredge and fill activities for stormwater management systems must contain certain specified language stating the permittee is not relieved from complying with any other applicable rule, law, or ordinance.

This bill amends s. 373.116, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

MISCELLANEOUS LOCAL GOVERNMENT

CS/SB 54 — Local Government Minimum Wage

by Comprehensive Planning Committee and Senators Constantine, Fasano, Cowin, Wise, and Lynn

This committee substitute prohibits the political subdivisions of the state from requiring employers to pay a minimum wage other than a federal minimum wage, or from requiring employers to apply a federal minimum wage to wages that are exempt under federal law. However, political subdivisions may establish a minimum wage for their employees, for employees of contractors and subcontractors under contract with the political subdivision, and for employees of employers receiving direct tax abatements or subsidies from the political subdivision.

This committee substitute creates an unnumbered section of the Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 22-13; House 84-32

SB 732 — Miami River Commission

by Senator Villalobos

This bill removes language that would sunset the Miami River Commission on July 1, 2003 and, therefore, effectively establishes a permanent commission.

This bill repeals section 7 of chapter 98-402, Laws of Florida.

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

HB 1721 — Subdivision Property

by Rep. Bilirakis and others (CS/SB 1824 by Comprehensive Planning Committee and Senators Sebesta, Crist, and Fasano)

This bill increases the tax deed application fee from $15 to $75; requires that before property is sold under an outstanding tax certificate on land that is either submerged land or common elements in a subdivision, each owner of property contiguous to the property subject to sale must be notified; requires that a county notify each owner of such property within 90 days after property is placed on the list of lands available for taxes if the county holds the tax certificate and does not purchase the property; and requires that the value of taxes and non-ad valorem assessments against common elements of a subdivision be prorated by the property appraiser and included within the value of the lots within the subdivision.

This bill amends ss. 197.502, 197.522 and 197.582, F.S., and creates an unspecified section of Florida Law.

If approved by the Governor, these provisions take effect January 1, 2004.
Vote: Senate 37-0; House 114-0

CS/SB 1842 — Municipal Parking Facility Surcharge

by Comprehensive Planning Committee and Senator Diaz de la Portilla

This committee substitute provides qualifying municipalities, subject to referendum approval, authority to impose a per-vehicle surcharge for the sale, lease or rental of space at certain parking facilities, within the municipality, that are open for use to the general public. Funds generated from the surcharge are to be used for reduction of ad valorem millage, reduction or elimination of non-ad valorem assessments, and improvements to transportation services.

This bill creates s. 166.271, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

SB 1862 — Community Development Districts

by Senator Diaz de la Portilla

The bill expands the powers of a community development district to include the authority to collect any ground rent due on behalf of a governmental entity pursuant to a contract with a governmental entity that owns real property in the district. The bill also allows a community development district to contract with the county tax collector for the collection of ground rent using the procedures authorized in s. 197.3631, F.S., other than the uniform method of collection found in s. 197.3632, F.S.

This bill amends s. 190.011, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 116-1

CS/SB 2248 — Charitable Youth Organizations

by Governmental Oversight and Productivity Committee and Senators Wasserman Schultz, Bennett, Lawson, Miller, Diaz de la Portilla, Jones, and Posey

The bill provides that the state, or the governing body of any political subdivision of the state, is authorized, but not required, to contract for public service work, such as highway and park maintenance, notwithstanding any competitive bid procedures contained in chapters 255 and 287, F.S. In order to receive a no-bid public service contract, the contractor must satisfy certain criteria, including, but not limited to, the following: the contractor must hold exempt status under section 501(a) of the Internal Revenue Code, as an organization described in s. 501 (c)(3); the corporate charter of the contractor must state it is organized as a charitable youth organization exclusively for at-risk youths enrolled in a work-study program; a contract must be production-based and may not exceed $250,000 annually; the contractor may not subcontract the work; and the administrative salaries and benefits of the contractor may not exceed 15 percent of gross revenues, excluding field supervisors' salaries and benefits.

In addition, the contract must be approved by state agency personnel or the governing body of a political subdivision as appropriate. Finally, the contractor must agree to be subject to review and audit at the discretion of the Auditor General.

This bill creates a new section of the Florida Statutes.

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

CS/SB 2334 — Municipal Police and Firefighter Pensions

by Comprehensive Planning Committee and Senator Lynn

This committee substitute authorizes municipalities providing pension plans to firefighters and police officers pursuant to chs. 175 and 185, F.S., to "prefund" extra benefits and be reimbursed from future premium tax receipts.

This committee substitute amends the following sections of the Florida Statutes: 175.351 and 185.35.

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

CONTROLLED SUBSTANCES AND DRUG CONTROL

CS/SB 160 — Industrial Use Exceptions to Controlled Substance Scheduling

by Criminal Justice Committee and Senators Wise and Fasano

This bill (Chapter 2003-10, L.O.F.) creates s. 893.031, F.S., which provides that for purposes of certain industrial uses, 1,4-Butanediol (BDO) and gamma-butyrolactone (GBL) are excepted from scheduling as Schedule I controlled substances when in the possession of authorized manufacturers and distributors of BD or GBL, authorized manufacturers and distributors of industrial products, and authorized persons who possess finished products. Key terms are defined and the bill reenacts s. 893.03(1)(d), F.S.

The bill also amends s. 893.13(1)(c), F.S., to clarify the hours during which it is unlawful to sell, manufacture, deliver, or possess a controlled substance within 1,000 feet of the real property comprising a child care facility or public or private elementary, middle, or secondary school. The bill provides that the hours applicable to the offense are 6:00 a.m. to 12 midnight.

These provisions became law upon approval by the Governor on May 2, 2003.
Vote: Senate 38-0; House 115-0

SB 1080 — Anhydrous Ammonia

by Senators Smith and Aronberg

This bill amends s. 812.104(1)(c), F.S., to provide that it is grand theft of the third degree, a third-degree felony, to steal anhydrous ammonia.

The bill also amends s. 893.033, F.S., to designate or list anhydrous ammonia as a listed precursor chemical, which is a chemical that may be used in the manufacture of a controlled substance. This designation or listing does not bar, prohibit, or punish legitimate use of anhydrous ammonia.

Pursuant to s. 893.149, F.S., which the bill reenacts and which applies to any listed chemical, it is a second degree felony to knowingly and intentionally possess anhydrous ammonia with the intent to unlawfully manufacture a controlled substance, or possess or distribute anhydrous ammonia knowing, or having reasonable cause to believe, that the anhydrous ammonia will be used to manufacture a controlled substance.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 1588 — Drug Abuse Prevention and Control

by Criminal Justice Committee and Senators Aronberg, Wilson, Atwater, Crist, Fasano, and Bullard

This bill amends s. 893.13, F.S., to increase penalties for controlled substance offenses (such offenses include sale, manufacture, and delivery, but do not include purchase or possession) committed, at any time, within 1,000 feet of a park. The bill clarifies that the term "park" includes state, county, and municipal parks.

The bill also provides for enhanced penalties for controlled substance offenses committed, at anytime, within 1,000 feet of a community center or a publicly owned recreational facility. The bill defines the term "community center" as a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services.

The bill also provides for enhanced penalties for controlled substance offenses committed within 1,000 feet of a public or private college, university, or other postsecondary education institution, and within 1,000 feet of a public housing facility.

Finally, the bill amends s. 921.0022, F.S., the offense ranking chart of the Criminal Punishment Code, to amend descriptions and rankings of offenses to conform to amendments of the controlled substance offenses amended by the bill.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-0

CORRECTIONS

SB 278 — Transportation of Inmates

by Senator Villalobos

This bill amends s. 945.0913, F.S., to prohibit state inmates from driving a state-owned vehicle to transport work release inmates to their places of employment. It also amends s. 945.091, F.S., to specify that work release inmates must get to their job, classes, or training by walking, bicycling, riding public transportation, or riding transportation provided by a family member or employer. The Department of Corrections is allowed to transport work release inmates in a state-owned vehicle for these purposes if it is given a specific appropriation and the inmate is unable to obtain other transportation.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 36-3; House 119-0

CS/CS/SB 428 — Community Control

by Judiciary Committee; Criminal Justice Committee; and Senators Smith, Crist, Villalobos, Diaz de la Portilla, Geller, Siplin, Lynn, Dockery, Fasano, Lee, Sebesta, Jones, Constantine, Miller, Bullard, Pruitt, Bennett, Dawson, Argenziano, Wilson, Alexander, and Cowin

This bill amends s. 948.10, F.S., to require the Department of Corrections to notify the sentencing judge, state attorney, and Attorney General within 30 days of receipt of a sentencing order if a statutorily ineligible offender is placed on community control supervision. New reporting requirements are established to notify the judiciary and prosecutors about the placement of offenders on community control and to provide the Governor, the President of the Senate, the Speaker of the House, and the Chief Justice of the Supreme Court with information about the community control program and the department's efforts to protect the public from offenders on community control. The department is also required to develop and maintain a caseload equalization strategy to ensure that high-risk offenders receive the highest level of supervision, and to develop and implement a risk assessment classification system for community control offenders.

The bill amends s. 921.187, F.S., to replicate a provision found in s. 948.10(10), F.S., that restricts certain repeat forcible felons from being placed on community control and probation.

The bill also directs the department to study the use of electronic monitoring and its effectiveness for community control, and allows the department to suspend the caseload ratio requirement found in s. 948.10(2), F.S., during the period from July 1, 2003, until February 1, 2004. Findings must be reported to the Governor, the President of the Senate, and the Speaker of the House by February 1, 2004.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 118-0

HB 465 — Unclaimed Court-Ordered Payments

by Rep. Dean and others (CS/SB 1910 by Criminal Justice Committee and Senators Fasano, Lynn, and Crist)

This bill amends s. 945.31, F.S., to authorize the Department of Corrections to deposit the following funds into the General Revenue Fund: (1) offender overpayments remaining at the end of an offender's supervision if the amount is less than $10; (2) offender funds, victim's restitution payments, and unidentified payments that are not claimed within one year after an

offender's supervision terminates; and (3) interest earned on balances in COPS (Court Ordered Payment System) bank accounts.

This bill also repeals s. 960.0025, F.S., which directs the department to allocate unclaimed restitution or other court-ordered payments to a direct-support organization that assists in addressing the needs of crime victims.

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

SB 488 — Probation or Community Control

by Senators Villalobos, Lynn, and Cowin

This bill amends s. 948.03, F.S, which provides mandatory conditions of probation for offenders who are on probation or community control for committing certain sexual offenses. If the crime was committed after September 30, 1995, and the victim was under 18 years of age, the offender is prohibited from living within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate. This bill specifies that the distance must be measured in a straight line from the boundary of the property to the offender's residence, without considering the distance that an automobile or pedestrian would travel.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-1

HB 1203 — Department of Corrections/Personnel

by Rep. Zapata and others (CS/SB 2228 by Criminal Justice Committee and Senator Cowin)

This bill amends s. 110.205, F.S., to move Correctional Officer Majors and Correctional Officer Colonels from the Career Service class to the Select Exempt Service class. It also deletes obsolete references to the Correctional Education Program and to superintendents and assistant superintendents.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 115-0

HB 1553 — Health Care Practitioners/Complaints

by Rep. Llorente and others (CS/SB 1928 by Criminal Justice Committee and Senators Geller and Argenziano)

This bill amends s. 456.073, F.S., to require that a state prisoner exhaust administrative remedies within the Department of Corrections before filing a complaint with the Department of Health

against a health care practitioner who is employed by or providing health care within a department facility. However, the Department of Health may determine legal sufficiency of any prisoner complaint and proceed with discipline if it makes a preliminary determination that the practitioner poses a serious threat to the health or safety of any individual who is not a prisoner.

The bill also requires the Department of Corrections to notify the Department of Health within fifteen days of disciplining or allowing the resignation of a health care practitioner for a practice-related offense.

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

HB 1717 — Identity of the Executioner/Public Record

by State Administration Committee and others (SB 1028 by Criminal Justice Committee)

This bill amends s. 945.10(g), F.S., reenacting the public records exemption for information that identifies any person who prescribes, prepares, compounds, dispenses or administers the lethal injection used to carry out a death sentence pursuant to ch. 922, F.S. The bill repeals s. 922.106, F.S., which is duplicative, and also amends s. 922.10, F.S., to eliminate a duplicative exemption for the identity of an executioner.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

CRIMINAL PROCEDURE

HB 747 — Sexual Battery Time Limitations

by Rep. Kallinger and others (CS/SB 1734 by Judiciary Committee and Senators Webster, Fasano, and Lynn)

This bill would extend the time limitation on commencing the prosecution of first degree felony sexual battery offenses proscribed in s. 794.011, F.S., so that the crime could be prosecuted at any time, if the victim was under the age of 18 at the time of the offense.

The extended time limitation on prosecuting a first-degree felony sexual battery applies in cases except those where the time limitation has run on or before the effective date of the bill.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 115-0

CRIMINAL OFFENSES AND PENALTIES

HB 479 — Offense of Stalking

by Rep. Stargel and others (SB 82 by Senator Geller)

This bill amends s. 784.048, F.S., which defines and prohibits the criminal offense of stalking. The bill specifically includes cyberstalking as an activity that can be an element of the crime. Cyberstalking is defined as harassment by communicating or causing the communication of words, images, or language by the use of electronic mail or electronic communication. The bill also expands the definition of aggravated stalking to include the making of a threat that places a person in reasonable fear of death or bodily injury of the person's child, sibling, spouse, parent, or dependent. Currently, only a threat against a person's own life or body is included in aggravated stalking.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 116-0

CS/CS/SB 1072 — Identity Theft/Internet Fraud

by Appropriations Committee; Criminal Justice Committee; and Senators Crist, Aronberg, and Cowin

This bill amends ss. 817.568 and 921.022, F.S., to provide that it is a second degree felony, ranked in Level 5 of the offense severity chart of the Criminal Punishment Code, with a mandatory minimum sentence of 3-years imprisonment, for a person to willfully and without authorization fraudulently use personal identification information of an individual without first obtaining that individual's consent. This penalty applies if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud is $5,000 or more or if the person fraudulently uses the personal identification information of 10 or more individuals without their consent. The definition of "personal identification information" is amended to include a bank account or credit card number.

If the amount is $50,000 or more or if the person fraudulently uses the personal identification information of 20 or more individuals without their consent, it is a first degree felony. A mandatory sentence of 5 years applies if the amount is $50,000 to less than $100,000. A mandatory minimum sentence of 10 years applies if the amount is $100,000 or more or if the person fraudulently uses the personal identification information of 30 or more individuals without their consent. If the unlawfully used personal information concerns a person less than 18 years of age, it is a second degree felony, ranked in Level 8. If the person unlawfully using such information of a minor is a parent or legal guardian of that minor, it is a second degree felony, ranked in Level 9.

The bill amends s. 934.23, F.S., to define that a "court of competent jurisdiction" means a court having jurisdiction over the investigation or otherwise authorized by law.

The bill creates s. 92.605, F.S., which requires out-of-state corporations who provide electronic communication services or remote computing services to comply with subpoenas or other court orders issued by a Florida court and also requires Florida providers of electronic communication services or remote computing services to comply with subpoenas or other court orders issued by a court of another state.

In a criminal court proceeding, out-of-state records of regularly conducted business activity or a copy of those records are not excluded as hearsay evidence if an out-of-state certification makes specified attestations.

In a criminal case, the content of any electronic communication may be obtained under the section only by court order or by the issuance of a search warrant, unless otherwise provided under the Electronic Communications Privacy Act or other provision of law.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 118-0

HB 1227 — Self-Propelled Knives

by Rep. Evers and others (SB 2256 by Senator Bennett)

This bill refined the statutory description of self-propelled knives to include the term "ballistic" and to specify that the law refers to a device which physically separates the blade from the device. It further clarified that s. 790.225, F.S, does not apply to any device from which a knifelike blade opens where such blade remains physically integrated with the device when open. This bill should rectify any ambiguity in the statutory language.

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

CS/CS/SB 1480 — Breaking or Damaging Fences

by Judiciary Committee; Criminal Justice Committee; and Senators Alexander and Lynn

This bill creates a third-degree felony offense consisting of the lesser included offense of breaking or injuring a fence if the fence or part thereof is used to contain animals at the time of the offense.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

HB 1675 — Facilitating or Furthering Burglary

by Rep. Prieguez and others (SB 158 by Senator Villalobos)

This bill creates s. 810.061, F.S., which provides that a person who, for the purpose of facilitating or furthering the commission or attempted commission of a burglary of a dwelling, damages a wire or line that transmits or conveys telephone or power to that dwelling, impairs any other equipment necessary for telephone or power transmission or conveyance, or otherwise impairs or impedes such telephone or power transmission or conveyance commits a third-degree felony, ranked in Level 2 of the Criminal Punishment Code's offense severity ranking chart.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

HB 1683 — Leaving Scene of Accident/Penalty

by Rep. Kyle and others (SB 246 by Senators Saunders, Fasano, and Crist)

This bill amends s. 921.0022, F.S., to change the ranking of the offense of leaving the scene of an accident involving death from a Level 6 offense to a Level 7 offense in the offense severity ranking chart of the Criminal Punishment Code. This change will result in a scored lowest permissible sentence of imprisonment of this offense.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 117-0

CS/SB 2046 — Sentencing

by Appropriations Committee and Senators Smith and Argenziano

This bill amends s. 921.16, F.S., to prohibit a county court or circuit court from directing that a sentence imposed by that court be served coterminously with a sentence imposed by another court of this state or imposed by a court of another state. The prohibition has prospective application, applying to offenses committed on or after October 1, 2003.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 118-0

CS/CS/SB 2172 — Dangerous Sexual Felony Offender Act

by Appropriations Committee; Criminal Justice Committee; and Senator Cowin

This bill substantially amends s. 794.0115, F.S., which, prior to this amendment, provided for a 10-year mandatory minimum term of imprisonment for certain recidivist sexual offenders designated "repeat sexual batterers."

The bill changes the mandatory minimum term to 25 years to life. This term must be imposed or included in sentencing of a person as a "dangerous sexual felony offender." A "dangerous sexual felony offender" is a person who is convicted of any one of several designated sexual battery offenses, or lewd battery or lewd molestation, or the selling or buying of minors, which the person committed when he or she was 18 years of age or older; and any of the following factors apply to the offense committed:

- Caused serious personal injury to the victim as a result of the offense.
- Used or threatened to use a deadly weapon during the commission of the offense.
- Victimized more than one person during the course of the criminal episode applicable to the offense.
- Committed the offense while under the jurisdiction of a court for a felony offense in Florida or another jurisdiction or for an offense that would be a felony if that offense were committed in Florida.
- Has previously been convicted of any of the same designated sexual offenses.

The bill provides that it is irrelevant that a factor for sentencing is an element of the offense or that such offense was reclassified to a higher felony degree.

Finally, the bill provides that a person sentenced to a mandatory minimum term under this section is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release before serving the minimum sentence.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 2366 —Aggravated Child Abuse

by Criminal Justice Committee and Senators Fasano and Argenziano

The Committee Substitute for Senate Bill 2366 defines "maliciously" as it is used to modify "punishes" in the aggravated child abuse statute to mean "wrongfully, intentionally, without legal justification or excuse." The CS also specifies that maliciousness may be established by circumstances from which one could conclude that a reasonable parent would not have engaged in the damaging acts toward the child for any valid reason and that the primary purpose of the acts was to cause the victim unjustifiable pain or injury.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 119-0

JUVENILE JUSTICE

SB 312 — Department of Juvenile Justice

by Senators Smith and Lynn

The bill amends s. 985.407, F.S., to require the Department of Juvenile Justice to adopt a rule pursuant to ch. 120, F.S., establishing a procedure to provide notice of policy changes that affect contracted delinquency services and programs. In other words, this rule provides notice of how the department will adopt policies affecting private juvenile justice providers. A "policy" is defined under the bill as an operational requirement applying to only the specified contracted delinquency service or program. The procedure to provide notice of policy changes will be required to include the following components: public notice, opportunity for public comment, assessment of fiscal impact upon the department and the providers, and the department's response to any comments received.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 117-1

DUI

HB 947 — Blood Alcohol Content/Tests

by Rep. Planas and others (CS/SB 2430 by Criminal Justice Committee and Senator Saunders)

This bill separates the urine testing provisions in the implied consent law for driving under the influence of alcohol or drugs while impaired (DUI--s. 316.1932, F.S.) and boating under the influence of alcohol or drugs while impaired (BUI--s. 327.352, F.S.) from the provisions relating to breath and blood tests to detect the alcoholic content of the blood or breath. The urine testing provisions will be placed in a new subsection of each statute.

Moving the urine testing provisions from the breath and blood testing provisions that must be approved by the Florida Department of Law Enforcement (FDLE) should clarify the Legislature's intent that urine tests do not have to be "approved" by FDLE through administrative rule (contrary to a recent holding by the Second District Court of Appeal in which it construed the statute as requiring approval by FDLE for urine tests). Instead, the current rules of evidence governing the admissibility of scientific evidence will continue to be in place. Additionally, urine tests will still have to be administered in a reasonable manner ensuring the accuracy of the specimen and maintaining the privacy of the suspect.

The bill will also clarify that a law enforcement officer may order a urine test upon a reasonable belief the suspect was driving a vehicle or vessel under the influence of chemical substances or controlled substances.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 111-3

LAW ENFORCEMENT

SB 1648 — FDLE/Blood Collecting

by Criminal Justice Committee

This bill requires that the local sheriff or his or her designee be responsible for the collection of DNA specimens from those offenders who are required to provide a sample and who are not sentenced to incarceration by the court.

The bill also clarifies that approved biological specimens, other than blood, can be provided in the case of juvenile offenders and adult sex offenders currently required to give the specimen. These clarifications make the statute consistent throughout.

This bill substantially amends ss. 943.325 and 948.03, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 1650 — Criminal Justice Standards and Training Commission

by Criminal Justice Committee and Senator Smith

This bill amends portions of ch. 943, F.S., relating to certification of law enforcement officers and correctional officers. It authorizes the Criminal Justice Standards and Training Commission (CJSTC) to certify and revoke certification of law enforcement agency in-service training instructors. It also provides that a person may only be temporarily employed or appointed under s. 943.131, F.S., once per law enforcement discipline and for a maximum period of thirty months. A person is allowed 180 days from employment to begin the basic recruit training class and 180 days from completion of basic recruit training to pass the officer certification examination. A person who becomes employed after completion of the basic recruit training class is allowed 180 days from the date of employment to pass the certification examination. Persons employed under a temporary employment authorization are prohibited from transferring to another employer and persons whose certification has been revoked pursuant to s. 943.1395, F.S., are prohibited from being employed under a temporary employment authorization.

The bill specifies that a person cannot exempt the requirement for completion of a basic recruit training program unless he or she has been employed as a sworn law enforcement officer within eight years of submitting the application for exemption.

The bill provides the CJSTC with authority to discipline persons who are temporarily employed or appointed, and requires investigation of offenses and development of disciplinary guidelines and penalties. A person whose certification is revoked is ineligible for employment under a temporary employment authorization. The bill exempts basic recruit training program students from testing for mastery of basic skills that is required of technical-vocational students by s. 1004.91, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

CS/CS/SB 1856 — Law Enforcement/Correctional Officer

by Judiciary Committee; Criminal Justice Committee; and Senators Diaz de la Portilla and Argenziano

This bill amends s. 112.532(1), F.S., with regard to the interrogation of law enforcement or correctional officers. The bill limits the total number of interrogating officers asking questions during the interrogation to one officer, unless the officer subject to the interrogation specifically waives the requirement.

The bill also amends s. 112.532(3), F.S., to specifically provide for the right of an officer to file suit against a person who files a false complaint against the officer. However, this subsection is amended to provide that it does not create a separate cause of action against an officer's employing agency for the investigations and processing of a complaint filed under this part.

The bill requires the investigating agency to give the officer a copy of the complete investigative report and supporting documents, upon request, and provide the officer an opportunity to address the findings of the report before the imposition of a disciplinary action consisting of a suspension with loss of pay, demotion or dismissal. However, the contents of the complaint and investigations are to remain confidential until the employing agency makes a final determination to issue a notice of disciplinary action. Additionally, the bill provides that the provisions should not be construed to provide a law enforcement officer with property interest in the position or with an expectation of employment as a sworn officer.

Section 112.533(1), F.S., is amended by the bill to specify that the law enforcement or correctional agency's system for processing complaints is the exclusive means of investigating and making determinations regarding disciplinary actions. The Criminal Justice Standards and Training Commission is not precluded from exercising its authority under this provision of the bill.

The officer who is the subject of the complaint has the right, under s. 112.533(2)(a), F.S., to review the complaint and all statements made by the complainant and witnesses immediately prior to the beginning of the investigative interview. The bill extends the right to review complaints and statements made by the complainant and witnesses against a law enforcement or correctional officer to his or her legal counsel or designated representative, immediately prior to the beginning of an investigative interview whenever the interview relates to the officer's continued fitness for law enforcement or correctional service. The attorney or other representative would also be subject to a misdemeanor prosecution if he or she willfully disclosed information obtained pursuant to the investigation before it becomes available to the public.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

SB 2488 — Law Enforcement Mutual Aid Agreement

by Senators Dockery and Lynn

This bill clarifies language in s. 23.1225, F.S., which authorizes law enforcement agencies to enter into mutual aid agreements. The bill defines "law enforcement agency" as "any agency or unit of government that has authority to employ or appoint law enforcement officers, as defined in s. 943.10(1), F.S.

A law enforcement agency may enter into a mutual aid agreement through a written agreement executed by the chief executive officer of the agency, who is authorized to contractually bind the agency.

The bill amends s. 282.1095, F.S., to authorize the State Technology Office (STO) to plan, manage, and administer the State Law Enforcement Radio System mutual aid channels and to make the channels available to federal, state, and local agencies for the purpose of public safety and domestic security. The STO is required to act in consultation with the Florida Department of Law Enforcement (FDLE) and the Division of Emergency Management (DEM) within the Department of Community Affairs to administer the mutual aid channels to address the needs of law enforcement agencies and emergency response agencies involved with the system. The STO is furthered required, in conjunction with the FDLE and the DEM to establish policies and procedures which must be incorporated into a comprehensive management plan for the use and operation of the statewide radio communications system.

The STO is authorized to create and implement an interoperability network for enabling interoperability between various radio communications technologies to serve federal, state, and local agencies. The STO must work in conjunction with the FDLE and DEM to administer the interoperability network. The STO may enter into mutual aid agreements, establish the cost of

maintenance and operation of the network, and charge subscribing federal and local law enforcement agencies for access and use of the network. Participating state agencies cannot be charged to use the network. The statewide radio communications system may be enhanced and amended as necessary for implementation. Policies and procedures must be established for inclusion in a comprehensive management plan for network operation.

A board member of the Joint Task Force on State Agency Law Enforcement Communications may, upon notifying the chairman prior to the beginning of a meeting, appoint an alternate to represent the member on the board and to vote on board business in the member's absence.

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

SB 2002 — Law Enforcement Officer Training

by Senators Crist and Lynn

This bill amends s. 943.16, F.S., to require law enforcement officers and correctional officers to remain employed with their agency for a minimum of two years if the agency paid the costs of their basic recruit training program. Officers who voluntarily terminate employment within two years would be required to reimburse their employing agencies for the full cost of tuition and other expenses of the course, and to make a pro-rata reimbursement of wages and benefits earned while enrolled in the basic recruit training program. The reimbursement requirements do not apply to officers who terminate employment and resign their officer certification to take a job for which such certification is not required. The employing agency is permitted to waive reimbursement if the officer terminates employment due to hardship or extenuating circumstances. These requirements are applicable to trainees in basic recruit training classes commencing after July 1, 2003.

The bill authorizes the employing agency to file a civil collection action if it is not reimbursed in accordance with the statute. However, such authorization is contingent upon the agency having given written notification of the two-year obligation to the employee during the employment screening process.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-0

VICTIMS AND PUBLIC PROTECTION

CS/CS/SB 144 — Sexual Battery Victims/Services

by Appropriations Committee; Criminal Justice Committee; and Senators Cowin, Fasano, Sebesta, Argenziano, and Crist

This bill creates s. 938.085, F.S., requiring a sentencing court to impose an additional $151 surcharge against offenders who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, specified statutes concerning assault, battery, stalking or sexual battery. Collected costs (less a $1 court clerk fee) are to be deposited in the Rape Crisis Program Trust Fund which is created by SB 146. The trust fund is to be used to provide sexual battery recovery services to victims and their families, and the bill defines eight services and programs that meet the definition of "sexual battery recovery services." The bill includes an appropriation of $917,000 from the trust fund to the Department of Health for purposes of implementing the act during Fiscal Year 2003-2004.

The bill also requires that the Department of Health contract with a statewide not-for-profit association whose primary purpose is to represent and provide assistance to rape crisis centers. This association is to receive 95 percent of the Rape Crisis Program Trust Fund. Funds must be allocated and distributed by county, taking into account population and rural characteristics. No more than 15 percent may be used for statewide initiatives and no more than 5 percent may be used for administrative costs.

The Department of Health is required to ensure that funds are properly expended and to provide an annual report to the Legislature. It is also authorized to require an annual audit of expenditures.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 113-0

SB 146 — Rape Crisis Program Trust Fund

by Senators Cowin, Argenziano, Wilson, and Crist

Senate Bill 146 creates the Rape Crisis Program Trust Fund for the purpose of providing funds to rape crisis centers for services to victims of sexual assault. The trust fund is established within the Department of Health, which is directed by the bill to establish rules for the distribution of the trust fund moneys to the rape crisis centers. The source of the moneys to be credited to the trust fund are court assessments collected from individuals who plead guilty or nolo contendere to or are found guilty of, regardless of adjudication, specified statutes concerning assault, battery, stalking or sexual battery. The bill provides for the termination of the trust fund on July 1, 2007, and for the statutorily required review prior to the scheduled termination.

If approved by the Governor, these provisions take effect July 1, 2003, if SB 144 (Sexual Battery Victims/Services) also becomes law.
Vote: Senate 40-0; House 113-0

HB 453 — Victim of Sex Offense/Public Record

by Rep. Adams and others (CS/SB 126 by Criminal Justice Committee and Senators Campbell, Lynn, and Argenziano)

This bill amends s. 119.07(3)(f), F.S., to create a public records exemption for any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of the victim of designated sexual offenses. Such photograph, videotape, or image is confidential and exempt regardless of whether or not it identifies the victim.

The bill provides for retroactive application and future review and repeal on October 2, 2008, unless reviewed and saved from repeal through reenactment.

The bill also provides for a statement of public necessity for the exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

HB 1019 — Videotaped Statement of Minor/Public Record

by State Administration Committee and others (SB 1026 by Criminal Justice Committee and Senator Lynn)

This bill amends s. 119.07, F.S., and reenacts a public records exemption that makes confidential and exempt from public inspection information contained in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery and other specified sexual offenses, if that information identifies the victim.

The bill designates law enforcement agencies as the custodian of such statements. Only law enforcement agencies and Department of Health child protection teams are responsible for videotaping such minor's statement, but Department of Health child protection teams already have an agency-specific exemption for such minor's videotaped statement.

The bill removes the sentence that requires repeal of the public records exemption as well as superfluous language.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 37-0; House 112-0

SCHOLARSHIP/FINANCIAL AID

CS/SB 354 — Bright Futures Scholarship Program

by Appropriations Committee and Senators Carlton, Lynn, and Crist

The bill repeals s. 1009.539, F.S., the law requiring recipients of a Bright Futures Academic Scholars or Medallion Scholars award to complete the CLEP examination in the following five areas: English, humanities, mathematics, natural sciences, and social sciences. These examinations must be taken prior to enrolling in any course for which credit may be earned through the CLEP examinations. Each community college and each university must pay for the cost of each CLEP examination required by the law, not to exceed $46 per examination. The cost is approximately $8 million annually. The CLEP pass rate declined from over 60% to about 22% after this law was enacted. This resulted in an estimated cost of $80 per credit hour earned through CLEP examinations.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 638 — Student Tuition Assistance

by Appropriations Committee and Senators Clary, Hill, Campbell, Bennett, Webster, Bullard, Atwater, and Fasano

This bill creates the Access to Better Learning and Education Grant Program. The grant program is limited to full-time Florida resident students seeking a baccalaureate degree from a for-profit college or university that is located in the state and accredited by SACS, or a nonprofit college or university, chartered out of state yet located in the state for 10 years or more and accredited by a region accrediting agency. The schools should not be a state university or community college and should have a secular purpose.

The annual amount of the grant is to be established in the General Appropriations Act and the program is to be implemented only to the extent it is specifically funded and authorized by law.

The grant program is not related to a student's need for financial assistance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-2; House 104-7

STATE UNIVERSITIES

CS/SB 680 — Florida Gulf Coast University

by Education Committee and Senators Saunders and Aronberg

The bill authorizes Florida Gulf Coast University to offer a Bachelor of Science in Human Performance degree program with a concentration in athletic training.

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

PUBLIC SCHOOLS

CS/SB 162 – American Sign Language

by Education Committee and Senators Wise and Fasano

This bill establishes statutory authority for all public schools to offer American Sign Language (ASL) for foreign language credit. It also requires school boards to advise students taking ASL as a foreign language that postsecondary schools outside of Florida may not accept these course credits as satisfying foreign language entrance requirements.

Florida ASL teachers will be required to be certified by the Florida American Sign Language Teachers Association and may also be certified by the Department of Education. A task force established by the bill will prepare a report for the Commissioner of Education on developing and maintaining ASL courses as a part of a school curriculum. The Commissioner of Education will encourage postsecondary institutions to offer ASL courses and to implement a plan for accepting secondary school credits in ASL as credits in a foreign language.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 117-0

HB 915 — K-20 Education Accountability

by Rep. Pickens and others (CS/SB 2296 by Education Committee and Senators Carlton and Wilson)

Accountability

This bill amends s. 1008.31, F.S., by establishing a unified system of accountability, which will be used to measure the K-20 education system's performance. The bill revises the performance-based funding requirements to provide that the State Board of Education must adopt a

performance-based budgeting system for all education delivery systems by the following schedule:

By December 1, 2003:

- The State Board of Education must adopt common definitions, measures, standards, and performance improvement targets. The State Board of Education must use the state core and sector-specific measures to evaluate the progress of each sector in meeting the systemwide goals, and advise the delivery systems of their progress so the systems may develop plans and implement the performance-based budgeting system. The implementation of performance-based budgeting must allow a delivery system one year to demonstrate achievement of specified performance standards prior to a performance-related reduction in appropriations.

By July 1, 2004:

- The Department of Education must collect data required to establish progress, rewards, and sanctions during the 2003-2004 fiscal year.

By December 1, 2004:

- The Department of Education must recommend to the Legislature a formula for performance-based funding that applies accountability standards for the individual components of the public education system at every level.

Effective FY 2004-2005:

- If approved by the Legislature, performance-based funds shall be allocated based on progress in meeting specified standards.

Concordance Study on Equivalent Scores for High School Graduation

The bill requires the State Board of Education to conduct a study to determine if equivalent scores can be ascertained on certain national standardized examinations in lieu of passing scores on the Florida Comprehensive Assessment Test (FCAT) for high school graduation. At a minimum, the State Board of Education must analyze the PSAT, PLAN, SAT, ACT, and the College Placement Test to determine if equivalent scores can be ascertained. If equivalent scores can be determined, the State Board of Education may adopt the scores with students who are eligible to graduate in the 2003-2004 academic year and thereafter being eligible to use the equivalent scores in lieu of the FCAT for high school graduation purposes.

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

CS/SB 1522 — Student's Education/Parent and Family Involvement

by Education Committee and Senators Constantine and Bullard

The bill creates the "Family and School Partnership for Student Achievement Act" in s. 1002.23, F.S., to provide parents with information about their child's educational progress and opportunities for parental involvement, as well as to provide a framework for building and strengthening partnerships between parents, teachers, principals, district school superintendents, and other personnel.

The Department of Education must develop guidelines for a parent guide and a specific checklist and must establish a parent response center to help parents and families. District school boards must: adopt rules to strengthen family involvement and family empowerment; submit a copy of the rules to the Department of Education; and develop and disseminate a parent guide to successful student achievement, as well as a checklist of parental actions to strengthen parental involvement. The State Board of Education must annually review each district's compliance with the requirements in the act and must use all appropriate enforcement action.

District school superintendents and principals must fully support and cooperate in implementing the new law. The bill requires that parents of public school students receive accurate and timely information about their children's schools, as well as information on ways to help their child to succeed in school, including help with reading proficiency. Report cards must include a designation of a student's performance or nonperformance at grade level.

Teachers who receive certain bonuses under the Dale Hickam Excellent Teaching Program must provide instruction to help other teachers work more effectively with the families of their students. Inservice activities for instructional personnel under the School Community Professional Development Act must include parent involvement.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 82-35

HB 1739 — Access to Postsecondary Education

by Education K-20 Committee and others (SB 2576 by Senators Wise and Lynn)

The bill (Chapter 2003-8, L.O.F.) creates the "Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act" and defines the term "student with a disability." The bill also eliminates the requirement that students complete the credit for life management skills in grade 9 or grade 10. District school boards must provide

instruction to prepare students with disabilities to demonstrate proficiency in the skills and competencies needed for successful grade-to-grade progression and high school graduation.

The bill provides for waiving the requirement to earn a passing score on the Florida Comprehensive Assessment Test (FCAT) in order to receive a standard high school diploma. This waiver applies to a student with a disability, as defined in s. 1007.02(2), F.S., for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities, taking into consideration all allowable accommodations. The bill provides the criteria for the waiver to be granted. Students who have been awarded a special diploma or a certificate of completion are eligible to enroll in certificate career education programs. Students with disabilities may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the newly created provisions of law.

The rules of the community college boards of trustees must include admissions counseling for all students entering career credit programs and requires counseling to include the option of using tests to measure achievement of basic skills for career programs, as prescribed in s. 1004.91, F.S. Under the bill, the State Board of Education must:

- Adopt rules, including those for test accommodations and modifications of procedures, as needed for students with disabilities.
- Develop substitute admission requirements where appropriate.
- Conduct a review of the extent to which authorized acceleration mechanisms are currently used by school districts and public postsecondary educational institutions.
- Submit a report to the Governor and the Legislature by December 31, 2003.

These provisions became law upon approval by the Governor on April 24, 2003.
Vote: Senate 38-0; House 116-0

CS/SB 1838 — Instructional Materials

by Education Committee and Senator Aronberg

The bill requires publishers to provide and price adopted instructional materials on an individual basis in order for school districts to buy individual materials in core subject areas, rather than as a part of an adopted package or bundle.

The bill makes changes to the following deadlines: appointing members of the state instructional materials committees; advertising bids for instructional materials; receiving sealed bids by the Department of Education; notifying the department about the materials that will be used in the school district; and beginning the adoption term for instructional materials. Specified sections of the bill affect only new adoptions, beginning with the 2004-2005 adoption cycle.

Also, the bill deletes the existing purchase order schedule. District school boards may issue purchase orders subsequent to February 1 in an aggregate amount that does not exceed 90 percent of the current year's allocation. Districts are responsible for any amount of money that is committed in purchase orders in excess of the district's allocation for the next year.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 119-0

EXTRACURRICULAR ACTIVITIES

CS/SB 2156 — Florida High School Activities Association

by Education Committee and Senator Diaz de la Portilla

The bill amends ss. 1006.18 and 1006.20, F.S., relating to the Florida High School Activities Association. The bill renames the Association as the Florida High School Athletic Association and increases membership on the Board of Directors. Any entity appointing a member to the Board is required to examine the ethnic and demographic composition of the board when selecting a candidate and make appointments that reflect state demographic and population trends. Language relating to medical examinations of students prior to participation in athletic competition is clarified.

Statutory cross references relating to cheerleader safety standards are amended.

The bill repeals obsolete language relating to an examination and resultant report.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 109-5

OFFENSES BY PUBLIC SERVANTS

HB 847 — Offenses by Public Servants

by Rep. Goodlette and others (CS/SB 2030 by Ethics and Elections Committee and Senator Sebesta)

The bill rewrites and modifies criminal provisions governing offenses by public servants. It incorporates several recommendations embodied in the Public Corruption Study Commission's Report to the Governor (December 15, 1999).

Specifically, the bill amends definitions and increases a number of existing criminal penalties from a third-degree to a second-degree felony, and creates a number of new crimes for the following offenses: bribery; unlawful compensation; official misconduct; disclosure or use of confidential criminal justice information; and bid tampering in connection with public contracts.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 37-0; House 116-0

ELECTION VACANCIES

HB 1051 — Elections; Vacancies

by Rep. Goodlette and others (SB 2318 by Senator Lee)

The bill clarifies an ambiguity created by conflicting provisions in the State Constitution which currently provide that, upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor unless there are more than 28 months remaining in the term, in which case the appointee serves until the first Tuesday following the next general election (s. 1(f), Art. IV, State Constitution) and the provision which requires the Governor and Lieutenant Governor to run jointly (s. 5, Art. IV, State Constitution).

Specifically, the bill provides that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor for the remainder of the term. If, following such appointment, a vacancy in the office of Governor should occur and there are more than 28 months left in that term of office, electors shall select a Governor and Lieutenant Governor at the next general election.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 26-12; House 115-2

CORPORATE INCOME TAX

HB 1839 – Corporate Income Tax

by Finance and Tax Committee and others (SB 1002 by Senator Campbell)

This bill updates the Florida Income Tax Code to reflect changes in the U.S. Internal Revenue Code enacted by Congress since January 1, 2002. This definition provides for "piggybacking" each change made during 2002 in the Internal Revenue Code.

This bill ensures current administration of the corporate income tax and provides that corporations that are subject to Florida corporate income tax can base their tax calculations on current IRS rules. Failure to pass this bill would result in increased bookkeeping burdens for these entities.

Since Florida's corporate income tax is based upon a taxpayer's income as calculated for federal tax purposes, this bill allows Florida to rely on the efforts of the IRS to ensure the accuracy of the starting point for determining tax liability. Passage of this bill helps keep down the cost of enforcing Florida's income tax law.

If approved by the Governor, these provisions take effect upon becoming law and operate retroactively to January 1, 2003.
Vote: Senate 40-0; House 113-0

GROSS RECEIPTS TAX

SB 1430 — Gross Receipts Tax/Manufactured Gas

by Senator Alexander

This bill provides an exemption for the sales of manufactured gas to a public or private utility for resale or for use as a fuel in the generation of electricity. Current law provides a similar exemption for sales of natural gas.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 113-0

TAX ADMINISTRATION

CS/SB 1176 — Tax Administration

by Finance and Taxation Committee and Senator Campbell

The bill adopts numerous improvements to the administration and enforcement of Florida's revenue laws. Specifically, the bill does the following:

Communications Services Tax

- Specifies what the service address shall be in the case of third-number and calling-card calls.
- Provides an exemption for the sale of communications services to a home for the aged.
- Creates penalties for providers who improperly situs customers and fail to make corrections when customers are assigned to the incorrect local jurisdiction.
- Authorizes that the penalty for a communications services dealer failing to respond to a notice from the Department of Revenue or request an extension may be compromised pursuant to s. 213.21, F.S.
- Provides a mechanism for correcting possible errors in situsing of local communications services tax revenues.
- Requires that each person selling communications services in more than one jurisdiction within Florida assist the Department of Revenue by providing necessary data in an electronic format specified by the department. The bill imposes a penalty for failure to comply.

Fuel Taxes

- Inclusion of a definition of the new fuel "bio-diesel" and licensing requirements consistent with other fuels.
- Imposes a $5,000 penalty for retailers who refuse to provide required reports.
- Requires wholesalers or terminal suppliers who divert a load of Florida fuel to pay the Florida tax on the return and establish limits to the number of loads that may be diverted to Florida before an importer license is required.
- Imposes a flat $5,000 penalty for taxpayers required to file electronically but fail to do so.
- Changes the requirement for corporations from having to provide certified copies of corporate documents to simply providing the Department of Revenue with a statement that the corporation is in good standing with the Florida Department of State.

- Authorizes, by statute, the Department of Revenue to obtain fingerprints and personal data from persons applying for certain fuel licenses.

Unemployment Compensation Tax

- Provides that, for unemployment compensation tax purposes, a limited liability company will be treated the same as it is for federal income tax purposes.
- Provides that an employer may not be considered a successor under this section if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions.
- Authorizes the Department of Revenue to charge no more than 10 percent of the total cost of the interagency agreement for the overhead or indirect costs of providing unemployment compensation tax collections.

Other Tax Administration Issues

- Provides authority for the Department to require dealers to report rental car surcharge collections on a county-by-county basis in order to facilitate the allocation of surcharge revenues to each Department of Transportation district.
- Authorizes carriers to prorate the tax on their purchases of motor fuel and diesel fuel used in a railroad locomotive or vessel when the carrier has been in business for less than a year.
- Permits the Department of Revenue to allow a taxpayer with a perfect tax return filing record for at least 12 consecutive months to retain his or her collection allowance, under certain circumstances.
- Specifies that only one penalty of 10 percent, which may not be less than $50, shall be imposed for failure to timely file a sales and use tax return and to timely pay the tax shown due on the return.
- Permits the Department of Revenue to establish new tax brackets when necessary without requiring rulemaking when the Legislature changes a tax rate.
- For voluntary self-disclosure of tax liability, the bill changes the time period that the Department of Revenue may settle and compromise tax and interest due. The time period is changed from 5 years to 3 years immediately preceding the date the taxpayer contacted the Department of Revenue.
- Provides that failure to make an electronic funds transfer payment will be subject to the same prosecution as payment with a worthless check, bank draft, or debit card.

- Eliminates the requirement that the annual intangible tax return include language permitting a voluntary contribution of $5 for the Election Campaign Financing Trust Fund, because the trust fund expired November 4, 1996.
- Authorizes an affiliate group of corporations that created a service company with an affiliated group on July 30, 2002, to receive the salary credits for Insurance Premium Tax purposes.
- Repeals the restriction on the use of Local Government Infrastructure Surtax revenue to supplant or replace user fees or reduce ad valorem taxes.
- Repeals the repeal of the certified audits pilot project, making it permanent.
- Expands the sales and use tax exemption for building materials used in a designated brownfield area of affordable housing.
- Expands the use, by a charter county, of the Charter County Transit System Surtax to include planning, development, construction, operation and maintenance of, as well as the payment of principal and interest on bonds issued for, roads and bridges in the county and bus and fixed guideway systems.
- Provides that local governments that collect a municipal resort tax may participate in the RISE (Registration Information Sharing and Exchange) Program.
- Corrects an unintended consequence of last year's legislation by restoring the automatic renewal of lands classified as agricultural under s. 193.461, F.S., if the county waives the requirement for annual applications. It also declares that, for January 1, 2003, failure of a property owner to return the agricultural classification form or card in a county that waived the annual application process shall constitute an extenuating circumstance.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 107-0

PUBLIC EMPLOYEE BENEFITS AND RECOGNITION

CS/CS/SB 1006 — State Employee Health Insurance

by Appropriations Committee and Governmental Oversight and Productivity Committee

During the previous two interim periods, the Committee on Governmental Oversight and Productivity examined the financial and policy difficulties affecting the financial solvency of the health and prescription drug benefits provided state employees and their dependents. This act begins a process that will change both the nature of the benefits delivered and the means through which they are funded. The act authorizes the Department of Management Services, as the workplace benefit manager for state employees, to develop more than one indemnity plan within its preferred provider organization. The revised offering, if funded by the Legislature, could involve more than the two current tiers of coverage (individual and family) and provide choices that permit employees to select different exposure levels. In keeping with an agency consultant report received prior to the start of the Session, any revised offering would include the potential for greater cost participation by employees, a setting of premiums charged based upon fixed dollar amounts rather than percentages, the incorporation of specific age- and gender-based wellness programs now unavailable, and the incorporation of peer employer and market-based levels in assigning state reimbursement levels. A major provision of the bill is its change in the medium for the setting of benefit policy from the current practice of general law in the Florida Statutes to the annual appropriations process.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-2

CS/CS/SB 958 — Florida Retirement System

by Appropriations Committee and Governmental Oversight and Productivity Committee

Beginning with the 2003 fiscal year, the Legislature initiated a practice of passing annual bills to implement changes to the employer-paid payroll contribution rate structure of the multi-employer Florida Retirement System (FRS). Its defined benefit component assures an annuitized monthly income to retirees of state, education, and local government employers expressed as a percentage of final pay and thus requires annual adjustments in light of the underlying value of its assets and liabilities. The act represents the revised rates necessary to fund this pension plan in line with its actuarial cost parameters.

Generally, the act continues the use of the accrued pension surplus which stood at $12.9 billion as of June 30, 2002. While the effect of the rate adjustment is to nominally increase costs to the employers for FY 2004, when measured against the normal costs of the system the rates are

discounted more than 34 percent. The revised rates, when approved by the Governor, will be transmitted electronically to the member employers. As part of the rate adjustment, the payroll contribution rates charged to the Institute of Food and Agricultural Sciences at the University of Florida are amended to align its costs with its specific actuarial experience. Finally, the information and education expenses charged by the State Board of Administration for participants in the Public Employees' Optional Retirement Program (PEORP) are reduced by one-third following the completion of the full cycle of its initial implementation and open enrollment.

The bill contains a number of other provisions related to the use of the benefit features of the FRS. Foremost among these is the reassessment of existing retirement provisions for addressing the attrition of instructional personnel in the public school K-12 grades. The act allows instructional personnel retirees from the FRS to be reemployed without the nominal one-year suspension of benefits after the first 31 days of termination of employment. It also permits instructional personnel participating in the Deferred Retirement Option Program to enjoy participation for an additional three years, beyond the initial five years. That additional increment of participation would be voluntary on the employee's part and subject to the concurrence of the employer.

The 2002 Legislature gave university personnel participating in their own optional annuity program outside of the FRS the same distribution options as in PEORP. In addition to a monthly annuity, the revisions permitted a full or partial roll-over to a successor tax-qualified plan or a full cash distribution. These provisions are extended by the act to community college personnel who are similarly situated in their own optional plan. It also permits the employees to transfer their plan assets to PEORP in the same fashion as university personnel.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.
Vote: Senate 38-0; House: 117-0

HB 1869 — Government Employment

by State Administration Committee and others (CS/SB 1528 by Governmental Oversight and Productivity Committee and Senator Wise)

This act places in general law provisions now contained in expiring appropriations act proviso language authorizing the development of a substantially changed state personnel infrastructure. Two acts of the legislature during the past two years significantly altered the methods and means of administrative services and personnel administration. The first of these, initially entitled *Service First,* changed the scope of civil service coverage while the second, *HR Outsourcing*, moved portions of the state agency administrative apparatus from direct to indirect administration. The effect of HB 1869 is to make the necessary nomenclature changes in the Florida Statutes to permit the changes to employee classification and pay to reflect the new

system and its revised labels as they appear throughout chapter 110 and other sections of the Florida Statutes. A central feature of the redeployed personnel infrastructure is the development of broad pay bands as the successor system to the narrow and department-specific classification actions undertaken by agencies.

The act also provides for the development of a negotiated procurement by the Department of Management Services for the examination of state agency service contracts.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 78-29

CS/SB 1992 — Medal of Heroism

by Governmental Oversight and Productivity Committee and Senators Argenziano, Crist, Miller, Fasano, and Atwater

This act creates an undesignated section of law that permits the Governor to award a Medal of Heroism to: (a) a law enforcement, correctional, or correctional probation officer; (b) a firefighter; (c) an emergency medical technician; or (d) a paramedic. In order to be eligible for the award, a person must have distinguished himself or herself conspicuously by gallantry and intrepidity; must have risked his or her life deliberately above and beyond the call of duty while performing duty in his or her respective position; and must have engaged in hazardous or perilous activities to preserve lives with the knowledge that such activities might result in great personal harm.

The act provides that a nomination for the medal must be made by written application to the Governor. The Governor may refer an application to any public or private entity for advice and recommendations regarding the application.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

HB 803 — Florida Jewish History Month

by Rep. Barreiro and others (SB 2412 by Senators Margolis, Klein, Geller, Wasserman Schultz, and Fasano)

This bill (Chapter 2003-7, L.O.F.) creates s. 683.195, F.S., to designate January of each year as "Florida Jewish History Month." Further, the bill provides that the Governor may annually issue a proclamation designating the month of January as "Florida Jewish History Month," and may call upon the citizens of the state to observe the occasion.

These provisions became law upon approval by the Governor on April 17, 2003.
Vote: Senate 39-0; House 114-0

OPEN GOVERNMENT SUNSET REVIEW

HB 1021 — Housing Assistance Program Public Records Exemption

by State Administration Committee and others (CS/SB 290 by Governmental Oversight and Productivity Committee)

This bill is the result of an Open Government Sunset Review of s. 119.07(3)(bb), F.S. That section makes medical history records, bank account numbers, credit card numbers, telephone numbers, and information related to health or property insurance furnished to an agency pursuant to a federal, state, or local housing assistance program confidential and exempt. The bill continues the exemption, with amendments to clarify and narrow it, based upon a review conducted pursuant to the requirements of s. 119.15, F.S. Specifically, the bill amends the section to:

- Identify the state agencies that implement housing assistance programs.
- Remove references to bank account and credit card numbers as the general exemption in s. 119.07(3)(bb), F.S., applies and is more comprehensive.
- Eliminate telephone numbers from the exemption as they are readily available from other sources and, in the case of victims of domestic violence, other statutes provide protection for telephone numbers, as well as addresses.
- Remove language regarding the source of the information, i.e., an "individual" who furnishes information to an agency.
- Delete a provision that states that any other information that is received is subject to open government requirements because that provision reiterates the current state of the law and, as drafted, is confusing and unnecessary.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 114-0

HB 1591 — Employee Assistance Programs

by State Administration Committee and others (SB 288 by Governmental Oversight and Productivity Committee)

The State of Florida, like many other public and private employers, operates programs to assist employees who cope with the effects of alcohol, substance abuse, and other behavioral problems. These employee assistance programs give affected employees the professional assistance they

need and the hope of returning to the workplace, without the stigmatizing fear of producing a public record that could chill their participation and worsen their condition.

This act reauthorizes such programs, as required by the Open Government Sunset Review Act of 1995, as operated by agencies of the State of Florida and maintains as confidential and exempt the personal identifying information of a participating employee. The exemption is also saved from further periodic review unless the records exemption is expanded.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 112-0

AGENCY MANAGEMENT AND ADMINISTRATIVE PRACTICES

HB 365 — Direct and Citizen Support Organizations

by Rep. Ross and others (CS/SB 1036 by Appropriations Committee and Senators Dockery, Lynn, Posey, Sebesta, Jones, Argenziano, Constantine, and Alexander)

The bill amends the audit requirements established in s. 215.981, F.S., for direct-support organizations (DSOs) and citizen support organizations (CSOs). Specifically, the bill establishes an annual expenditure threshold of more than $100,000 for non-educational DSOs and CSOs, excluding those of the Department of Environmental Protection, prior to requiring an annual financial audit of its accounts and records by an independent certified public accountant.

For those DSOs and CSOs of the Department of Environmental Protection, this bill establishes a $300,000 annual expenditure threshold before an independent audit is required. The department is required to establish accounting and financial management guidelines and conduct reviews of those with expenditures below the threshold.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 1374 — Administrative Procedures

by Governmental Oversight and Productivity Committee and Senator Peaden

This bill amends s. 120.551, F.S., which was enacted during the 2001 Legislative Session (Chapter 2001-278, L.O.F.) to authorize the Department of Environmental Protection (DEP) to establish a pilot project to determine the cost effectiveness of publishing administrative notices on the Internet, rather than in the Florida Administrative Weekly (FAW). This project began on December 31, 2001, and is scheduled to end under current law on July 1, 2003. A report, submitted by the DEP to the Legislature in January 2003, indicated that the project had been well

received by the public and had resulted in annually saving the DEP $32,100 in FAW publication line charges.

This bill extends the DEP's authority to publish administrative notices on the Internet and also provides that the Board of Trustees for the Internal Improvement Trust Fund, which is staffed by the DEP, may likewise publish administrative notices on the Internet. The bill requires that the Internet website be: (a) centralized; (b) established and maintained by the DEP; and (c) provided to the public without charge. Further, the website must allow the public to: (a) search for notices by type, publication date, program area, or rule number; (b) search a permanent database that archives all notices published on the website; and (c) subscribe to an automated e-mail notification of selected notice types. Notices published on the website must clearly state the date the notice was first published and may only be published on the same days as the FAW is published.

The authority for the DEP and the board to publish on the Internet is repealed on July 1, 2004, unless the Legislature reviews and reenacts s. 120.551, F.S., before that date.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 106-11

CS/CS/SB 1584 — Administrative Procedures

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senators Aronberg and Bullard

This bill amends numerous provisions of ch. 120, F.S., entitled the Administrative Procedure Act, relating to definitions, procedural and evidentiary matters, administrative and appellate review, unadopted rule challenges, licensing, and attorney's fees and costs awards.

Definitions: The bill amends ss. 120.52(8)(e) and 120.57(1)(e)1.d., F.S., to provide that a rule is "arbitrary" if it is not supported by logic or the necessary facts, and that a rule is "capricious" if it is "adopted without thought or reason or is irrational." These changes define the terms in a manner consistent with case law.

Procedural matters: The bill amends s. 120.54(5)(b)4., F.S., to provide that petitions for administrative hearings must include a statement explaining how the facts of a case relate to the rules or statutes alleged in the petition to require reversal or modification of an agency's proposed action.

The bill amends s. 120.569(2), F.S., to require an administrative law judge, when requested by any party, to enter an initial scheduling order that includes discovery and joint report deadlines.

The bill amends s. 120.57(1)(i), F.S., to require, rather than permit as is provided in current law, an administrative law judge to relinquish jurisdiction to an agency when it is determined by the administrative law judge that no genuine issue as to any material fact exists.

Finally, the bill amends s. 120.57(1)(k), F.S., to provide that an agency need not rule on exceptions to a recommended order if the exception does not: (1) clearly identify the disputed portion of the recommended order by page number or paragraph; (2) identify the legal basis for the exception; or (3) include appropriate and specific citations to the record.

Burdens of proof: The bill amends s. 120.56(1)(e), F.S., to specify that the standard of proof to be used in a rule challenge hearing is a preponderance of the evidence. Further, the bill provides in s. 120.56(3), F.S., that a petitioner, who challenges the validity of an existing rule, has the burden to prove by a preponderance of the evidence that the existing rule is an invalid exercise of delegated legislative authority.

Administrative and appellate review: The bill amends ss. 120.52(8)(f), 120.56(1)(e), and 120.57(1)(e)1., F.S., to provide that an administrative law judge's review of a petition challenging a proposed or existing rule is de novo, rather than "competent and substantial evidence," as is currently provided by case law. "Competent and substantial evidence" remains the appellate court's standard of review, under the bill, for appeals of administrative final orders in rule challenges. Further, the bill clarifies in s. 120.68, F.S., that an agency's findings of immediate danger, necessity, and procedural fairness in justification of an emergency rule are subject to appellate review. This clarification is repetitive of existing s. 120.54(4)(a)3., F.S.

Unadopted rule challenges: The bill amends s. 120.56(4)(e), F.S., to create new time frames and legal impacts for agency responses in challenges alleging that an agency statement is an unadopted rule. Under the bill, if an agency, prior to the final hearing on the unadopted rule challenge, publishes: (1) a notice of rule development, then a stay of the proceedings may be granted for 30 days during which time the agency may publish proposed rules; or (2) a proposed rule addressing the statement, then a presumption is created that the agency is acting expeditiously and in good faith to adopt rules and the agency may rely on the statement as a basis for agency action. Further, the bill clarifies in s. 120.56(4)(e)5., F.S., that an agency may not continue to rely on a statement underlying an unadopted rule challenge when the statement has been found to be an invalid exercise of delegated legislative authority pursuant to s. 120.52(8), F.S.

Licensing: The bill amends s. 120.60, F.S., to provide that if an agency fails to approve or deny a license within the time frame specified in the section that the application is "considered approved" and the license must be issued, unless a recommended order recommends denial of the license. Further, if an examination is a prerequisite to licensure, the bill provides that issuance of the license is subject to satisfactory completion of that examination.

Attorney's fee awards: The bill amends s. 120.595(1), F.S., which requires an award of costs and attorney's fees where a non-prevailing party has participated in a s. 120.57(1), F.S., proceeding for an "improper purpose." The definition of this term is expanded by the bill to include needlessly increasing the cost of litigation. The bill also eliminates the subsection's reference to s. 120.569(2)(e), F.S., in defining "improper purpose," so that filing pleadings for an improper purpose is not a condition precedent to an award of attorney's fees under the section.

Further, the bill amends ss. 120.595(6) and 57.105(5), F.S., to provide that attorney's fee awards available pursuant to s. 57.105, F.S., for frivolous actions apply in administrative proceedings. Case law currently holds that such attorney's fee awards are only applicable to judicial proceedings.

Finally, the bill amends s. 57.111, F.S., to increase the attorney's fee awards available under the section in judicial and administrative proceedings to prevailing small business parties in state initiated actions from a maximum of $15,000 to a maximum of $50,000.

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

HB 1609 — State Planning and Budgeting

by Rep. Quinones and others (SB 1808 by Senator Posey)

This act requires each agency of the executive branch and the judicial branch to provide an annual one-page summary of its preceding budget year's financial data. Among the additional data reporting elements are total funds appropriated from all sources, performance incentives and disincentives, and expenditures and costs aggregated by unit cost as well as activity level. The submission date is changed to be identical with that established in the annual budget instructions.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-0

HB 315 — Florida Institute of Human and Machine Cognition

by Rep. Benson and others (CS/CS/CS/SB 2328 by Finance and Taxation Committee; Comprehensive Planning Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Saunders, Miller, and Siplin)

The Institute of Human and Machine Cognition (Institute) is currently an interdisciplinary research unit of the University of West Florida (UWF). The Institute investigates a broad range of topics related to understanding cognition in both humans and machines, with an emphasis on building computational tools to leverage and amplify human cognitive and perceptual capacities. The Institute, which currently has a staff of over 100 people, was established in 1990 as an interdisciplinary research unit of the UWF. While it was originally housed on the campus of

UWF, it is now located primarily in downtown Pensacola, Florida in two leased buildings (one of which is owned by UWF, and one of which is owned by a private party). It also has a small office at NASA ARC in Mountain View, California, which is operated on leased property. Furnishings, equipment, and other personal property used in the operation of the Institute are generally owned by UWF. The Institute currently receives annual funding from the state.

The bill establishes the Florida Institute of Human and Machine Cognition in law as a not-for-profit corporation. The Institute is designated as an instrumentality of the state for purposes of sovereign immunity, but it is not an agency as that term is defined in s. 20.03(11), F.S. The Institute is subject to open meetings and records requirements.

The affairs of the Institute are managed by a board of directors who serve without compensation. The board consists of the chair of the Board of Governors, the chair of the Board of Trustees of the UWF, the President of the UWF, three state university representatives, and nine public representatives. The board is required to employ a chief executive officer to administer the affairs of the Institute.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

PUBLIC RECORDS/CONFIDENTIALITY

CS/SB 192 — Public Library Records

by Governmental Oversight and Productivity Committee and Senator Lynn

Section 257.261, F.S., makes library registration records and circulation records confidential and exempt from the requirements of s. 24, Art. I, State Constitution, except in accordance with a proper judicial order. That section defines "library registration records" to mean "…any information that a library requires a patron to provide in order to become eligible to borrow books and other materials…." Section 257.261, F.S., defines "circulation records" to include "…all information that identifies the patrons who borrow particular books and other materials."

Statistical reports of registration and circulation are expressly excluded from the exemption.

Under the exemption, library registration records and circulation records may be made available to any business, municipal or county law enforcement officials, or to judicial officials for the purpose of "…recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library." Further, those officials are permitted access to the records for the purpose of "…collecting fines or overdue books, documents, films, or other items of materials." If a patron is under the age of 16, confidential information can be released "…relating to the minor's parent or guardian." According to the Department of State (DOS),

s. 257.261, F.S., is interpreted differently among local communities. The DOS states that currently some libraries allow parental access to their children's records and some prohibit this access.

The committee substitute maintains exceptions to the exemption, but revises the statutory language in order to clarify the exceptions. Further, subsections and paragraphs are added to the section, like-concepts are grouped together, redundant provisions are removed, and extraneous words are eliminated.

The committee substitute clarifies that a parent or guardian of a child under the age of 16 can be granted access to that child's registration or circulation records for the purpose of recovering overdue books or collecting fines. The committee substitute does not, however, grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books that child checks out at the library. The committee substitute also clarifies that a patron may have access to his or her exempt information.

The committee substitute does not expand the exemption to public records requirements and, therefore, does not create a new exemption.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 115-1

ELDERLY SERVICES

CS/SB 642 — Elderly Services

by Appropriations Committee and Senator Fasano

This bill removes the Director of the Office of Long-Term Care Policy from the office's advisory council and provides that the council must elect a chair from among its membership to serve for a one-year term. The chair may not serve more than two consecutive terms.

This bill authorizes the Office of Volunteer Community Service to provide direct payment of lodging and transportation expenses to a volunteer or a vendor on behalf of a volunteer.

This bill provides guidelines for prioritizing services under the Community Care for the Elderly program that include the recipient's frailty level, risk of institutional placement, and their ability to pay for services. Should there be a need for further prioritization, a factor that must be considered is the potential recipient's ability to pay. Those who are less able to pay must receive a higher priority than those who are better able to pay.

This bill allows the Office of State Long-Term Care Ombudsman to collocate with the office of the Department of Elderly Affairs.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.
Vote: Senate 40-0; House 117-0

MEDICAID

CS/CS/SB 1428 — Medicaid Audits of Pharmacies

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senator Peaden

The bill establishes requirements for audits of the Medicaid-related records of a pharmacy licensed in Florida. The audit must be conducted according to the following requirements:

- The pharmacist must be given at least one week's prior notice of the audit.
- Audits must be conducted by a Florida licensed pharmacist.

- Clerical, recordkeeping, or computer errors regarding records required by Medicaid must not be considered a willful violation and such errors must not be subject to criminal penalties without proof of intent to commit fraud.
- A pharmacist is permitted to use documentation written or transmitted by any means of communication for purposes of validating records with respect to orders or refills of a legend or narcotic drug.
- Findings of overpayment or underpayment must be based on actual overpayment or underpayment, not on projections based on the number of patients with a similar diagnosis or the number of similar orders or refills for similar drugs.
- All types of pharmacies must be audited under the same standards and parameters.
- A pharmacist must be allowed at least 10 days to produce documentation to address any discrepancy found during an audit.
- The period covered by an audit may not exceed one calendar year.
- An audit may not be scheduled during the first five days of any month.
- The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit.

The Agency for Health Care Administration must establish a process for a preliminary review and appeal of an audit report. A final audit report shall be delivered to the pharmacist within six months after receipt of the preliminary audit report or final appeal, whichever is later. Investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs are excluded from these requirements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

CS/SB 2322 — Medically Needy Program

by Appropriations Committee and Senators Peaden, King, Alexander, Argenziano, Aronberg, Atwater, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Cowin, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Haridopolos, Hill, Jones, Klein, Lawson, Lee, Lynn, Margolis, Miller, Posey, Pruitt, Saunders, Sebesta, Siplin, Smith, Villalobos, Wasserman Schultz, Webster, Wilson, and Wise

This bill (Chapter 2003-9, L.O.F.) postpones the date for the implementation of a $270 income deductible for individuals enrolled in the Medicaid Medically Needy program from May 1, 2003 to July 1, 2003. The non-recurring sums of $8,265,777 from the General Revenue Fund, $2,505,224 from the Grants and Donations Trust Fund, and $11,727,287 from the Medical Care

Trust Fund were appropriated to the Agency for Health Care Administration to implement this provision during the 2002-2003 fiscal year.

This provision was approved by the Governor and took effect May 1, 2003.
Vote: Senate 40-0; House 118-0

CS/SB 2568 (Section 26) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Regulation of Health Care Facilities part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

This section requires the Agency for Health Care Administration and the Department of Elderly Affairs to seek federal approval to implement a Medicaid home and community-based waiver targeted to people with Alzheimer's disease. The waiver will be used to test the effectiveness of Alzheimer's specific interventions in delaying or avoiding institutional placement of individuals with Alzheimer's disease.

This section provides that the agency and the department shall ensure that providers are selected that have a history of successfully serving persons with Alzheimer's disease, and that specialized standards for providers and services tailored to persons in the early, middle, and late stages of Alzheimer's disease are developed.

During the waiver design process, the agency and the department must consult with the President of the Senate and the Speaker of the House of Representatives. Waiver authority ends at the end of the 2008 Regular Session of the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

PHARMACY/PRESCRIPTION DRUGS

CS/SB 320 — Medicaid/Wholesale Drug Prices

by Health, Aging, and Long-Term Care Committee and Senators Aronberg and Crist

This bill requires the Agency for Health Care Administration to publish on a free web site, available to the public, the most recent average wholesale price for the 200 drugs most frequently dispensed to the elderly, and to the extent possible, provide a mechanism that consumers may use to calculate the retail price that should be paid after the discount required under the Medicare

prescription discount program is applied. The bill also requires the Agency for Health Care Administration to submit a report to the Legislature by January 1, 2004, regarding the cost-effectiveness of and alternatives to the use of average wholesale price in the pricing of pharmaceutical products purchased by the Medicaid program.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 111-0

CS/SB 2084 — Drug Prescriptions

by Health, Aging, and Long-Term Care Committee and Senator Wasserman Schultz

The bill requires a written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug to be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription. The prescription must also contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity in both textual and numerical formats, and directions for use. The prescription must be dated with the month written out in textual letters and signed by the prescribing practitioner on the day when issued.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-1

CS/CS/SB 2312 — Prescription Drug Protection Act

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden and Campbell

The bill revises the Florida Drug and Cosmetic Act to impose more stringent regulations on prescription drug wholesalers. The list of prohibited acts relating to drugs, devices, and cosmetics is expanded to include additional prohibitions relating to prescription drugs. The bill creates criminal offenses relating to illicit activities involving diversion from the wholesale distribution of prescription drugs. Effective January 1, 2004, the permitting requirements for drug wholesalers are overhauled to require extensive information upon application for a permit, including a criminal history background check, and to require that permits expire annually rather than biennially.

Reciprocity for out-of-state drug wholesalers who are already licensed in another jurisdiction is eliminated and such establishments must seek a Florida permit. The bill distinguishes “primary drug wholesalers” from “secondary drug wholesalers.” The bill specifies factors that the Department of Health must consider in reviewing the qualifications of persons seeking a permit to engage in prescription drug wholesale activities in Florida. The department is authorized to adopt rules for the annual renewal of permits for prescription drug wholesalers.

The recordkeeping requirements for prescription drug wholesalers are revised for a wholesaler that is an authorized distributor of record (ADR) of a drug manufacturer. Each person who is engaged in wholesale drug distribution and who is not an ADR must provide to each wholesale drug distributor of such drug, before the sale is made, a written statement under oath *identifying each previous sale of the drug back to the last ADR*, the lot number of the drug, and the sales invoice number of the invoice evidencing the sale of the drug. The written statement must accompany the drug to the next wholesale drug distributor and *no longer needs to identify all sales of such drug* in the "pedigree papers." Effective March 1, 2004, an ongoing relationship is defined to exist between a manufacturer and a wholesaler when:

- The wholesaler is on the manufacturer's list of ADRs.
  or
- The wholesaler buys at least 90 percent of all of the manufacturer's products handled by the wholesaler directly from the manufacturer and has total annual prescription drug sales of $100 million or more.
  or
- The wholesaler has a verified account issued to the wholesaler by the manufacturer and makes twelve purchases from the manufacturer using the account and the wholesaler has more than $100 million in total annual prescription drug sales. The bill limits the definition of an authorized distributor to those wholesalers who have a verified account with a manufacturer, if the manufacturer fails to provide the department with a list of authorized distributors. The requirement for an ongoing relationship expires July 1, 2006.

Until July 1, 2006 wholesale prescription drug distributors of "specified drugs" must identify sales as required by the bill.

Each person who is engaged in the wholesale distribution of a "specified drug" (high-risk prescription drug) must provide to each wholesale drug distributor of such drug, before any sale of such high-risk drug is made to such wholesale distributor, a written statement under oath identifying each previous sale of the specified drug back to the manufacturer, the lot number of the high-risk prescription drug, and the sales invoice number of the invoice evidencing each previous sale of the high-risk prescription drug. The written statement must accompany the high-risk prescription drug at each subsequent wholesale distribution to a wholesale distributor. "High-risk prescription drug" is a specific drug on the list of drugs adopted by the department by rule, each of which is a specific drug seized by the department on at least five separate occasions because such drug was adulterated, counterfeited, or diverted from legal prescription drug distribution channels and the department has begun an administrative action to revoke the permits of two or more wholesale distributors that engaged in the illegal distribution of that specific drug.

Each wholesale distributor must annually provide the department with a written list of all prescription drug wholesalers and out-of-state prescription drug wholesalers from whom the

wholesale distributor purchases drugs. The term "authorized distributor of record" is revised to mean those distributors with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's products, without regard to whether the wholesale distributor acquired the products directly from the manufacturer. A wholesale distributor may not pay for any drug with cash.

The bill creates an 11-member Drug Wholesaler Advisory Council within the Department of Health. The council must annually review rules adopted to enforce the Florida Drug and Cosmetic Act, provide input to the department, and make recommendations regarding all proposed rules and matters to improve coordination with other state regulatory agencies and the Federal government.

The bill increases the statutory fee caps: for a prescription drug manufacturer's permit from $600 to $750 annually; for a prescription drug wholesaler's permit from $400 to $800 annually; and for an out-of-state prescription drug wholesaler's permit no less than $300 (previously $200) and no greater than $800 (previously $300) annually.

The Department of Health is authorized to inspect and copy financial documents or records related to the distribution of a drug in order to determine compliance with the Florida Drug and Cosmetic Act. A new cease and desist enforcement remedy is established, and the bill authorizes procedures for the department to issue an order to remove key personnel of a prescription drug wholesaler if she or he is engaged in specified prohibited acts.

The enforcement authority of the Statewide Grand Jury and the Office of the Statewide Prosecutor is expanded to investigate and prosecute criminal violations of the Florida Drug and Cosmetic Act. The criminal offenses relating to violations of the act which involve contraband or adulterated drugs may be prosecuted as racketeering. The Criminal Punishment Code is revised to include certain violations under the Florida Drug and Cosmetic Act.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise expressly provided.
Vote: Senate 39-0; House 118-0

HB 207 — Pharmacy

by Rep. Mealor and others (SB 2670 by Senator Campbell)

The bill requires the Board of Pharmacy to adopt rules to establish practice guidelines for pharmacies to follow in disposing of records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs. Such rules must be consistent with the duty to preserve the confidentiality of such records in accordance with applicable state and federal law.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 105-0

PUBLIC HEALTH

SB 530 — Nick Oelrich Gift of Life Act

by Senator Smith

The bill creates the "Nick Oelrich Gift of Life Act" in honor of Alachua County Sheriff Stephen M. Oelrich's deceased son. The bill amends ch. 765, F.S., to revise procedures relating to anatomical gifts. Amendments to s. 765.512, F.S., prohibit a family member, guardian, representative ad litem, or health care surrogate of an adult donor from modifying "a decedent's wishes" or denying or preventing an anatomical gift from being made. In the absence of contrary indications by the decedent, the organ donation document would be a legally sufficient document of informed consent and would be legally binding. The bill adds an authorization for informational requests concerning the decedent's medical and social history to be directed to the decedent's family member or medical provider, or to third parties when a decedent's body or part thereof is donated.

The bill amends s. 765.516, F.S., relating to the ways to revoke or amend an anatomical gift. A donor may no longer amend or revoke an anatomical gift by making an oral statement to his or her spouse. Additionally, of the two persons to whom an oral amendment or revocation can be made regarding an anatomical gift, one must not be a family member. The bill also deletes the acceptability of a signed amendment or revocation found in the donor's effects versus on or about a person's body.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 91-24

CS/SB 2078 — Medical Practice/Temporary Certificates

by Health, Aging, and Long-Term Care Committee and Senator Villalobos

The bill authorizes issuance of a temporary certificate to practice medicine to visiting physicians who meet certain requirements, for educational purposes to help teach plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium. The certificate is valid for no more than 3 days per year and the certificate expires one year after issuance. The Department of Health may not issue more than six temporary certificates per calendar year under this provision. The physician must meet requirements specified in the bill to get the temporary certificate, including specified financial responsibility requirements for

malpractice. A physician applying for the temporary certificate is exempt from the practitioner profiling requirements, but all other regulatory provisions under chs. 456 and 458, F.S., apply.

If a physician is a graduate of a foreign medical school and holds a valid and unencumbered license to practice medicine in another country but is not licensed to practice medicine in another state within the United States, the educational symposium must pay for any medical judgments incurred by that physician by obtaining a surety bond, letter of credit, or certificate of deposit in an amount not less than $250,000.

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

SB 2082 — Saboor Grieving Parents Act

by Senators Webster, Cowin, and Campbell

This bill may be cited as the "Stephanie Saboor Grieving Parents Act." The bill creates s. 383.33625, F.S., to require a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., or a midwife licensed under ch. 467, F.S., who has custody of fetal remains following a spontaneous fetal demise, i.e., a miscarriage, after a gestation period of less than 20 weeks to notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Department of Health must adopt rules for the development of forms to be used by the health care practitioner for notification and election. The forms must be provided to the mother by the health care practitioner.

A birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., having custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks must notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Agency for Health Care Administration must adopt rules for the development of forms to be used by the facility for notifications and elections, and the hospital must provide the forms to the mother.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

CS/SB 2348 — Advisory Council for a Fit Florida

by Health, Aging, and Long-Term Care Committee and Senator Pruitt

The bill creates the Advisory Council for a Fit Florida consisting of ten members. The council must advise the Governor, the Legislature, and the direct support organization of the Office of Tourism, Trade, and Economic Development and provide expertise relating to physical fitness and nutrition in the state. The council must submit to the Governor, the Legislature, the Office of Tourism, Trade, and Economic Development, and the direct support organization an annual report that includes recommendations for the furtherance of the physical fitness of Florida residents. Provisions creating the council stand repealed on July 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 457 — Indigent Care and Trauma Center Tax

by Rep. Culp and others (CS/SB 2148 by Health, Aging, and Long-Term Care Committee and Senator Sebesta)

The bill continues the authorization for qualifying counties under s. 212.055(4), F. S., to impose and collect an indigent care and trauma center surtax by repealing the scheduled October 1, 2005 repeal of this subsection. The clerk of the circuit court, as an ex officio custodian of the funds of the authorizing county, must prepare on a biennial basis an audit of the indigent care trust fund. Commencing February 1, 2004, the audit must be delivered to the governing body and to the chair of the legislative delegation of each authorizing county.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-1

HB 953 — Weight-Loss Pills

by Rep. Roberson and others (CS/CS/SB 1626 by Criminal Justice Committee; Health, Aging, and Long-Term Care Committee; and Senators Margolis, Dawson, Bullard, Posey, Fasano, Miller, Garcia, Campbell, Peaden, Hill, and Klein)

The bill makes it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, a weight-loss pill to a person under 18 years of age. The bill defines “weight-loss pill” to mean a pill that is available without a prescription, the marketing, advertising, or packaging of which indicates that its primary purpose is for facilitating or causing weight loss. The term includes, but is not limited to, a pill that contains at least one of the following ingredients: ephedra species; ephedrine alkaloid containing dietary supplements; or Sida cordifelia. However, the term does not include a pill containing one or more of such ingredients which is marketed or intended for a primary purpose other than weight loss.

It is a defense to a charge of violating this prohibition if the buyer or recipient displays valid identification that indicated that the buyer or recipient was 18 years of age or older and the appearance of the buyer or recipient was such that a prudent person would reasonably believe that the buyer or recipient was not under 18 years of age.

A first violation of the offense created in the bill is punishable by a fine of $100; a second violation is punishable by a fine of $250; a third violation is punishable by a fine of $500; and a fourth or subsequent violation is punishable by a fine as determined by the Department of Agriculture and Consumer Services, not to exceed $1,000.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 111-4

REGULATION OF HEALTH CARE FACILITIES

CS/SB 56 — Certificate-of-Need Exemption/Open-Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senator Wise

This bill amends s. 408.036, F.S., to create an exemption for an adult open-heart-surgery program to be located in a new hospital that is being established in the location of an existing hospital when the existing hospital and existing adult open-heart-surgery program are being relocated to a replacement hospital that will use a closed-staff model. The Agency for Health Care Administration (AHCA) may grant the exemption provided the applicant:

- Meets and maintains current requirements of Florida rules, any future licensing requirements governing adult open-heart surgery adopted by AHCA, and the most current guidelines of the American College of Cardiology and American Heart Association Guidelines for Adult Open Heart Programs.
- Certifies that it will maintain the appropriate equipment and personnel.
- Certifies that it will maintain appropriate times of operation and protocols to ensure appropriate referrals.
- Is a newly licensed hospital in a physical location previously owned and licensed to a hospital that performed more than 300 open-heart surgeries per year, including heart transplants.
- Certifies that it can perform more than 300 diagnostic cardiac catheterization procedures per year, combined inpatient and outpatient, by the end of its third year of operation.
- Has a payor mix that reflects the community average for Medicaid, charity care, and self-pay patients or certifies that it will provide a minimum of 5 percent Medicaid, charity care, and self-pay services to open-heart-surgery patients.

If the applicant fails to meet these criteria or fails to reach 300 surgeries per year by the end of its third year of operation, the applicant must show cause why its exemption should not be revoked.

The bill provides that the applicant of the newly licensed hospital may apply for the certificate of need before taking possession of the facility, and the effective date of the certificate of need will be concurrent with the effective date of the newly issued hospital license.

AHCA must report to the Legislature by December 31, 2004, and annually thereafter concerning the number of requests for exemptions granted or denied.

The provision is repealed January 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-1; House 97-21

CS/CS/SB 250 — Rural Hospitals

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden, Jones, Klein, Saunders, Fasano, and Argenziano

The bill changes the definition of rural hospital to provide that a hospital that received funding under the Medicaid disproportionate share/financial assistance program for rural hospitals prior to July 1, 2002, is deemed to have been a rural hospital and will continue to be a rural hospital through June 30, 2012, as long as the hospital continues to meet certain criteria. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria established in the bill may apply to the Agency for Health Care Administration for that designation.

The bill permits a rural hospital, or a not-for-profit operator of a rural hospital, to construct a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, without obtaining a certificate of need, provided certain conditions are met.

The bill expands the definition of the term "infant delivered," for the purpose of payment of an initial assessment for each infant delivered in a hospital, to finance the Florida Birth-Related Neurological Injury Compensation Plan to exclude infants born in a teaching hospital that have been deemed by the Florida Birth-Related Neurological Injury Compensation Association as being exempt from assessments since fiscal year 1997 to fiscal year 2001.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 112-0

CS/CS/SB 296 — Retirement Communities

by Banking and Insurance Committee; Health, Aging, and Long-Term Care Committee; and Senators Saunders, Lynn, Atwater, and Crist

The bill specifies that a nursing home that is part of a Continuing Care Retirement Community (CCRC) that is accredited by a recognized accrediting organization and that meets the minimum liquid reserve requirements established by the Office of Insurance Regulation satisfies the financial criteria for the Gold Seal Program, as long as the accreditation is not provisional. The Governor's Panel on Excellence in Long-term Care, in conjunction with the Agency for Health Care Administration, administers the award program, known as the Gold Seal Program, which recognizes nursing facilities that demonstrate excellence in long-term care over a sustained period of time.

The bill revises nursing home staffing standards to permit a nursing home that has a standard license or is a Gold Seal facility, exceeds minimum staffing requirements, and is a part of a CCRC or retirement community to share programming and staff with their assisted living, home health, and adult day care services. The bill establishes additional criteria for the sharing of staff and authorizes the Agency for Health Care Administration to adopt rules for documentation necessary to determine compliance with staffing requirements.

The bill modifies requirements for residents' organizations in CCRCs and selection of a resident representative before the provider's governing body to specify the methods of election of representatives, requirements for notice to residents, minimum levels of participation, and the duration of the term of election, and requires that there shall be only one resident's organization which represents the residents before the governing body of a provider.

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

CS/SB 460 — Certificate-of-Need/Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senators Pruitt and Klein

This bill amends s. 408.036, F.S., to authorize an exemption from certificate-of-need (CON) review for adult open-heart-surgery services in a hospital in Palm Beach, Polk, Martin, St. Lucie, and Indian River Counties. A hospital that meets the following criteria will be exempt from CON review for the establishment of an adult open-heart-surgery program:

- The hospital must certify that it will meet and continuously maintain the minimum licensure requirements adopted by the Agency for Health Care Administration for adult open-heart-surgery programs and the most current guidelines of the American College of Cardiology and the American Heart Association.

- The hospital must certify that it will maintain sufficient appropriate equipment and health personnel to ensure quality and safety.
- The hospital must certify that it will maintain appropriate times of operation and protocols to ensure availability and appropriate referrals in the event of emergencies.
- The hospital must demonstrate that it is referring 300 or more patients per year away from the hospital for cardiac services at a hospital with cardiac services, or that the average wait for transfer for 50 percent or more of the cardiac patients exceeds 4 hours.
- The hospital is a general acute care hospital that is in operation for three years or more.
- The hospital performs more than 300 diagnostic cardiac catheterization procedures per year (combined inpatient and outpatient).
- The hospital's payor mix, at a minimum, reflects the community average for Medicaid, charity care, and self-pay patients, or the facility must certify that it will provide a minimum of 5 percent of Medicaid, charity care, and self-pay to open-heart-surgery patients.
- If the hospital fails to meet the established criteria for open-heart programs or fails to perform 300 surgeries per year by the end of its third year of operation, it must show cause why its exemption should not be revoked.

By December 31, 2004, the Agency for Health Care Administration must report to the Legislature the number of requests for exemptions received under the provisions of this bill and the number granted or denied.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 72-38

SB 1568 — Acute Care Hospitals in High Growth Counties

by Senator Jones

This bill authorizes certain acute care hospitals in high growth counties to add up to 180 additional beds without certificate-of-need review by the Agency for Health Care Administration (Agency). A project authorized under the bill would not be subject to challenge under s. 408.039, F.S., or ch. 120, F.S., and the beds authorized would be excluded from the Agency inventory used to calculate future need for additional acute care beds.

To be eligible for this special provision created under s. 408.043, F.S., a hospital must be the sole acute care hospital in the county and be the only acute care hospital within a 10-mile radius of another hospital. A high growth county is one that has experienced at least a 60 percent growth rate for the most recent 10-year period for which data are available as determined by using the

most recent edition of the Florida Statistical Abstract. The hospital must provide written notice to the Agency that it qualifies under the subsection prior to the addition of the beds.

Four counties — Collier, Flagler, Sumter, and Wakulla — experienced a greater than 60 percent increase in population during the decade 1991-2001. Two of the four high-growth counties have a hospital with no other hospital within 10 miles of the eligible hospital. The two hospitals that currently would qualify for the bed addition allowable under the provisions of the bill are a 60-bed facility located in Sumter County, and an 81-bed facility located in Flagler County. In future years, other hospitals in high growth counties that met the criteria provided in the bill could add beds under this special provision.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 27-12; House 76-37

CS/SB 1582 — Blood Establishments

by Health, Aging, and Long-Term Care Committee and Senator Saunders

This bill defines blood establishment to be any person, entity, or organization operating in Florida that examines an individual for the purpose of blood donation; or that collects, processes, stores, tests, or distributes blood or blood components from the human body for the purpose of transfusion, for any other medical purpose, or for the production of any biological product. The bill prohibits any entity in Florida from conducting such activities unless it is operated in a manner consistent with the provisions of parts 211 and 600-640 of Title 21, C.F.R., which provide authority for the Food and Drug Administration's oversight of the nation's blood supply.

A blood establishment that operates in a manner that is not in accordance with those federal regulations and that constitutes a danger to the health or well-being of blood donors or recipients, as evidenced by the federal Food and Drug Administration's inspection process and the revocation of the blood establishment's license or registration, must cease all operation in Florida. The bill gives the Agency for Health Care Administration or any state attorney the power to enjoin such an entity from operating in the state of Florida.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 2036 — Uniform Commercial Code/Blood

by Health, Aging, and Long-Term Care Committee and Senator Smith

This bill amends s. 672.316(5), F.S., which specifies that the procurement, processing, transfusion, storage, distribution, and use of whole blood, plasma, blood products, and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose is the rendering of a service. The bill expands the exclusion of these

activities from the implied warranties of merchantability and fitness for a particular purpose by removing the current limitation which states that the exclusion applies to a defect that cannot be detected or removed by a reasonable use of scientific procedures or techniques. With this change, the described warranties would be inapplicable to any defect in blood or a blood product.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

CS/SB 2568 (Sections 18-25 and 27-33) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Medicaid part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

The bill revises numerous sections in ch. 400, F.S., relating to the regulation of health care facilities, as follows:

- Requires nursing homes to provide proof of legal right to occupy the property as part of an application for licensure or change of ownership. Proof may include leases, deeds, or other legal documentation.
- Provides that grounds for denial, revocation, or suspension of an assisted living facility license include specified deficiencies cited on a single survey and not corrected within the time specified, instead of deficiencies that are similar to violations within the past two years.
- Eliminates the requirement that the Agency for Health Care Administration (Agency) send renewal notices by certified mail to assisted living facilities and adult family care homes and requires that the notice be sent electronically or by mail delivery. Similarly, the Department of Elderly Affairs will no longer be required to send renewal notices to adult day care centers by certified mail but may send them electronically or by mail delivery.
- Requires the Agency to impose administrative fines in the manner provided in ch. 120, F.S., for cited deficiencies in assisted living facilities.
- Allows federal civil monetary penalty revenues to be deposited in the Quality of Long-Term Care Facility Improvement Trust Fund and expands the programs that can be supported through the fund to include addressing areas of deficient practice identified through regulation or state monitoring, evaluation of special resident needs, initiatives authorized by the federal Centers for Medicare and Medicaid Services, and projects recommended through the Medicaid Up-or-Out demonstration program.

- Provides flexibility in staffing standards for a nursing home that does not have a conditional license by permitting it to staff below the minimum for one day as long as the staffing does not fall below 97 percent of the standards on any one day.
- Permits a nursing home seeking to be designated as a Gold Seal Program facility to provide evidence of financial soundness by the use of financial statements that are reviewed or audited by a certified public accountant.
- Requires the Department of Elderly Affairs to ensure that assisted living facility administrators and staff have met training requirements, but does not require the department to provide the training, and deletes the requirement that certain facilities must pay a fee for the training.
- Reinstates background screening for applicants who want to register Health Care Services Pools. The requirement was previously repealed by a sunset provision.

Other changes to health care regulation include:

- Repealing requirements for nursing homes and continuing care facilities to submit to the Agency financial data that largely duplicates the data submitted under the Medicaid cost reporting system for nursing homes.
- Requiring all providers regulated by the Agency to pay fines before a change of ownerships can be approved.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

HB 761 — Fitting and Dispensing of Hearing Aids

by Rep. Justice and others (SB 2180 by Senators Wasserman Schultz and Crist)

The bill creates a criminal offense for the "seller" or "person selling a hearing aid" who fails to refund all moneys that must be refunded to a purchaser of a hearing aid within 30 days after the return or attempted return of a hearing aid as required by s. 484.0512, F.S. The bill defines "seller" or "person selling a hearing aid" for purposes of the offense. Violators are liable for a first-degree misdemeanor punishable by jail up to 1 year and a fine of up to $1,000.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-2

HB 1527 — Florida Alzheimer's Training Act

by Rep. Gibson and others (CS/SB 1116 by Health, Aging, and Long-Term Care Committee and Senators Saunders, Fasano, and Crist)

The bill amends ss. 400.4785, 400.5571, and 400.6045, F.S., to require home health agencies, hospices, and adult day care centers to provide written information to employees, upon their beginning employment, about interacting with patients or participants who have Alzheimer's disease or dementia-related disorders. Employees of these services must subsequently receive training in the care of individuals with Alzheimer's disease or related disorders.

Under amendments to s. 400.4785, F.S., all home health agency employees hired on or after July 1, 2005, and providing direct care to patients must complete two hours of training in Alzheimer's disease and dementia-related disorders within nine months after beginning employment with the agency. Newly hired hospice employees (under s. 400.6045, F.S.) and adult day care center personnel (under s. 400.5571, F.S.) who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete at least one hour of dementia training within the first three months after beginning employment. Newly hired hospice and adult day care center employees who will be providing direct care to participants who have Alzheimer's or dementia-related disorders must complete an additional three hours of training within nine months after beginning employment. An adult day care center employee who is hired on or after July 1, 2004, must complete the training. A hospice employee who is hired on or after July 1, 2003, must complete the required training by July 1, 2004, or by the deadline specified in the bill, whichever is later.

Employees who have received the Alzheimer's training will receive a certificate to document the training, and they will not be required to repeat the training if they change employment to another home health agency, hospice, adult day care center, nursing home, or assisted living facility. While home health agencies, hospices, and adult day care centers will be required to provide Alzheimer's disease information to all their employees, the bill makes it the responsibility of the employee as well as the provider to obtain the training.

The Department of Elderly Affairs or its designee must approve the training courses, and must develop rules to establish standards for employees who are subject to the training and for the trainers and the training. The bill mandates that the training required for home health agency, adult day care, and hospice employees must be part of the total hours of training required annually as a condition of certification for certified nursing assistants. Licensed health care practitioners' continuing education hours would be counted toward the two hours required by the bill. Universities, colleges, and postsecondary schools educating students for health professions, as described in ch. 456, F.S., are encouraged to include basic training about Alzheimer's disease and related disorders in their curricula.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 115-0

PUBLIC RECORDS EXEMPTIONS

HB 1031 — Public Records Exemption - Florida Kidcare Program

by State Administration Committee and others (CS/SB 298 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

This bill reenacts and expands an exemption from ch. 119, F.S., the Public Records Law, and s. 24(a), Art. I of the State Constitution, for information 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 that identifies a Florida Kidcare program applicant or enrollee. The bill allows the disclosure of the confidential and exempt information to another governmental entity if such disclosure is necessary for the entity to perform its duties and responsibilities. The receiving entity must maintain the confidential and exempt status of the information, and is prohibited from releasing the information without the written consent of the program applicant. The bill provides that a violation of the section is a second-degree misdemeanor.

The bill makes the exemption subject to a future review and repeal date of October 2, 2008, as required by s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The bill provides findings and statements of public necessity to justify the expansion of the public records exemption.

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

HB 1033 — Public Records/Meetings Exemption - Statewide Provider and Subscriber Assistance Program

by State Administration Committee and others (CS/SB 306 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

The bill reenacts and amends the public records and meetings exemptions relating to the Statewide Provider and Subscriber Assistance Program contained in s. 408.7056, F. S. The bill consolidates and clarifies the exemptions for information held by the Agency for Health Care Administration and the Department of Insurance that identifies a subscriber, provides for the release of the records in a subscriber's grievance to the subscriber or the managed care entity involved in that grievance without redaction of identifying information about the subscriber, and

deletes the public meetings exemption when trade secrets are discussed in Statewide Provider and Subscriber Assistance Panel hearings.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 113-0

SEAPORT SECURITY

CS/CS/SB 1616 — Seaport Security

by Appropriations Committee; Home Defense, Public Security, and Ports Committee; and Senator Dockery

This bill amends s. 311.12, F.S., to revise provisions relating to statewide seaport security standards. A public port without maritime activity may be exempted from the minimum seaport security standards by the Department of Law Enforcement.

The bill provides additional offenses that prohibit an individual from gaining initial employment on a seaport or being granted access to restricted areas within the seaport. To qualify for employment or restricted area access, a person convicted for any listed offense must, after release from incarceration and any supervision imposed, remain free from any subsequent conviction for a period of at least 7 years. For purposes of employment and access, seaports are prohibited from exceeding statewide minimum requirements. An appeal process is authorized for individuals denied employment on a seaport based upon procedural inaccuracies or discrepancies regarding criminal history factors.

The bill provides for the implementation of a Uniform Port Access Credential System for use by all ports subject to the statewide minimum seaport security standards. The Department of Highway Safety and Motor Vehicles (DHSMV) must consult with other agencies and entities to develop the system and each seaport must operate and maintain the system to control access security within the boundaries of the seaport.

Specific requirements for the credential system address collection and storage of biometric identifiers, a methodology for granting and deactivating access permissions, and technology requirements for each gate on a seaport. A fingerprint-based criminal history check must be performed on each applicant and each credential card must include photographs, fingerprints, barcodes, scanning capability, and background color differentials.

DHSMV will set the price of the credential card to include the cost of fingerprint checks and production and issuance costs, and seaports may charge an additional administrative fee to cover the costs of issuing credentials.

Seaports must comply with technology improvement requirements necessary to activate the system no later than July 1, 2004. DHSMV must specify equipment and technology requirements no later than July 1, 2003. The system must be implemented at the earliest time that all ports have technology in place, but no later than July 1, 2004.

Provisions for the Uniform Port Access Credential System are contingent on the receipt of federal grant funds necessary to implement the system.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 113-3

SECURITY SYSTEM PLANS/PUBLIC RECORDS

CS/SB 1182 — Security System Plans/Public Records

by Governmental Oversight and Productivity Committee and Senator Dockery

This bill amends an existing exemption found in s. 119.071, F.S., to clarify that security system plans of a public or private entity, which plans are held by an agency, are confidential and exempt from the public record requirements. The bill creates an exception to the exemption to allow the disclosure of security system plans by a custodial agency to a property owner or leaseholder.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

ADMINISTRATIVE AND CIVIL PROCEEDINGS

CS/CS/SB 340 — Involuntary Commitment/Baker Act

by Health, Aging, and Long-Term Care Committee; Judiciary Committee; and Senator Lynn

Florida's Baker Act is a civil commitment statute which allows a person to be involuntarily admitted to a receiving facility for short-term emergency service and maximum 72-hour detention until an evaluation and treatment of a mental, emotional, or behavioral disorder are completed. The bill amends s. 394.463(2)(f), F.S., which authorizes a clinical psychologist or psychiatrist to approve the release of a patient who is being involuntarily detained at a receiving facility under the Baker Act. The bill extends such authority to a hospital emergency department physician with diagnostic and treatment experience in mental and nervous disorders, provided the patient has undergone an involuntary examination and the hospital is designated as a receiving facility.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

CS/SB 472 — Mining Activities

by Banking and Insurance Committee and Senators Smith, Pruitt, Geller, and Diaz de la Portilla

This bill provides an exclusive administrative remedy through the Division of Administrative Hearings (DOAH) solely for the recovery of damages to real and personal property caused by the use of explosives in construction mining activities. Recovery of damages for personal injury, emotional distress, or punitive damages is excluded from this administrative forum and must be pursued separately in court. The administrative remedy for the alleged real or personal property damage must be sought no later than 6 months after the damage occurred. Within 5 days of filing the petition, the case is assigned and an order is issued directing mandatory nonbinding mediation to be held no later than 60 days after the mediator is selected by the parties or the administrative law judge. If no settlement is reached within 15 days of the concluded mediation, the matter may be set for an expedited summary hearing upon mutual agreement of the parties. If the parties have not reached a settlement within 30 days of the concluded mediation, the matter is set for formal administrative hearing.

If the court finds by a preponderance of evidence that the damages are attributable to construction mining activities, the court must direct the respondent to pay the damages within 30 days of the order unless the matter is appealed to a district court of appeal. If the respondent fails to pay the damages within 30 days of the order, or within 30 days of an appellate mandate affirming the order, then the damages may be paid upon the petitioner's request from the security

bond the respondent was required to post as a statutory prerequisite to applying or renewing a user license in connection with the construction mining activities. The court may reduce to judgment any amount not covered by the security bond. If the court finds by a preponderance of evidence that the damages were not caused by the respondent's activities, the court must issue an order stating that the respondent is not responsible for the damages. The prevailing party is entitled to taxable costs including expert witness fees and administrative costs. Additionally, the prevailing party is entitled to reasonable attorney's fees unless the claim or defense was frivolous or without basis in fact or law. The $100 filing fee is to be deposited into the Administrative Trust Fund of the Division of Administrative Hearings as the repository to defray the cost and expense of the specialty administrative hearing process.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 114-0

SB 2826 — Tobacco Settlement Agreement

by Senators Haridopolos, Campbell, and Lynn

This bill limits the amount of an appeal bond that may be ordered in any civil action involving a signatory or successor or an affiliate of a signatory to the tobacco settlement agreement, as defined in s. 215.56005(1)(f), F.S., to no more than $100 million, regardless of the total value of the judgment. The bill provides that if after notice and hearing a plaintiff proves by a preponderance of the evidence that a defendant to such an action is purposefully dissipating assets outside the ordinary course of business to avoid payment of the judgment, the court may enter any necessary order to protect the plaintiff, including increasing the appeal bond to the full amount of the full judgment. The bill does provide an exemption for any past, present, or future actions brought by the State of Florida against one or more signatories to the tobacco settlement agreement. The bill provides that the act shall apply to all cases pending or filed on or after the effective date.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 118-1

HB 561 — The Victim's Freedom Act/Sexual Violence Injunctions

by Rep. Kyle and others (Compare CS/SB 294 by Judiciary Committee and Senators Crist, Hill, and Argenziano)

This bill creates "The Victim's Freedom Act" to provide a new type of injunctive relief against sexual violence. A person may obtain protective injunctive relief if:

- A sexual violence victim has reported the incident to law enforcement and is cooperating in any pending or dismissed criminal proceeding against the offender.

  or

- The sexual violence victim's offender state prison term is expired or will expire within 90 days following the filing of the petition for protective injunctive relief.

The underlying acts of "sexual violence" include sexual offenses under chapters 787, 794, 800 and 827, F.S., and any other forcible felony offenses involving a sexual act. No filing fee or service charge may be assessed against petitions for injunctions against dating violence, repeat violence, and sexual violence. However, subject to legislative appropriation, the Clerks of Court can petition the Office of State Courts Administrator for reimbursement of $40 per petition, of which a maximum of $20 must be allocated to the law enforcement agency serving the injunction. This bill authorizes a correctional officer in lieu of a law enforcement officer to serve process of a sexual violence injunction upon an imprisoned offender. Finally, this bill redesignates the statewide injunction verification system as the "Domestic, Dating, Sexual, and Repeat Violence Injunction Statewide Verification System."

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-1

EVIDENCE

CS/SB 90 — Parent-Child Privilege

by Children and Families Committee and Senator Geller

This bill creates a statutory parent-child privilege. This evidentiary privilege allows a parent or child, or guardian or conservator thereof, to invoke the privilege to refuse to disclose, or prevent another from disclosing certain communications between the parent and child which were intended to be made in confidence. The parent-child privilege is not available in any of the following proceedings:

- Any proceeding brought by the child against the parent or vice versa.

- Any criminal proceeding in which the child is charged with a crime committed against the person or property of the child's parent or any other child of the parent.
- Any criminal proceeding in which the parent is charged with a crime committed against the person or property of the child or any child of the child.
- Any criminal or other governmental investigation involving allegations of abuse, neglect, abandonment, or nonsupport of a child by the parent.
- Any criminal or other governmental investigation involving allegations of certain types of abuse of a parent by a child of that parent.
- Any proceeding governed by the Florida Family Law Rules or Florida Juvenile Rules of Procedure.

The child or parent can expressly waive the privilege and consent to disclosure of the communication. Consent by a minor child or a child who has not yet been emancipated, however, is only valid if approved by the court based on the recommendation of a court-appointed guardian ad litem who has recommended that the waiver is in the child's best interest.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 116-0

HB 195 — Presumption of Non-negligence/Emergency Medical Dispatch Act

by Rep. Bilirakis and others (CS/SB 338 by Judiciary Committee and Senators Fasano, Argenziano, Peaden, and Bullard)

The bill creates the Emergency Medical Dispatch Act relating to a statutory presumption of non-negligence for emergency medical dispatchers and agencies. The bill provides that where a public or private emergency medical dispatcher has been provided certain training and has followed unspecified protocols that are substantially similar to standards developed by the American Society for Testing and Materials or the National Highway Traffic Safety Administration, the dispatcher, and the dispatcher's agency, its agents, or employees will be presumed to not have acted negligently in any injuries or damages resulting from the use of those protocols. This bill also allows emergency medical dispatch services to participate in the Emergency Medical Services Grant Program administered by the Department of Health.

If approved by the Governor, these provisions take effect September 11, 2003.
Vote: Senate 39-0; House 106-0

SB 524 — Rules of Evidence

by Senator Campbell

This bill amends three sections of the Florida Evidence Code. The first section provides that, in order to preserve appellate review, a party does not have to renew an objection or offer of proof during trial in response to a pre-trial evidentiary ruling. The second section allows business records to be admitted into evidence by means of a certificate of authenticity, while the third section sets forth the criteria for establishing the certificate of authenticity.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 118-0

HB 1579 — Autopsy Records

by Rep. Roberson and others (SB 1052 by Senator Smith)

This bill revises s. 406.135, F.S., a public records exemption for photographs, video or audio recordings of an autopsy held by a medical examiner. These records are confidential and exempt from public disclosure except that a surviving spouse, or under certain conditions, another relative, may obtain such records. This bill provides that the surviving relative who has the authority to view and copy the autopsy records is authorized to designate an agent for that purpose.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

FAMILY LAW

HB 835 — Adoption

by Rep. Mahon and others (CS/SB 2456 by Judiciary Committee and Senators Lynn, Campbell, and Bennett)

This bill substantially revises the 2001 Florida Adoption Law, with primary focus on the areas of biological fathers' rights, notice and consent, venue, statute of repose and grounds for challenges to termination of parental rights or adoption, statutory forms, venue, adoption fees and costs, and sanctions. A major change involves the creation of a Putative Father Registry within the Department of Health, Office of Vital Statistics, which requires unmarried biological fathers to register with the Putative Registry in order to preserve any right to notice and consent regarding his parental right to a child placed for adoption. The registry replaces existing constructive notice provisions as previously applied to fathers who could not be identified or located. The categories of "fathers" for whom notice and consent may be required is revised to incorporate and conform with the new definition of "unmarried biological father."

The bill also makes the following changes:

- Deletes the statutory duty of a mother placing a child to identify a potential unmarried biological father.
- Allows for pre-birth execution of an affidavit of nonpaternity.
- Broadens the criteria for abandonment to include evidence of little or no communication or lack of emotional support as basis for termination of parental rights.
- Expands placement options to permit out-of-state or out-of-the-country adoption of a child.
- Revising venue provisions to include 4 primary venue options and waiver of venue.
- Revises a number of statutory timeframes including reducing the statute of repose period from 2 years to 1 year for any challenge to an adoption or termination of parental rights, reducing in half the time period between the date of personal or constructive service and the date of a final hearing, and extending the time period from 7 to 14 days in which make adoption disclosures to birth and prospective adoptive parents, extending from 24 hours to 7 days in which to forward a judgment terminating parental rights from the clerk of the court to the Department of Children and Family Services, from 24 hours to 7 days, and changing the timeframe in which to file a final home investigation from 90 days after the petition is filed to 90 days after placement.
- Revises the statutory forms for consent to adoption, for adoption disclosure and for notice of service of process, and eliminates the statutory forms for affidavits of nonpaternity and the waiver of venue to conform with changes in the bill in those areas.
- Revises provisions relating to adoption fees for adoption entities by increasing recovery of pre-approved fees and allowing for flat-fee representation and for birth mothers by expanding recovery of pre-birth *and* post-birth expenses including toiletries, insurance, investigator fees, birth certificate, medical records, and other expenses for the birth mother's well being.
- Deletes requirement that all proceedings for adoption be conducted by the same judge that conducted the termination proceedings.
- Allows private adoption entities to intervene in the adoptions of children in Department of Children and Families' custody.
- Creates provisions specific to stepparent, relative, and adult adoptions to facilitate compliance with or to except them from the requirements applicable in typical adoptions.
- Revises provisions relating to preplanned adoption agreements by relocating such provisions into a separately created statutory section and by allowing prospective

adoptive parents to agree to pay for lost wages due to the pregnancy and birth, and reasonable compensation for inconvenience, discomfort, and medical risk.

- Revises provisions governing sanctions against adoption entities to make award of attorney fees permissive rather than mandatory, to require an evidentiary hearing to determine whether the actions or failures of the adoption entity directly contributed to a finding of fraud or duress, to require orders of sanctions against the Department of Children and Families to be forwarded to the Office of the Attorney General, to preclude fraudulent representation as a basis for dismissing a petition for termination of parental rights or adoption, and to require willful violation and criminal intent in the imposition of criminal sanctions against an adoption entity.
- Replaces a grandparent's priority right to adopt a grandchild to one of a right to notice of an adoption proceeding of such grandchild.
- Eliminates the right of a non-party to petition for judicial review of a placement's appropriateness.
- Revises the adoption process for abandoned infants including giving the court the discretion to order paternity testing and making conforming changes to the bill.
- Revises provisions relating the duties of an adoption entities when a child in their custody.
- Clarifies that forgiveness by a parent of vested child support arrearages owed in a step-parent adoption does not constitute a felony.
- Allows the department to contract with more than one licensed child-placing agency to operate the state adoption information center.

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

CS/SB 2526 — Putative Father Registry/Public Records

by Judiciary Committee and Senator Campbell

This bill provides that all information contained in the Putative Father Registry and maintained by the Office of Vital Statistics within the Department of Health is confidential and exempt from public disclosure with a few exceptions. The bill permits access to the registry database by the following persons or entities:

- An adoption entity in connection with the planned adoption of a child.
- A registrant unmarried biological father may receive a copy of his registry entry.
- A court, upon issuance of a court order concerning a petitioner acting pro se in an action under the chapter.

Otherwise all such information in the database is to be kept separate from all other local or state databases and may not be accessed by any state or federal agency. Such provisions stand repealed October 2, 2008, unless reviewed and reenacted by the Legislature. The bill provides a statement of public necessity

If approved by the Governor, these provisions take effect on the same date as CS/HB 835.
Vote: Senate 38-0; House 116-0

CS/CS/SB 2050 — Child Custody Evaluations

by Health, Aging, and Long-Term Care Committee; Judiciary Committee; and Senator Aronberg

This bill prescribes the process for pursuing an administrative, civil or criminal claim against a court-appointed psychologist regarding a child custody evaluation in any judicial proceeding. A court-appointed psychologist is statutorily presumed to be acting in good faith if the evaluation is done in accordance with standards that are consistent with the American Psychological Association's guidelines for such evaluations in divorce proceedings. Any administrative claim based on a child custody evaluation by a court-appointed psychologist can no longer be filed anonymously. Any civil claim against a court-appointed psychologist must first be preceded by a petition to replace the psychologist with another court-appointed psychologist. It is within the court's discretion to allocate attorney's fees and costs associated with the subsequent appointment. In any administrative, civil or criminal proceeding against a court-appointed psychologist in which the psychologist is found liable (or not to have acted in good faith), the claimant is entitled to reasonable attorney's fees and costs. If the court-appointed psychologist is not found liable (or to have acted in good faith), the psychologist is entitled to reasonable attorney's fees and costs.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 113-0

JUDICIARY

HB 439 — Statewide Guardian Ad Litem Office

by Rep. Rich and others (CS/SB 1974 by Judiciary Committee and Senators Campbell, Bullard, and Cowin)

This bill provides for the transfer, oversight, and administration of locally-based guardian ad litem programs and the attorney ad litem pilot program from the auspice of the judicial branch to the Statewide Guardian Ad Litem Office to be created and housed administratively within the Judicial Administrative Commission. The Office is be headed by an executive director appointed

by the Governor from a list of applicants selected by a 5-member Guardian Ad Litem Qualifications Committee. The executive director must have knowledge of dependency law and of the social service delivery systems. The executive director will serve for a 3-year term, subject to removal for cause.

The bill sets forth the Office's duties including program oversight and review, the provision of technical support, training, review of funding sources and services, program development, and creation of statewide performance measures and standards. The Office is required to continue the attorney ad litem pilot program and may contract or develop other such projects with available or solicited gifts, grants, or contributions. The Office is required to submit an interim status report and proposed plan to the Legislature, the Governor, and the Florida Supreme Court by October 1, 2004, and subsequent annual reports thereafter.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

PROBATE AND TRUST

SB 2450 — Florida Uniform Principal and Income Act

By Senator Atwater

This bill amends provisions of Chapter 738, F.S., the Florida Uniform Principal and Income Act, which governs the identification of principal and income in or from a trust property through a trust instrument, will, or other governing instrument, the allocation of principal and income, and the apportionment of assets between income and principal. The bill makes technical and clarifying changes necessary as a result of a major revision to the Act enacted in 2001, including revisions to the scope and duties of a trustee and clarifying certain activities related to the valuation and distribution of trust assets.

If approved by the Governor, these provisions take effect upon becoming law and are retroactively applied to January 1, 2003.
Vote: Senate 40-0; House 112-0

SB 2700 — Probate and Trusts/Limitations

by Senator Campbell

This bill continues Florida's comprehensive revision of its probate and trust law. Some of the more significant provisions of this bill include:

- Adding evidence of exposure to a "specific peril" as a basis for presuming death, with particular venue provisions for petitioning a court for such a determination.

- Establishing a specific conflict of interest standard, i.e., when each of the trustees is also a personal representative of the estate, then the beneficiaries of the trust are the estate beneficiaries. Otherwise, it is the trustees of the trust who are the beneficiaries of the estate.
- Eliminating a conflict in the law by removing the exception of homestead property from the application of the Florida Uniform Disposition of Community Property Rights at Death Act.
- Addressing gaps in the antilapse laws concerning beneficiaries deemed to have predeceased a decedent by operation of law.
- Incorporating federal law by expressly providing that military testamentary instruments properly executed by an individual eligible for military legal assistance pursuant to Title 10 U.S.C. § 1044d are valid wills in this state.
- Amending provisions relating to the serving of the notice of administration and notice to creditors.
- Providing that civil actions based upon constructive fraud must be initiated within four years of when the facts giving rise to the action are discovered, or should have been discovered with the exercise of due diligence.
- Clarifying personal representative's powers pertaining to control and expenditure of funds for protected homestead property.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-0

PROPERTY

CS/CS/SB 1220 — Sale of Real Property

by Comprehensive Planning Committee; Judiciary Committee; and Senators Fasano, Lynn, and Argenziano

This bill amends s. 689.26, F.S., to revise the disclosure requirements that must be provided to prospective purchasers of real property and will implicitly require that such disclosure be provided to buyers in those neighborhoods where restrictive covenants run with the property.

Sellers will be required to specify whether or not a property purchaser will be obligated to be a member of a homeowners' association, to pay assessments to this association, and to pay assessments to a municipality. The notice must also state whether or not the restrictive covenants of the association can be amended with the approval of the membership or, if there is not a mandatory association, the parcel owners. This bill encourages prospective purchasers to refer to

actual governing documents and covenants prior to purchasing the property. Disclosure requirements must be provided to prospective purchasers of real property. A contract for sale of property governed by covenants subject to disclosure under s. 689.26, F.S., must contain a voidability clause, in the same form as provided for in statute, and such contract is voidable at the option of the purchaser prior to closing if it does not have such a clause.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 118-0

HB 1453 — Vessels

by Rep. Berfield and others (CS/SB 2652 by Judiciary Committee and Senator Aronberg)

This bill substantially amends s. 328.17, F.S., governing the non-judicial sale of vessels by marinas. Generally, this bill revises the procedure for the non-judicial sale of a vessel by a marina held for unpaid costs, storage charges, dockage fees, or failure to pay removal costs pursuant to other statutory provisions. The bill eliminates the current requirement that a marina seeking to satisfy a lien against a vessel obtain two independent appraisals of the vessel prior to auction, and that the vessel be sold for at least 50 percent of the appraised value. The marina must adhere to notice requirements as described therein. This bill provides that a marina placing a lien on a vessel may satisfy that lien after the satisfaction of prior liens perfected under the Uniform Commercial Code. The buyer of vessel under the provisions of this bill takes the vessel free of any lien other than those perfected under the Uniform Commercial Code despite the marina not complying with the provisions of this bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 109-0

MILITARY AFFAIRS

SB 482 — Rental Agreements

by Senators Lynn, Fasano, and Argenziano

This bill amends s. 83.682, F.S., to eliminate a provision requiring the payment of liquidated damages when a member of the United States Armed Forces terminates a rental agreement due to reassignment. The bill would continue to require that service members provide notice of termination to the landlord at least 30 days in advance and provide either a copy of the official military orders or a written verification signed by the member's commanding officer. In addition, the service member would remain liable for the portion of rent due under the rental agreement prorated to the effective date of the termination. The bill also prohibits landlords from discriminating against members of the United States Armed Forces in renting residential property.

The bill creates a new section of law, s. 83.575, F.S., permitting residential rental agreements with a specific duration to contain a provision requiring a tenant to give up to 60 days' notice of his or her intent to vacate the premises at the completion of the rental agreement. If a rental agreement requires notice and the tenant does not give such notice, the tenant may be liable for liquidated damages as specified in the rental agreement. Additionally, this new section of law provides that if the tenant remains in the rental unit after the termination of the rental agreement with the landlord's permission and fails to give timely notice prior to leaving, the tenant is liable to the landlord for one month's rent.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-0

CS/SB 684 — Military Affairs

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Lynn and Bullard

This committee substitute addresses a number of issues relating to the Florida National Guard and its supporting state agency, the Department of Military Affairs, and incorporates the recommendations contained in "Interim Project Report 2003-116: Review of Chapter 250, F.S., Military Affairs and Related Matters."

Insurance, Employment, and Property Rights Protection

Currently, s. 250.341, F.S., requires Florida National Guard (FNG) members to notify their employer if they want to continue health insurance coverage while activated into guard duty. The department reports that some employees fail to provide this notification, often as a result of the short notice of activation or because of the nature of their military mission. In addition, some employers request department officials verify this notification. To address this problem, the committee substitute authorizes the "appropriate military authority" to provide this notification to employers. In addition, the committee substitute provides that prior notice to the employer is not required if such notice is precluded by military necessity or if such notice is impossible or unreasonable.

In addition to federal protections afforded military reservists, Florida law provides certain safeguards for FNG members ordered to state active duty. For example, s. 250.48, F.S., allows activated troops who are employees of "political subdivisions of the state" to take a leave of absence, without a loss of pay, for up to 30 days at a time. Similarly, s. 250.482, F.S., prohibits "public and private" employers from discharging, reprimanding, or penalizing employees activated for state duty. The committee substitute amends these sections to clarify that activated employees of school districts, and vocational and technical schools, are protected against such action for taking a leave of absence when activated for service by the FNG.

Section 250.5201, F.S., requires a member of the FNG to provide a copy of his or her orders to creditors, his or her landlord, or the court when attempting to suspend his or her financial obligations under the Federal Soldiers and Sailors Civil Relief Act. The member must also, upon request by creditors, provide a re-certification every 30 days. The committee substitute amends this section to limit this re-certification request authority to the court and authorize creditors to petition the court to require re-certification.

Authority of the Governor and Adjutant General

The committee substitute provides that the Governor may order troops into state active duty to "respond to terrorist threats or attacks," and specifies additional activities the Governor may authorize the FNG to participate in, including ceremonies, inspections, and training. In response to changes in federal law authorizing the states to designate who may convene certain courts-martial, the committee substitute authorizes the Governor to delegate to the Adjutant General the authority to convene general courts-martial for the National Guard when not on federal service.

Currently, s. 250.28, F.S., provides that in response to certain emergencies where local authorities are unable to maintain or restore order, the Governor, or in case the Governor cannot be reached and the emergency will not permit awaiting his or her orders, the Adjutant General, shall issue orders directing the appropriate military personnel to assist local authorities. The committee substitute amends this section to provide that if the Governor cannot be reached and the emergency will not permit awaiting his or her orders, the Governor's successor as established

in s. 14.055, F.S., is authorized to issue orders mobilizing troops. If the appropriate successor cannot be reached and the emergency will not permit awaiting his or her orders, the Adjutant General is authorized to mobilize the necessary troops. This section is also amended to authorize the Governor or the Governor's successor to respond to a threat to security, a terrorist threat, or terrorist attack.

Worker's Compensation Coverage

Section 250.34, F.S., provides for "medical attention and necessary hospitalization" and pay for troops who become injured or disabled while in active military service of the state. While the FNG does not participate in the state's workers' compensation program for state activated guards, it does use the compensation guidelines provided in ch. 440, F.S. Furthermore, the Division of Risk Management provides assistance in processing and, in some cases, litigating claims against the FNG. Historically, compensation for state activated troops injured in the line of duty has been funded through a variety of sources. While such sources are sufficient to pay routine claims and associated legal costs, the department must petition the Governor for additional funds to cover major claims and associated legal costs.

The committee substitute amends s. 250.34 F.S., to specify that the Department of Insurance will process workers compensation insurance benefits to certain severely injured or disabled troops (troops with claims past one year from the date of injury or disability) and will also provide associated legal assistance to the department. Procedures are specified for annual reimbursement to the Department of Insurance when benefits and associated legal assistance are provided. This section is also amended to clarify certain terms relating to state active duty, and to provide that injuries are not compensable if they constitute a pre-existing condition.

Educational Programs

Section 250.10, F.S., provides for educational benefits to FNG members in the form of a tuition exemption program and a tuition assistance program. The exemption program (the State Tuition Exemption Program, or STEP) provides troops with an exemption of one-half of tuition and fees on a "space available basis." The assistance program (the Educational Dollars for Duty Program, or EDD) provides, subject to appropriations, payment of the full cost of tuition and fees for troops who enlist after June 30, 1997. Troops using either program must "agree in writing to serve in the active Florida National Guard for 3 years after completion of the studies for which an exemption is granted."

The committee substitute amends this section to clarify that the state, through the STEP program, may provide only one-half the tuition and fees, rather than the full cost of tuition and fees, under certain conditions. Historically, the department has provided one-half the tuition and fees when the school or university could not provide a waiver. This section is also amended to customize the current general penalty provision to fit both STEP and EDD programs, and establish terms and conditions that clearly distinguish between the two educational programs. Finally, a new

provision is added to require that when a member defaults on repayments of tuition and fees, the institution or the state may charge him or her the maximum interest rate authorized by law.

Armory Board and Accounting Practices

Section 250.40, F.S., provides that the State Armory Board "is charged with the supervision and control of all military buildings and real property within the state applied to military uses." The committee substitute implements a number of changes to the authority and functional responsibilities of the Armory Board and support staff, including: specifically designating the Governor as the chair of the board, which is current practice; designating the Adjutant General as vice chair; specifying that only the major command commanders are included on the board; authorizing board members to designate their deputy commander as an alternate member to serve when "exigencies of military duty" make it necessary; and designating the State Quartermaster as the recorder and secretary of the board, and the person responsible for the daily operation of the board.

Section 250.20, F.S., addresses the distribution and accounting of armory maintenance allowances. This section is amended to require that armory maintenance allowances only be deposited into a department-approved federal depository. In addition, a new provision is added to this section to clarify that each post commander is responsible for the proper receipt and distribution of the post maintenance allowance. While this responsibility appears to be clear in current law and department rules, including this requirement will clearly specify the department's expectations of armory post commanders.

Currently, s. 250.40, F.S., authorizes a military "post council" to disburse funds received from rental of armories, maintenance allowances from the department, and fine proceeds, pursuant to rules established by the Armory Board. However, the department reported that such post councils are advisory, and that the post commander is responsible for the proper disbursement of funds and operation of the armory. In order to conform to federal regulations, the committee substitute amends this section to transfer armory operation authority to the post commander, and deletes the section that establishes the post council.

Courts-Martial and Penalties

The committee substitute amends numerous provisions relating to courts-martial and the imposition of penalties. First, the committee substitute replaces obsolete references to previous editions of federal law, and clarifies that members of the Florida National Guard are subject to ch. 250, F.S., and the Uniform Code of Military Justice at all times during their enlistment or appointment, whether serving in Florida or out-of-state. Section 250.36, F.S., is amended to provide that certain military judges are authorized to issue pre-trial confinement warrants and subpoenas.

The committee substitute also implements a number of statutory changes to conform with recently updated federal law. Most significantly, the committee substitute implements the following conforming changes:

- Specifies that warrant officers and cadets may not be tried by summary courts-martial.
- Clarifies that defendants may waive trial by panel and request trial by 'military' judge.
- Authorizes the Adjutant General to convene general courts-martial, when delegated by the Governor.
- Clarifies that only enlisted personnel may have rank reduced to lowest enlisted grade.
- Specifies that for punishments in summary courts-martial, confinement cannot be combined with a fine.
- Specifies that when non-judicial punishments are imposed, the combination of extra duty and restriction may not exceed 14 days.
- Decreases certain fine thresholds imposed in courts-martial.
- Increases from 3 days to 30 days the time the Adjutant General or a military judge may jail a person for contempt of court.

The committee substitute also increases certain penalties. For example, the following violations are increased from second-degree misdemeanor to first-degree misdemeanor: unauthorized wearing of uniform and insignia of rank; discrimination against any military personnel; insulting troops; and persuading persons against enlistment. Similarly, the penalty for unlawful sale or distribution of military equipment is increased from a second-degree misdemeanor to theft as provided in ch. 812, F.S.

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

CS/SB 1098 — The Rights of the Members of the United States Armed Forces

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Fasano, Lynn, and Crist

This bill addresses several issues that have been identified by the Florida National Guard during their recent deployments which could be changed to better address those situations unique to today's military men and women. In doing so, the bill creates part IV of chapter 250, F.S. (ss. 250.80-250.84), F.S., which may be known by the popular name of the "Florida Uniform Servicemembers Act." These sections provide for legislative intent, short title, applicability of federal law, and the distribution of information relating to servicemembers' rights.

The Act also recognizes that in addition to state law, federal law contains protections that are applicable to servicemembers in every state even though such provisions are not specifically identified under state law. The two major bodies of applicable federal law are the Soldiers' and Sailors' Civil Relief Act (SSCRA), Title 50, Appendix United States Code, s. 501 et seq., and the Uniform Services Employment and Reemployment Rights Act (USERRA), Title 38 United States Code, ch. 43.

The bill also provides definitions for "active duty," "state active duty," and "servicemember." Most importantly, "servicemember" is defined as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and the United States Reserve Forces.

The protections provided in the bill for servicemembers are identified below.

The Florida Residential Landlord and Tenant Act is amended to prohibit a landlord from discriminating against a servicemember in offering a dwelling unit for rent or in any of the terms of a rental agreement (see s. 83.67, F.S.). The Act is also amended to prohibit retaliatory conduct by a landlord for termination of a rental agreement by a servicemember (see s. 83.64, F.S.).

The Florida Residential Landlord and Tenant Act is further amended to provide conditions under which a servicemember may terminate his or her rental agreement without being liable for liquidated damages (see s. 83.682, F.S.).

The bill clarifies provisions of ch. 115, F.S., relating to pay and leave of absence provisions for active military service.

Motor vehicle license provisions are amended to exempt servicemembers from penalties for expiration of mobile home and motor vehicle registrations when such registrations expire while the servicemember is serving on active duty or state active duty (see. s. 320.07, F.S.).

The bill creates a new section relating to termination of a telecommunications service contract by a servicemember to provide requirements and procedures with respect to termination of a telecommunications service contract by a servicemember if certain criteria are met (see s. 364.15, F.S).

A new section relating to termination of a retail installment contract for leasing a motor vehicle by a servicemember is created to provide requirements and procedures with respect to the termination of such contract by a servicemember if certain criteria are met (see s. 520.14, F.S.).

The bill modifies existing provisions relating to cancellation and return of auto insurance premiums to require insurance companies to refund the entire unearned portion of a premium

upon cancellation of motor vehicle insurance by a servicemember when the servicemember is required to move pursuant to military orders (see s. 627.7283, F.S.).

The bill creates a new section relating to the purchase of real property by a servicemember which provides requirements and procedures for the termination of an agreement to purchase real property by a servicemember (see s. 699.27, F.S.).

Under the Florida Bright Futures Scholarship Program, student eligibility requirements for initial awards are amended to extend the eligibility period for students who enlist in the armed forces or reserves immediately after completion of high school. The student eligibility requirements for renewal awards are also amended to provide eligibility for the continuation of Florida Bright Futures Scholarships for students attending postsecondary institutions who are also Florida National Guard or United States Reserves servicemembers and are called to active duty or state active duty (see ss. 1009.531 and 1009.532, F.S.).

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

SB 2802 — Military Student Education

by Senators Haridopolos and Crist

This bill directs the Department of Education to assist in the transition of school-aged dependents of military personnel into the public school system. Specifically, the bill provides that the Department is to assist such students by taking certain actions, including: improving the timely transfer of records; establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year; encouraging partnerships between the military bases and school systems; providing services for transitioning students when applying to and finding funding for post-secondary study; and providing other assistance as identified by the Department, schools, and military personnel.

The bill provides that the Department is to identify its efforts and strategies for assisting military-connected students in transitioning to Florida schools, including the identification of acceptable equivalence for curriculum and graduation requirements, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2003.

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

VETERANS' AFFAIRS

CS/SB 2378 — Veterans' Affairs

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senator Fasano

This committee substitute revises the definition of "veteran" for purposes of receiving benefits as a wartime veteran. Specifically, the committee substitute clarifies that to qualify as a wartime veteran, the service member must have served in the military during a time in which a campaign badge was authorized. This will extend veterans' preference benefits to active duty personnel who served in hostile campaigns, expeditions, or operations other than during those wartime periods specifically identified in s. 1.01, F.S. Similarly, recent changes in federal law established an ending date of January 2, 1992, for the Persian Gulf War. The committee substitute adopts that date to close the window on the time period covering the Persian Gulf War.

The committee substitute amends s. 295.07, F.S., to clarify eligibility for veterans' preferential employment consideration. For federal and state entitlement purposes, active duty service for purposes of training has never been allowable as a period counting for wartime service for veterans' preference. This provision, however, was inadvertently stricken from this section in 1992. The committee substitute amends this section to exclude active duty service for training so that the entitlement program remains consistent with the intent of the law. Additionally, the committee substitute requires that a veteran must have served at least one day during a wartime period in order to qualify for employment preference.

The committee substitute allows the Florida Department of Veterans' Affairs to continue to receive contributions from public entities for the duration of the Florida World War II Veteran Memorial fundraising campaign. The committee substitute also provides a cost-of-living adjustment for funds which residents of the Veterans' Domiciliary Home are allowed to retain in personal use accounts (currently $100). This cost-of-living adjustment is tied to the annual percentage increase in Social Security benefits..

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-0

SPACEPORTS

CS/SB 676 — Transportation

by Transportation Committee and Senators Sebesta and Bullard

> The following summary is limited to space-related provisions in the bill. Please refer to the Transportation Committee section for further discussion of this bill.

Florida Space Authority

Section 331.308, F.S., currently provides that the Lieutenant Governor serves as chair of the board of supervisors of the Florida Space Authority. There are a number of administrative and fiscal issues that rise to the level where board review and approval are appropriate, but do not warrant the attention of the Lieutenant Governor. The committee substitute amends this section to authorize the board of supervisors to elect a vice chair to preside in the absence of the Lieutenant Governor and to perform other duties as may be required.

Florida Space Research Institute

The committee substitute amends s. 331.368, F.S., to revise several provisions relating to the Florida Space Research Institute (FSRI)**.** The committee substitute implements a schedule to rotate industry and academic members on the FSRI board of directors. Under this schedule, private-sector representatives would serve 3-year terms, and academic members would serve 2-year terms. This same section is amended to provide that the board may select additional ex-officio, nonvoting members to serve on the board. In addition, the committee substitute clarifies that FSRI board members are volunteers and are subject to all protections afforded to volunteers of state agencies under s. 768.1355, F.S.

The committee substitute provides that contracts and grants issued by FSRI to state agencies, including state universities and colleges, are subject to s. 216.346, F.S. That section provides that in contracts between state agencies, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect costs. In addition, the committee substitute clarifies FSRI's operational responsibilities by providing specific authorization to: appoint a person to serve as executive director; acquire and dispose of property; execute contracts; establish rules and procedures governing administrative and financial operations; administer grants, contracts, and fees from other organizations; and work in partnership with other economic development and educational organizations.

Florida Commercial Space Finance Corporation

The committee substitute amends s. 331.401, F.S., to change the name of the corporation to the "Florida Aerospace Finance Corporation." According to representatives of the corporation, this

change will eliminate confusion surrounding its mission and enable the corporation to service aviation-related projects. Additionally, the committee substitute amends s. 331.407, F.S., to incorporate legislative intent language providing that the corporation is not an agency for purposes of ss. 216.011 and 287.012, F.S. Section 216.011, F.S., establishes planning and budgeting provisions that are applicable to state agencies. Section 287.012, F.S., establishes procurement requirements that are applicable to state agencies. The corporation maintains that these exemptions are warranted in view of its status as a not-for-profit corporation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

SB 174 — Protection of Marine Turtles

by Senators Geller and Crist

This bill creates new penalties and fines in ch. 370, F.S., for any person, firm, or corporation involved in knowingly taking, harvesting, or possessing any eggs of certain marine turtle species. The bill creates a $100 per egg penalty for illegal possession of any eggs of marine turtles identified in the Marine Turtle Protection Act established in s. 370.12, F.S. The bill provides that any person, firm, or corporation in possession of more than 11 marine turtle eggs, or who knowingly commits, or who solicits or conspires to commit, a violation of the Marine Turtle Protection Act commits a third-degree felony and is subject to imprisonment for a term of not more than five years, or a fine of up to $5,000, or both. Repeat offenders can be sentenced under the habitual felony offender provisions of s. 775.084, F.S. The bill revises the offense severity ranking chart of the Criminal Punishment Code created in s. 921.0022, F.S., for sentencing purposes.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 112-1

HB 221 — Citrus/Hernando Waterways Restoration Council

by Rep. Dean and others (SB 430 by Senators Argenziano and Fasano)

This bill creates the Citrus/Hernando Waterways Restoration Council within the Withlacoochee and Coastal Rivers Basin Boards of the Southwest Florida Water Management District. The council shall be coordinated by representatives of the following agencies: the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Southwest Florida Water Management District.

Members of the council shall consist of 12 voting members with six appointed by the President of the Senate and six appointed by the Speaker of the House of Representatives. The council shall consist of representatives as follows:

- A waterfront property owner from each county.
- An attorney from each county.
- A member of the Board of Directors of the Chamber of Commerce from each county.
- An environmental engineer from each county.

- An engineer from each county.
- A person from each county with training in biology or another scientific discipline.

The council members from each county are to form two separate county task forces from the council to review and make recommendations on specific waterways. The Hernando County Task Force shall develop plans for the restoration of the Weeki Wachee River and Springs. The Citrus County Task Force shall develop plans for the restoration of the Tsala-Apopka Chain of Lakes.

There shall be a technical advisory group to the council and the two county task forces which shall consist of one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers, each of whom shall be appointed by his or her respective agency, and each of whom, with the exception of the representatives from the Withlacoochee River Basin Board and Coastal Rivers Basin Board, shall have had training in biology or another scientific discipline.

The Southwest Florida Water Management District shall act as lead entity for the purpose of providing staff and administrative support to assist the council in carrying out the provisions of this act.

Members of the council shall receive no compensation for their services, but are entitled to be reimbursed for per diem and travel expenses incurred during execution of their official duties, as provided in s. 112.061, F.S. State and federal agencies shall be responsible for the per diem and travel expenses of their respective appointees to the council, and the Southwest Florida Water Management District shall be responsible for per diem and travel expenses of other appointees to the council.

The bill specifies council powers and duties; provides for the Citrus/Hernando Waterways Restoration Program; and provides that the Fish and Wildlife Conservation Commission, with assistance from the Southwest Florida Water Management District, and in consultation with the Department of Environmental Protection, shall develop tasks to be undertaken for the enhancement of fish and wildlife habitat.

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

CS/CS/SB 554 — Interdistrict Transfer and Water Use

by Comprehensive Planning Committee; Natural Resources Committee; and Senators Constantine and Crist

This bill provides that the term "interdistrict transfer and use" does not include a withdrawal and use within the same county. In the case of withdrawal of groundwater from a point within one water management district for use outside of the boundaries of that district but within the same county, certain provisions of s. 373.2295, F.S., apply. Those provisions include:

- Consideration of the future land use elements of the comprehensive plan within which the withdrawal areas and the proposed use are located.
- Allowing the applicant to appeal certain decisions to the Land and Water Adjudicatory Commission. Such decisions may include a decision that the proposed use or withdrawal does not conform with existing zoning ordinances or the proposed use if granted for use beyond the boundaries of a local government from which or through which groundwater is withdrawn, and the local government denies a permit.

Any interagency agreement between water management districts entered into before the effective date of this act authorizing the issuance of permits for the interdistrict withdrawal and use of water within a county are validated and shall continue in effect until otherwise rescinded.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

HB 623 — Northwest Florida Water Management District

by Rep. Evers and others (SB 1748 by Senator Lawson)

This bill delays the repeal of the interim dredge-and-fill and stormwater permitting provisions for the Northwest Florida Water Management District until July 1, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

CS/SB 626 — Everglades Forever Act

by Natural Resources Committee and Senators Lawson, Lynn, Haridopolos, Peaden, Cowin, Posey, Lee, and Clary

The committee substitute amends the Everglades Forever Act, established in s. 373.4592, F.S., to provide that the use of a Long-Term Plan, as adopted by the governing board of the South Florida Water Management District in March 2003, is the best way to ensure that the stormwater treatment areas in the Everglades Construction Project, and other projects in the Everglades

Stormwater Program for urban and other tributary basins not included in the Everglades Construction Project, will meet state water quality standards, including a numeric phosphorus criterion and moderating provisions, if any, as contained in the rule to be adopted by the Environmental Regulation Commission (ERC) by December 31, 2003. All waters discharged into the Everglades Protection Area must meet state water quality standards no later than December 31, 2006, as provided in current law.

The committee substitute provides that the implementation of the Long-Term Plan, and any revisions to that Plan, must allow the achievement of the numeric phosphorus criterion to be adopted by the ERC in a manner that is consistent with the Everglades Forever Act. The Plan must identify and implement incremental optimization measures to further reduce phosphorus levels in discharges. Any moderating provisions incorporated into the state water quality standard rule must provide for the use of best available phosphorus reduction technology to provide net improvements in reducing phosphorus loads in impacted areas of the Everglades Protection Area.

Implementation of the Long-Term Plan is authorized for an initial 13-year phase, beginning this year. State water quality standards, including the numeric phosphorus criterion, must be met to the maximum extent practicable which is a standard applied by the U.S. Environmental Protection Agency under the Clean Water Act. Monitoring stations must be established to ensure that this goal is being met.

The committee substitute provides that implementation of the 10-year second phase of the Long-Term Plan must be approved and authorized by the Legislature. The agricultural privilege tax in the Everglades Agricultural Area, scheduled to be reduced from $35 to $10 per acre starting with tax notices mailed in 2014, will be assessed at $25 per acre for an additional three-year period. This additional assessment will serve as the implementation of the "Polluters Pay" provision in s. 7, Art. II of the State Constitution.

The committee substitute establishes the Legislature's intent that the State of Florida continue to honor its longstanding commitment to meet water quality standards, including standards for water discharged onto the federal lands in the Everglades National Park and the Loxahatchee Wildlife Refuge. The committee substitute provides that the Long-Term Plan must be integrated and consistent with the Comprehensive Everglades Restoration Plan (CERP) to avoid duplicative and unnecessary cost. Nothing in the Long-Term Plan can modify any cost share responsibility or any state responsibility for projects authorized as part of the Water Resources Development Acts of 1996 and 2000.

Finally, the committee substitute provides that the 1/10th of a mill ad valorem assessment in the Okeechobee Basin can be used to design, construct, and implement projects in the initial phase of the Long-Term Plan, such as stormwater treatment in the C-11 Basin in western Broward County, and can be used for the enhancement, operation, and maintenance of the stormwater treatment areas in the Everglades Construction Project.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 96-18

SB 634 — Big Bend Historic Saltwater Paddling Trail

by Senators Argenziano and Dockery

This bill extends the Big Bend Historic Saltwater Paddling Trail from the Suwannee River to Yankeetown.

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

CS/SB 956 — Drycleaning Solvent Cleanup Liability

by Natural Resources Committee and Senators Jones, Peaden, Clary, Diaz de la Portilla, and Dockery

The bill provides immunity from property damage claims for drycleaning site owners that are voluntarily conducting site rehabilitation. Insurance companies that would have provided property damage coverage for these sites are also given protection from these claims. Finally, legislative findings that this immunity is necessary and in the public interest are provided.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

CS/SB 1050 — Fish and Wildlife Conservation Commission

by Appropriations Committee and Senator Smith

The committee substitute provides that it is a major violation for unlicensed persons, required to be licensed, to sell or purchase saltwater products, or to harvest or attempt to harvest any saltwater product with intent to sell. This committee substitute creates additional misdemeanor penalties and fines, felony penalties, civil penalty assessments, mandatory jail sentences, and suspension or revocation of all hunting and fishing license privileges for persons committing multiple violations under s. 370.021, F.S. Felony penalties with mandatory jail sentences and civil penalty assessments are created for persons who sell or purchase, or who attempt to sell or purchase, any saltwater products after all fishing license privileges have been suspended or permanently revoked.

The committee substitute raises the threshold from $500 to $2,000 for reporting damage to vessels or other property in the case of collision, accident, or other casualties involving a vessel in, upon, or entering into the water, and repeals provisions relating to licensing requirements for live bait shrimp licenses and equipment required to maintain live shrimp on board shrimp fishing

vessels. Finally, this committee substitute provides consistency among penalties for blue crab, stone crab, and lobster trap theft and removal of contents, and provides a definition and "willful" standard for the molestation of traps among all three fisheries.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 116-0

HB 1123 — Site Rehabilitation of Contaminated Sites

by Rep. Clarke and others (SB 2726 by Senator Argenziano)

This bill provides that risk-based corrective-action (RBCA) principles apply to all contaminated sites resulting from a discharge of pollutants or hazardous substances, to the extent the sites are not subject to RBCA cleanup criteria established for the petroleum, brownfields, and drycleaning rehabilitation programs. This concept is often referred to as "Global RBCA." The bill provides for rulemaking authority for the Department of Environmental Protection (DEP) and cleanup criteria consistent with that found in the petroleum, brownfields, and drycleaning site rehabilitation programs.

The bill also clarifies and revises provisions relating to the intangible tax credit for contaminated site rehabilitation, corporate income tax credit for contaminated site rehabilitation, and the partial tax credit for rehabilitation of drycleaning solvent contaminated sites and brownfield sites in designated brownfield areas. The bill clarifies who may transfer a tax credit and allows a 5-year expiration period to begin anew following the transfer. The voluntary cleanup tax credit application period is converted from a tax year to a calendar year. The tax credit application deadline is changed from December 31 to January 15 of the year following the calendar year for which site rehabilitation costs are being claimed. An applicant must submit a complete application. The filing of placeholder applications is prohibited. Tax credit applications are processed on a first-come, first-served basis. The application must be filed with the DEP's Division of Waste Management.

The bill also allows the DEP to issue a hazardous waste corrective action permit to conform to the delegation authority DEP received from the U.S. Environmental Protection Agency to administer the federal Hazardous and Solid Waste Amendments Program (HSWA).

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 113-4

CS/SB 2042 — George Kirkpatrick State Reserve

by Natural Resources Committee and Senators Smith, Lynn, and Cowin

The committee substitute establishes the George Kirkpatrick State Reserve in Marion and Putnam counties, to include all state-owned lands within the floodplain of the Oklawaha River,

and any lands acquired by the state from the Eureka Dam in Marion County to Buckman Lock in Putnam County. The committee substitute provides that the State Reserve will be under the supervision of the Office of Greenways and Trails at the Department of Environmental Protection. The Office must develop multipurpose recreational opportunities at the State Reserve, and is responsible for the care, upkeep, maintenance, and beautification of the State Reserve, including any dams, locks, or other structures transferred by the federal government to the state.

The committee substitute provides that any action that will substantially alter the area encompassing the State Reserve as the area existed on January 1, 2003, must be approved by general law, except that the Office of Greenways and Trails is free to perform necessary maintenance and improvements as required for the operation of the dams, locks, or other structures within the State Reserve. The Fish and Wildlife Conservation Commission is authorized to allow public hunting within the State Reserve, and the Division of State Lands at the Department of Environmental Protection is authorized to acquire any additional property adjacent or contiguous to the State Reserve from private owners or the federal government, if the acquisition will result in improved management and recreational opportunities. Any such acquisitions must be titled in the name of the Board of Trustees of the Internal Improvement Trust Fund.

If approved by the Governor, these provisions take effect January 1, 2004.
Vote: Senate 39-0; House 92-26

CS/SB 2260 — Water Policy

by Natural Resources Committee and Senator Dockery

The committee substitute deletes requirements that Basins existing within the Southwest Florida Water Management District (SWFWMD) may not be abolished or combined without the approval of the Legislature.

The committee substitute repeals provisions that require the state, through the Department of Environmental Protection (DEP), to provide funds to assist with the implementation of Surface Water Improvement and Management (SWIM) plans, and provides that the list for priority water bodies of regional or statewide significance will be reviewed and updated every 5 years instead of every 3 years. The criteria used to develop the lists is amended to include water bodies on DEP's list of impaired waters, water bodies for which total daily maximum loads have been established, the management of the water body through federal, state, or local water quality programs or plans, and public input. The committee substitute directs the South Florida Water Management District to add the Lake Worth Lagoon as a priority area which must be considered by the District when preparing the priority water body list.

The committee substitute authorizes, rather than requires, the water management districts to prepare SWIM plans and programs for water bodies identified on the priority lists. For SWIM plans that are prepared, plan requirements are amended to include schedules for related management actions for restoring or protecting water bodies to Class III or better, and a list of available and potential funding sources or amounts. The water management districts are authorized to use legislative appropriations for SWIM activities for detailed planning, plan, and program implementation.

The committee substitute provides that counties that fall within the jurisdiction of two water management districts can receive a consumptive use permit from one water management district under an agreement executed by the affected water management districts. The boundary description of the St. Johns River Water Management District is amended to exclude a portion of Polk County that is being transferred to the jurisdiction of the SWFWMD, and the transfer of that portion of Polk County to the SWFWMD is authorized. Finally, the committee substitute extends the bonding authority of the Florida Water Pollution Control Financing Corporation which is repealed this year. The bond issue is subject to appropriation or an amount established in general law. However, bond revenues fund the revolving loan program that provides grants and loans to local governments for stormwater and wastewater projects.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 39-0; House 113-0

CS/SB 2388 — Fish and Wildlife Conservation Commission

by Governmental Oversight and Productivity Committee and Senator Dockery

The committee substitute creates a definition for saltwater fish, and authorizes the Fish and Wildlife Conservation Commission (FWC) to purchase and distribute promotional materials regarding boating safety and other public safety or resource conservation programs. License requirements for persons operating vessels carrying four or fewer customers are reinstated after being inadvertently deleted during the 2002 Regular Session. The committee substitute provides that for violations of ch. 372, F.S., or rules of the FWC, courts must certify disposition of any case to the FWC within 10 days of final disposition.

The committee substitute also provides the following license or fee increases:

- The license fee to own or operate private game preserves and farms is increased from $5 to $50, the first increase since the license was created in 1929.
- The nonresident 10-day hunting license fee is increased from $25 to $45, the first increase since the license was created in 1989.

- The nonresident annual wild turkey permit is increased from $5 to $100, the first increase since the permit was created in 1985.
- The license fee to operate a private hunting preserve is increased from $25 to $70, the first increase since the license was created in 1959.
- The license or permit fee to keep, possess, or exhibit venomous or poisonous reptiles is increased from $5 to $100, the first fee increase since 1953.
- The fees for licenses to exhibit or sell wildlife are raised from $5 to $150 for not more than 25 Class I or Class II wildlife specimens; from $25 to $250 for more than 25 Class I or Class II wildlife specimens; and a new fee of $50 is created for any number of Class III wildlife specimens, the first fee increase since the license to exhibit or sell wildlife was created in 1969.
- The fee for a permit to personally possess Class II wildlife, considered to be a real or potential threat to human safety, is increased from $100 to $140, the first increase since the permit was created in 1974.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 105-11

SB 2586 — Fish and Wildlife Conservation Commission

by Senators Dockery and Argenziano

This bill creates an Office of Boating and Waterways within the Fish and Wildlife Conservation Commission (FWC) to manage and promote safe boating. The bill transfers a portion of the fuel tax collected at marinas from the Fuel Tax Collection Trust Fund to the Marine Resources Conservation Trust Fund (MRCTF) as follows:

- In FY 2003-2004, $2.5 million.
- In FY 2004-2005, $5 million.
- In FY 2005-2006, $8.5 million.
- In FY 2006-2007, $10.9 million.
- In FY 2007-2008 and annually thereafter, $13.4 million.

This bill authorizes the use of fuel tax funds deposited into the MRCTF for boating research, boat-related programs and activities, and for on-the-water law enforcement. Specifically, funds must be used to provide additional law enforcement in counties that have the highest incidence of manatee deaths and injuries; for the placement of uniform waterway markers on the waters of the state; for manatee avoidance technology; for boating education and safety programs; and for

grants and loans to local governments for the construction and maintenance of publicly owned boat ramps, piers, and docks.

This bill provides the FWC with the spending authority for the first year to hire 10 new sworn officers, and to fund the activities required under the bill. Finally, this bill eliminates requirements that the FWC solicit recommendations from the Save the Manatee Committee on the expenditure of funds from the Save the Manatee Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 27-12; House 116-3

ALCOHOLIC BEVERAGES

CS/CS/SB 2520 — Beverage Law

by Commerce, Economic Opportunities, and Consumer Services Committee; Regulated Industries Committee; and Senator Diaz de la Portilla

The bill provides procedures for the issuance of a revoked quota alcoholic beverage license by allowing it to be put in a double random drawing under s. 561.19, F.S. It also provides enforcement protections for a person holding a perfected lien or security interest in the revoked license.

The bill amends s. 561.422, F.S., to add the requirement that nonprofit civic organizations must present a building permit and zoning permit upon the filing of an application to sell alcoholic beverages, and to require that all net profits from sales of alcoholic beverages collected during the permit period must be retained by the nonprofit civic organization.

The bill amends s. 561.65(1), F.S., to provide that a person with a bona fide mortgage, lien, or security interest in a spirituous alcoholic beverage license has a right to enforcement of the lien within 180 days after any order of revocation or suspension, and it bars the issuance of a revoked alcoholic beverage license that is encumbered with a lien or security interest until the 180-day period has elapsed or the enforcement proceeding is final.

This bill creates the "Christopher Fugate Act" to prohibit an alcoholic beverage licensee or the licensee's agents, officers, servants, and employees from providing alcoholic beverages to employees younger than 21 years of age, except as authorized pursuant to ss. 562.111 or 562.13, F.S., or permitting a person younger than 21 years of age to consume alcoholic beverages on the licensed premises. It provides that a violation of this provision is a misdemeanor of the first degree.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-1

CONSTRUCTION INDUSTRY

CS/CS/SB 1138 — Construction Monitoring

by Appropriations Committee; Governmental Oversight and Productivity Committee; and Senator Clary

The bill amends s. 768.28(10), F.S., to provide that the following entities or persons are agents of the Department of Transportation (DOT) for purposes of the waiver of sovereign immunity contained in s. 768.28, F.S.: (1) professional firms that provide monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects; or (2) firm employees who perform such services.

The bill specifies that these agents must indemnify the state for agent liability, including reasonable attorney's fees, up to the $100,000/$200,000 limits specified in s. 768.28(5), F.S.

The bill also provides that its provisions shall not be construed as designating persons who provide monitoring and inspection services as employees or agents of the state for purposes of ch. 440, F.S. The bill specifies that the grant of sovereign immunity does not apply if the agents are involved in an accident while operating a motor vehicle, or to a firm engaged by the DOT to provide design or construction of a state roadway, bridge, or other transportation facility.

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

HB 1277 — Unlicensed Contractors

by Rep. Kottkamp (CS/CS/SB 1382 by Commerce, Economic Opportunities, and Consumer Services Committee; Regulated Industries Committee; and Senator Clary)

The bill amends ss. 489.128 and 489.532, F.S., to make unenforceable, in law or equity, contracts that are entered into on or after October 1, 1990, by a contractor who fails to obtain or maintain a license under ch. 489, F.S. It provides that a person is unlicensed if the individual fails to obtain or maintain a license required under ch. 489, F.S. It provides that a business organization is unlicensed if it fails to have a primary or secondary qualifying agent.

If a contract is rendered unenforceable under this section, no lien or bond shall exist in favor of the unlicensed contractor. The bill does not affect the rights of parties other than the unlicensed contractor to enforce the contract, lien, or bond remedies. The bill does not affect the rights or obligations of a surety that has provided a bond on behalf of an unlicensed contractor. The fact that the principal or indemnitor is unlicensed under this section may not be used as a defense to any claim on a bond or indemnity agreement.

The bill provides that a townhouse is considered a single family residence for purposes of performing specialty contracting services without obtaining a local professional license if the person is supervised by a contractor. The bill specifies that authorized supervision does not require a direct contract between the contractor and the person performing the specialty contracting services. The bill clarifies that a general contractor may perform, on public or private property, the same services that a licensed underground utility and excavation contractor may perform.

The bill provides that a business organization proposing to engage in contracting is not required to apply for a certificate of authority through a qualifying agent if it satisfies the registration, certification, and net worth conditions set forth in the bill.

The bill provides for the retroactive application of specific sections of the bill and further provides that if the retroactive application of any section is held invalid, the invalidity shall not affect the retroactive application of the other sections. The bill provides for the severability of any provision declared invalid.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

CS/CS/SB 1286 — Construction Defects

by Judiciary Committee; Regulated Industries Committee; and Senator Bennett

The bill creates a process to give homeowners, subsequent purchasers of a dwelling, tenants, associations, and construction professionals the opportunity to settle legal claims related to construction defects arising out of the construction of a dwelling before a lawsuit is filed.

Sixty days before filing a lawsuit against a construction professional for a claim related to a construction defect, the bill requires that the claimant must serve a written notice of claim on the construction professional. The construction professional has a right to inspect the dwelling within 5 days of the notice of claim. Within 10 days of the notice of claim the construction professional must serve a copy of the notice of claim to any other construction professional that he or she thinks is responsible for the construction defect. These construction professionals also have a right to inspect the alleged construction defect.

Within 20 days after the notice of claim, the construction professional must respond to the claimant with a written offer to remedy the claim, a written offer to settle the claim, or a written dispute of the claim. The claimant has 15 days, or 45 days for an association, to accept or reject the offer to settle and compromise the claim or to remedy the alleged construction defect.

The claimant can file suit without further notice if he or she rejects the construction professional's offer to remedy the alleged construction defect, or offer to settle and compromise

the claim. The claimant may also file a lawsuit without further notice after the construction professional rejects the claim or the construction professional does not meet the agreed timetable to remedy the construction defect or make the settlement payment.

Failure by any party to follow the procedures in the bill is admissible in court. The bill does not bar or limit a claimant from making any emergency repairs to the claimant's dwelling. The bill provides that the provisions relating to legislative findings, definitions, and abatement of the action for noncompliance do not bar or limit any defense, or create any new defense, except as specifically provided in the bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 111-0

HB 1719 — Construction Lien Law

by Rep. Dean (CS/SB 2458 by Regulated Industries Committee and Senator Argenziano)

The bill provides mandatory provisions regarding lien law for direct contracts between an owner and a contractor related to improvements to real property consisting of single or multiple family dwellings up to and including four units.

It provides warning language in the Notice to Owner form that alerts owners to liens that may be filed against their property by unpaid contractors, subcontractors, and sub-subcontractors, and establishes the form for the contractor's final payment affidavit. It provides warning language in the Claim of Lien form alerting the owner of the real property that a lien has been placed on his or her property and what steps can be taken to shorten the time the lien can be valid.

It includes an "explanation of owner's rights" regarding the steps to take if no notice is furnished by a lienor in the currently required statement issued to building permit applicants and the owners of the real property by the permitting authority. The Department of Business and Professional Regulation provides the statements to the permitting authority for distribution to each non-owner permit applicant. The non-owner permit applicant, as a condition to issuance of the permit, must deliver the statement to the owner.

It creates a permissive inference that a person knowingly and intentionally misapplied construction funds when a valid lien has been recorded against the property of the owner and the person who recorded the lien has received sufficient funds for the construction and has failed, for a period of at least 45 days, to remit sufficient funds to pay off the labor, services, or materials.

It requires a state attorney or statewide prosecutor to forward a copy to the department of an indictment or information that charges a contractor, subcontractor, or sub-subcontractor with the willful filing of a fraudulent lien, misapplication of construction funds, or making false statements for inducing payment. It also requires the department to promptly open an

investigation, and if probable cause is found, furnish a copy of any investigative report to the prosecutor and to the owner of the property.

It requires a lender, prior to making any loan disbursement, to provide a written warning statement regarding lien releases.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 113-0

REAL ESTATE

CS/CS/SB 2238 — Real Estate Appraisers and Brokers

by Appropriations Committee; Regulated Industries Committee; and Senator Constantine

Real Estate Appraisers

The bill changes the classification of "registered assistant appraiser" to "registered trainee appraiser." It also defines several other terms. The bill permits a broker, salesperson, or broker-salesperson who is not a certified real estate appraiser or registered trainee appraiser to provide valuation services for compensation.

It authorizes the Florida Real Estate Appraisal Board (appraisal board) within the Department of Business and Professional Regulation to make rules to establish standards for, and to regulate, supervisory appraisers. It provides for the supervision of registered trainee appraisers by a supervisory appraiser.

The bill authorizes the appraisal board to recognize completion of a distance learning course as satisfactory completion of the continuing education requirement for certification or renewal of registration, and permits independent certification organizations to certify and approve a method of distance learning courses.

The bill changes the appraisal board's authority to adopt rules establishing a procedure for the renewal of registration, licenses, certifications, and instructor permits every 4 years. It provides that registered trainee licenses may be renewed for two biennial terms only, and further provides that after 6 years a registered trainee appraiser is not eligible for renewal but must qualify as a new applicant.

The bill grants the appraisal board the discretion to enter into written agreements with similar licensing or certification authorities of other states, territories, or jurisdictions of the United States to ensure Florida licensees nonresident licensure opportunities comparable to those

afforded to nonresidents by Florida law. The bill provides post-licensure education requirements for registered trainee appraisers.

The bill requires that nonresident applicants must file an irrevocable consent to suits and actions in this state, and must also consent to allowing the director of the Division of Real Estate to accept service of process on behalf of the applicant. The bill would require any state-certified appraiser who becomes a nonresident to notify the appraisal board of a change of residency within 60 days of a change in residency, and to comply with nonresident requirements. It authorizes the appraisal board to adopt rules necessary for the regulation of nonresident appraisers and licensees.

Real Estate Brokers, Broker Associates, Schools

The bill replaces the term "salespersons" with the term "broker associates." It also replaces the term "salesperson" with the term "sales associate." These changes are made throughout the bill. It amends the definition of "transaction broker" to specify that this form of limited representation is designed to facilitate a real estate transaction by providing assistance to both the buyer and the seller. It provides that the parties give up their right to the undivided loyalty of the licensee.

The bill requires the Real Estate Commission to license a broker associate as an individual or, upon authorization from the Department of State, as a professional corporation or limited liability company. It amends s. 475.175, F.S., to permit real estate licensure applicants to submit electronically authenticated applications, and eliminates the requirement that the application include two photographs taken within the preceding year. It requires applicants to, effective July 1, 2006, provide fingerprints in electronic format. The bill eliminates the authority of the commission to makes rules prescribing the form and minimum dimensions of signs at the entrance to a broker's principal office and each branch office.

The bill would authorize the commission to make rules to set forth circumstances in which a licensee may disburse property from his or her escrow account without notifying the commission or employing one of the procedures in s. 475.25, F.S. The bill allows brokers to maintain up to $5,000 of personal or brokerage business funds in the broker's escrow account, and up to $1,000 of personal or brokerage funds in the broker's sales escrow account.

The bill requires that an administrative complaint against a broker associate must be filed be filed within 5 years after the act that gave rise to the complaint occurred or should have been discovered. The bill requires that the commission must promptly report to the proper prosecuting authority any criminal violation relating to the practice of real estate.

It creates the presumption of a transaction brokerage relationship unless a single agent or no brokerage relationship is expressly established in writing with a customer. Effective July 1, 2008, a transaction broker would no longer be required to provide the disclosures existing under current law regarding the duties a transaction broker owes to a buyer or seller of real estate.

It prohibits, as a felony of the third degree, a person from operating as a broker or sales associate without a license.

The bill requires the payment of court costs and attorney fees by the commission when a broker defends an escrow disbursement from the Real Estate Recovery Fund, and increases the amount covered. The commission must also pay attorney's fees and costs if the plaintiff prevails in court.

It provides that the fact that the property was the site of a homicide, suicide, or death does not have to be disclosed to a purchaser of real estate.

The bill eliminates the restriction that a real estate school must advertise only as a school and under the registered name of that school and may not advertise the school in connection with an advertisement of an affiliated broker. It establishes procedures, conditions, and requirements for temporary licensure by brokers licensed in other states.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

OPEN GOVERNMENT SUNSET REVIEW

HB 1039 — Open Government Sunset Review/Investigative Information

by State Administration Committee and others (SB 1446 by Regulated Industries Committee)

This bill amends and reenacts the provisions of s. 498.047(8), F.S., which make information concerning an investigation into land sales practices by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation confidential and exempt from the public records law, s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution. The bill provides for the sharing of information with other governmental entities when a request is made in connection with its official duties. The bill removes the repeal of the exemption scheduled under the Open Government Sunset Review Act of 1995, s. 119.15, F.S.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 113-0

PARI-MUTUEL WAGERING

HB 1059 — Pari-mutuel Wagering; Cardrooms

by Rep. Robaina and others (SB 1490 by Senator Diaz de la Portilla)

The bill allows for special racing awards for special races involving competition between Florida-breds and other state bred horses pursuant to an agreement between the breeders, the permitholder, and the Florida Horsemen's Benevolent Protective Association, Inc.

It changes the definition of "authorized games" to a "game or series of games of poker." The current definition includes "a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg."

It allows thoroughbred racing permitholders, in a county where cardrooms are approved by the county commissioners, to operate a cardroom when conducting live races during its current race meet and to receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permitholder conducts live races.

It allows permitholders who have operated a cardroom during the previous three fiscal years, but failed to include a request for a cardroom in its license renewal, to amend the application to include the operation of a cardroom. Harness permitholders must have requested authorization to conduct a minimum of 140 live performances during the fiscal year immediately prior to application. If more than one permitholder operates at a shared cardroom facility, each permitholder must apply for a license to conduct a full schedule of live racing.

It allows for the operation of cardrooms between the hours of 12 noon and 12 midnight on any day a pari-mutuel event is conducted live, as a part of its authorized meet.

It allows a permitholder to operate between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of the same class within 35 miles is operating a cardroom at the same time and if all holders of the same class of permit within the 35-mile area have given their permission in writing to the permitholder.

It eliminates the $10 pot limit and provides, instead, for a $2 maximum wager with a maximum of three raises in any round of betting.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 27-11; House 104-10

ENGINEERING

CS/CS/SB 2464 — Engineering

by Governmental Oversight and Productivity Committee; Regulated Industries Committee; and Senator Clary

The bill provides clarification of examination requirements for engineers. It permits business organizations, rather than just partnerships or corporations, to become certified to practice engineering. It increases the caps on administrative fines from $1,000 to $5,000 and adds "restitution" as a penalty. It revises the duties of the Florida Board of Professional Engineers (board), the Florida Engineers Management Corporation, and the Department of Business and Professional Regulation (department). It removes the department from direct oversight of many areas related to the regulation of professional engineers. It allows for the president of the management corporation to serve as executive director to the board. It gives the board authority to handle unlicensed activity enforcement.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 119-0

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. 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 2003 Regular Session:

Bill	By	Subject	To
S 1180	Senator Peaden	Medicare Prescription Drug Benefit	U.S. Congress
S 1472	Senator Crist *(passed as H 209)*	POW/MIA/Federal Funding	U.S. Congress
S 1728	Senator Wise *(passed as H 429)*	Captain M. Scott Speicher	U.S. Congress
S 1656	Senator Smith *(passed as H 1669)*	National Forest Lands/Palatka	U.S. Congress

CLAIM BILLS

During the 2003 session, 29 claim bills were filed in the Senate. There were 24 companion bills filed in the House of Representatives. Also, there were two House claim bills filed that did not have a Senate companion.

Of the 29 bills filed in the Senate, 12 were approved by the House and Senate. At this time, none of the claim bills have been approved by the Governor. If they all become law, they will authorize or direct payment of $5,088,410, all of which would be paid from local government budget accounts.

Eight Senate bills died in a Senate committee; 2 Senate bills died in House Messages; 2 Senate bills died on the Senate Calendar; and 5 Senate bills were withdrawn from further consideration by their sponsors.

The following claim bills were approved:

Bill	By	Relief:	Vote: Senate	/ House
S 20	Senator Saunders	Jacob P. Darna v. Lee County School Board; $75,000	32-5	114-1
S 26	Senator Posey *(passed as H 797)*	Alan S. Hammer v. Brevard County; $75,705	33-6	114-1
S 30	Senator Crist	James T. Edwards v. Hillsborough County; $2,400,000	32-6	102-0
S 34	Senator Posey *(passed as H 799)*	Howard and Donna Evarts v. Brevard County; $75,705	33-5	112-2
S 36	Senator Diaz de la Portilla *(passed as H 303)*	Jonathan and Erika Snell v. Miami-Dade County; $337,000	33-5	111-2
S 40	Senator Pruitt	Richard and Denise Ebner v. St. Lucie County; $50,000	32-5	116-0
S 42	Senator Posey *(passed as H 377)*	Taylor Rosemond, Alvin and Shirley Rosemond v. Indian River County School Board; $60,000	34-6	115-0
S 44	Senator Posey *(passed as H 1249)*	Clay and Tatiana Haywood v. Indian River County School Board; $225,000	33-5	114-0
S 46	Senator Campbell *(passed as H 1691)*	Denise Yahraus v. Sarasota County; $1,050,000	28-10	114-1
S 48	Senator Diaz de la Portilla *(passed as H 1689)*	Asbel Llerena v. City of Hialeah; $200,000	34-4	113-1
S 180	Senator Hill *(passed as H 305)*	Tylor Griffeth vs. Indian River County School Board; $40,000	34-5	112-1
S 214	Senator Bennett *(passed as H 95)*	John W. Martz v. Hernando County; $500,000	33-6	116-0

TRANSPORTATION ADMINISTRATION

CS/SB 676 — Transportation

by Transportation Committee and Senators Sebesta and Bullard

Technical Changes and Toll Bonds

Section 316.2952, F.S., is amended to delete the reference to Federal Motor Vehicle Safety Standards No. 128 which does not exist, and section 322.212, F.S., is amended to authorize law enforcement agencies to investigate crimes related to driver's licenses. Section 338.2216, F.S, is amended to correct a technical error by providing that the express intent of the enabling legislation providing the powers and duties of the Turnpike Enterprise should refer to the entire enabling act which is the Turnpike Enterprise Law.

Section 338.165, F.S., is amended to clarify the Florida Department of Transportation (FDOT) has specific authority to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Beeline-East Expressway, Sunshine Skyway Bridge, and Pinellas Bayway toll facilities to provide funding for needed transportation projects on the State Highway System in the counties in which they are located, which are Brevard, Orange, Pinellas, Manatee, and Hillsborough Counties.

FDOT Reorganization

The committee substitute amends s. 20.23, F.S., deleting unnecessary instructions on the Secretary's responsibilities and to whom the Secretary may delegate, the tasks assigned to other FDOT officers and supervisors, and obsolete references in general. The section is amended to delete the position of Assistant Secretary for District Operations, and creates an Assistant Secretary for Development and Operations, and an Assistant Secretary for Transportation Support. The Offices of Management and Budget; Comptroller; Construction; Maintenance; and Materials are also created within FDOT. The committee substitute also corrects cross-references in s. 110.205, F.S., necessary because of the changes in s. 20.23, F.S.

The committee substitute further amends s. 334.14, F.S., to provide FDOT employees who are required to be engineers must comply with the requirements of ch. 471, F.S.

Metropolitan Planning Organizations

This committee substitute amends s. 120.52, F.S., providing metropolitan planning organizations (MPOs) are not agencies of the state and are, therefore, exempt from the requirements of ch. 120, F.S. This would exempt MPOs from the rulemaking requirements provided in ch. 120, F.S.,

and would prevent any person from challenging an action by an MPO through the Division of Administrative Hearings. However, an action of an MPO may be challenged in court.

The committee substitute amends s. 339.175, F.S., to provide individual MPOs do not have to be designated for each urbanized area of the state. The section is further amended to create a chair's coordinating committee composed of the Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota County MPOs. The section is amended to provide, in order for an agency which was created by law to perform transportation functions to have representation on an MPO, the agency must actually perform transportation functions.

The committee substitute provides a template for the coordination of cross-jurisdictional planning. The committee substitute provides any MPO may join with any other MPO or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law.

Contractor Prequalification

Section 255.20, F.S., is amended to provide any contractor who is prequalified by FDOT and eligible to bid on FDOT projects to perform certain work also will be prequalified to obtain bid documents and to submit a bid on those same types of projects for any municipality or other local government. Any local-government entity will be able to disqualify a prospective bidder who is at least 10 percent behind on another construction project for that same entity. The section is further amended to provide local governments may establish an appeals process to challenge the prequalification of contractors. The local government must publish prequalification criteria and procedures to allow contractors to prequalify locally; and provide for a process for contractors who are found not to prequalify by the local government to appeal such finding.

Section 337.14(1), F.S., is amended to provide the 30-day period FDOT has to reply to a contractors application for qualification begins once FDOT determines the application for qualification is complete, thereby giving FDOT sufficient time to request and receive from the contractor the information necessary to complete the application. More time is also allowed for contractors to respond to FDOT's requests for information. Section 337.14(4), F.S, is amended to clarify submitting an application to renew a certificate of qualification does not affect the expiration of the current certification of qualification.

Toll Violations

Section 316.1001, F.S., is amended to provide a uniform traffic citation may be issued by certified mail or first class mail for a toll payment violation, and mailing such citation to the address of the registered owner of the vehicle constitutes notification. The section is further amended to provide any person who is cited for one or more outstanding toll violations may not register any vehicle until the fine is paid.

Section 316.650, F.S., is amended to clarify a police officer who has issued a ticket for a toll violation has 45 days, from the date the citation was issued, to submit documentation to the proper agency. Further s. 318.14, F.S., is amended to authorize a person who is issued a citation for a toll violation to pay the fine directly to the governmental entity that issued the citation.

Commercial Motor Vehicle Enforcement

The committee substitute amends s. 316.302, F.S., to authorize FDOT to conduct compliance reviews for the purpose of determining compliance of commercial motor vehicles with all safety requirements contained in s. 316.302, F.S. The section is further amended to require the display of certain information on the side of the power unit of certain commercial vehicles. The committee substitute clarifies commercial trucks are required to comply with federal and state hazardous material requirements only when carrying such materials in amounts that require placarding pursuant to federal law.

Section 316.3025, F.S., is amended throughout to accommodate a name change from the North American Uniform Out-of-Service Criteria to the North American Standard Out-of-Service Criteria. The section is amended to retain a penalty for violations of identification requirements by intrastate commercial motor vehicles transporting agricultural products.

The section is amended to clarify the applicability of a $500 penalty, pursuant to 49 C.F.R. 390.19, for failure to register and obtain a motor carrier identification number from the U.S. Department of Transportation; and to provide for the same penalty for failure of an interstate motor carrier to obtain operating authority and for operating beyond the scope of its operating authority. The section is amended to change a reference from "terminal audits" to "compliance reviews," and to provide an increase in penalties and sanctions for failure to correct violations detected in follow-up compliance reviews.

Section 316.3025(4), F.S., is created to authorize placing a vehicle out-of-service which is operated by an interstate motor carrier found in violation of 49 C.F.R. 392.9a for the carrier's failure to obtain operating authority or operating beyond the scope of its operating authority.

Section 316.3026, F.S., is amended to allow the Motor Carrier Compliance Office (MCCO) to issue out-of-service orders to motor carriers prohibited to operate in other states or by federal order. The motor carrier operating illegally will be assessed a $10,000 civil penalty, in addition to any other applicable penalties. In addition, any person who knowingly drives, operates, or causes to be operated any commercial motor vehicle in violation of the MCCO's out-of-service order commits a third-degree felony, punishable by up to a five years in prison. The committee substitute also broadens the MCCO's powers to issue out-of-service orders to include carriers who fail to pay previously assessed fines, who refuse to submit to a compliance review, or who have motor-carrier or insurance violations. Carriers are able to seek an administrative hearing pursuant to s. 120.569, F.S., to overturn an out-of-service order.

The committee substitute further amends s. 316.515(3)(b)2.a., F.S., to allow vehicles used exclusively or primarily to transport vehicles in connection with motorsports competition events to have a measurement not to exceed 46 feet between the kingpin and the center of the rear axle.

The committee substitute also amends s. 316.545(10), F.S., allowing the MCCO's non-sworn weight-station personnel to detain a commercial motor vehicle with obvious safety defects critical to the continued safe operation of the vehicle, or which is operating in violation of an out-of-service order reported on the Safer System database, until an MCCO officer arrives. The detained vehicle must be released if repairs to the safety defects are made prior to the arrival of an MCCO officer. The committee substitute repeals s. 316.610, F.S., which provided for a vehicle safety inspection program which is not in operation. The committee substitute further amends s. 316.640, F.S., to move FHP traffic accident investigators provisions to its own subparagraph, and amends s. 316.70, F.S.; authorizing compliance reviews for non-public sector buses.

Aviation Program

This committee substitute amends ss. 330.27, 330.29, 330.30, 330.35, and 330.36, F.S., providing for numerous changes to the FDOT Aviation program. The site fee ($100) and license fees ($25 - $100) for all airports are repealed. The proposal also replaces the current requirement for physical inspection of private airport sites for approval and licensing with an electronic self-certification registration program; however, FDOT may continue to inspect and license private airports with 10 or more planes, at the request of the owners of these private airports. The committee substitute also authorizes FDOT to establish: the necessary data system to register private airports; standards to accomplish self-certification for site approval and registration; and, requirements for administering and enforcing the new provisions. The committee substitute further changes numerous aviation related definitions to remove outdated, obsolete, or incorrect language. The committee substitute specifies these provisions do not take effect until October 1, 2003.

Aerospace

Section 331.308, F.S., currently provides that the Lieutenant Governor serves as chair of the board of supervisors of the Florida Space Authority (FSA). According to FSA representatives, there are a number of administrative and fiscal issues that rise to the level where board review and approval are appropriate, but do not warrant the attention of the Lieutenant Governor. The committee substitute amends this section to authorize the board of supervisors to elect a vice chair to preside in the absence of the Lieutenant Governor and to perform other duties as may be required. The committee substitute also revises several definitions to delete obsolete terms.

The committee substitute amends s. 331.368, F.S., to revise several provisions relating to Florida Space Research Institute (FSRI)**.** The committee substitute implements a schedule to rotate industry and academic members on the FSRI board of directors. Under this provision, private-

sector representatives would serve 3-year terms, and academic members would serve 2-year terms. This same section is amended to provide that the board may select additional ex-officio, nonvoting members to serve on the board. In addition, the committee substitute clarifies that FSRI board members are volunteers and are subject to all protections afforded to volunteers of state agencies under s. 768.1355, F.S.

The committee substitute provides that contracts and grants issued by FSRI to state agencies, including state universities and colleges, are subject to s. 216.346, F.S. Section 216.346, F.S., stipulates that in contracts between state agencies, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect costs.

The committee substitute clarifies FSRI's operational responsibilities by providing specific authorization to engage in certain activities. For example, the committee substitute provides that FSRI is authorized to:

- Appoint a person to serve as executive director.
- Acquire and dispose of property.
- Execute contracts.
- Establish rules and procedures governing the administrative and financial operations.
- Administer grants, contracts, and fees from other organizations.
- Work in partnership with other economic development and educational organizations.

The committee substitute amends s. 331.401, F.S., to change the name of the "Florida Commercial Space Financing Corporation" to the "Florida Aerospace Finance Corporation." According to representatives of the corporation, this change will eliminate confusion surrounding its mission and enable the corporation to service aviation-related projects. Similarly, the committee substitute amends s. 331.405, F.S., to provide a definition for the term "aerospace".

The committee substitute amends s. 331.407, F.S., to incorporate legislative intent language providing the corporation is not an agency for purposes of ss. 216.011, and 287.012, F.S. Section 216.011, F.S., establishes planning and budgeting provisions applicable to state agencies. Section 287.012, F.S., establishes procurement requirements applicable to state agencies. The corporation maintains this provision is warranted in view of its status as a not-for-profit corporation.

Finally, the committee substitute implements technical and conforming changes throughout ch. 331, F.S.

> Please refer to the Military and Veterans' Affairs, Base Protection, and Spaceports Committee section for further discussion of this portion of the bill.

511 Service

The committee substitute creates s. 334.03(37), F.S., to define "511" or "511 services" as three-digit telecommunications dialing to access interactive voice response telephone traveler information services provided in the state as defined by the Federal Communications Commission in FCC Order #00-256 (July 31, 2000). The committee substitute further creates s. 334.03(38), F.S., to define "interactive voice response" as a software application that accepts a combination of voice telephone input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail and other media.

Section 334.044(32), F.S., is amended to include in the FDOT's general powers and duties the oversight of traveler information systems that may include interactive voice response telephone systems accessible via the 511 number as assigned by the FCC for traveler information services.

Section 334.60, F.S., is created to establish FDOT as the lead agency and point of contact for implementation and coordination of all 511 phones services in the state. The section directs FDOT to develop uniform standards and criteria for collection and dissemination of traveler information using 511 services, and authorizes joint agreements and contracts with other governmental entities and private firms relating to 511 services to offset the costs of implementation and administration of 511 services. The section provides rulemaking authority for FDOT to implement 511 services.

Right of Way Acquisition

Section 336.467, F.S., is amended to authorize counties or other governmental entities to contract with the FDOT to acquire rights of way for a county or other governmental entities and eliminates the narrow circumstances under which counties are currently authorized to contract with FDOT.

Materials Testing Services

The committee substitute amends s. 337.14 (7), F.S., removing the potential for a conflict of interest that exists as a result of having material lab testing services performed by the same or affiliate entity that performs the construction contract. Material labs owned by or affiliated with qualified construction companies will be prohibited from acting as material testing labs on FDOT projects.

Surety Bonds; Incentive Payments

One of the intents of amending s. 337.18, F.S., was to clarify the provisions of s. 255.05, F.S., are not applicable to the road construction and maintenance contract bonds specifically addressed in s. 337.18, F.S.

However, the section is amended to provide upon execution of the contract for a surety bond, and prior to beginning any work under the contract, the contractor must record in the public records of the county where the improvement is located, the payment and performance bond required under this section. A claimant has a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action may not involve FDOT in any expense.

Further, a claimant, except a laborer, who is not in privity with the contractor must before commencing or not later than 90 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies must deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. The notice of nonpayment may be served at any time during the progress of the work or thereafter but not before 45 days after the first furnishing of labor, services, or materials, and not later than 90 days after the final furnishing of the labor, services, or materials by the claimant or, with respect to rental equipment, not later than 90 days after the date the rental equipment was last on the job site available for use. No action by a claimant, except a laborer, who is not in privity with the contractor, for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. Notices required or permitted under this section may be served in any manner provided in s. 713.18, F.S.

The section is further amended to provide an action must be instituted by a claimant, whether in privity with the contractor or not, against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 365 days after the final acceptance of the contract work by FDOT. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions.

When a contractor has furnished a payment bond pursuant to this section, he or she may, when FDOT makes any payment to the contractor, serve a written demand on any claimant who is not in privity with the contractor for a written statement under oath of his or her account showing the nature of the labor or services performed to date, if any; the materials furnished; the materials to

be furnished, if known; the amount paid on account to date; the amount due; and the amount to become due, if known, as of the date of the statement by the claimant. Any such demand to a claimant who is not in privity with the contractor must be served on the claimant at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by the claimant. The failure or refusal to furnish the statement does not deprive the claimant of his or her rights under the bond if the demand is not served at the address of the claimant or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 60 days after the demand, or the furnishing of a false or fraudulent statement, deprives the claimant who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a claimant and none of the information regarding the account has changed since the claimant's last response to a demand, the failure or refusal to furnish such statement does not deprive the claimant of his or her rights under the bond. The negligent inclusion or omission of any information deprives the claimant of his or her rights under the bond to the extent that the contractor can demonstrate prejudice form such act or omission by the claimant. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed before the date the demand for statement of account is received by the claimant.

The committee substitute provides the bonds provided for in this section are statutory bonds, and the provisions of s. 255.05, F.S., are not applicable to bonds issued pursuant to this section.

Unsolicited Proposals

Section 338.235(2), F.S., is amended to authorize the Turnpike Enterprise to secure by competitive solicitation products, services, and business opportunities authorized by s. 338.234, F.S., and to establish a mechanism for responding to unsolicited proposals. If FDOT receives an unsolicited proposal for products, services, or business opportunities which it wishes to consider, FDOT must publish notice in a newspaper of general circulation at least once a week for two weeks, or may broadcast such notice by electronic media for two weeks stating FDOT has received the proposal and will accept other proposals for the same project for 30 days after the initial publication.

Strategic Intermodal System

Sections 339.61 and 339.62, F.S., are created to provide legislative findings and to provide the Strategic Intermodal System (SIS) must consist of components of:

- The Florida Intrastate Highway System established pursuant to s. 338.001, F.S.
- The National Highway System.
- Airport, seaport, and spaceport facilities.

- Rail facilities.
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, County Road System, City Street System and local public transit systems that serve as connections between other modes.
- Existing or planned corridors which serve a statewide or interregional purpose.

Section 339.63, F.S., is created to provide that the initial SIS must include all facilities meeting the criteria recommended by the Strategic Intermodal Steering Committee. Subsequent to the initial designation of the SIS, the FDOT secretary will periodically add facilities to or delete facilities from the SIS based upon adopted criteria.

Section 339.64, F.S., is created to provide that FDOT must develop, in cooperation with metropolitan planning organizations, regional planning councils, local governments, the Statewide Intermodal Advisory Council (SITAC), and other transportation providers, a Strategic Intermodal System Plan. The plan must be consistent with the Florida Transportation Plan developed under s. 339.155, F.S., and updated at least once every 5 years, subsequent to updates of the Florida Transportation Plan. The SIS Plan must include:

- A needs assessment.
- A project prioritization process.
- A map of facilities designated as Strategic Intermodal System facilities, as well as, facilities that are emerging in importance and are likely to be designated as part of the system in the future.
- A finance plan based on projections of revenues that can reasonably be expected. The finance plan must include both 10-year and 20-year cost-feasible components.

The section further provides that the Florida Transportation Commission must conduct an assessment of the need for an improved philosophical approach to regional and intermodal input in the planning for and governing of the Strategic Intermodal System and other transportation systems.

Section 339.65, F.S., is created to provide definitions, legislative findings, and creates the Statewide Intermodal Transportation Advisory Committee. The members of SITAC will consist of the following members:

- Five intermodal industry representatives selected by the Governor as follows:
    - One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.

  - One representative from a fixed-route, local-government transit system.
  - One representative from an intercity bus company providing regularly scheduled bus travel as determined by federal regulations.
  - One representative from a spaceport.
  - On representative from intermodal trucking company.
- Three intermodal industry representatives selected by the President of the Senate as follows:
  - One representative from major line railroads.
  - One representative from seaports listed in s. 311.09(1), F.S., from the Atlantic Coast.
  - One representative from an airport with intermodal facilities.
- Three intermodal industry representatives selected by the Speaker of the House of Representatives as follows:
  - One representative from short line railroads.
  - One representative from seaports listed in s. 311.09(1), F.S., from the Gulf Coast.
  - One representative from intermodal trucking companies. Such representative may not be employed by the same entity that employs the intermodal trucking company representative selected by the Governor.

The initial appointments made by the President of the Senate and the Speaker of the House of Representatives will serve terms concurrent with those of the respective appointing officer. Beginning January 15, 2005, and for all subsequent appointments, council members appointed by the President of the Senate and the Speaker of the House of Representatives will serve 2-year terms, concurrent with the term of the respective appointing officer. The initial appointees, and all subsequent appointees, appointed by the Governor will serve 2-year terms. Vacancies on the council will be filled in the same manner as the initial appointments.

The section provides the SITAC is created to advise and make recommendations to the Legislature, and FDOT on planning and funding of intermodal transportation projects in this state.

Road Designations

This committee substitute designates a bridge in Nassau and Duval Counties the "George Crady Bridge"; a bridge in Glades County as "Mamie Langdale Memorial Bridge"; and, a road in Miami-Dade County as "Rodolfo Garcia Memorial Avenue."

State-Wide Transportation Corridors

The committee substitute creates s 341.0532, F.S., to identify the following state-wide transportation corridors:

- The Atlantic Coast Corridor, from Jacksonville to Miami, including Interstate 95.
- The Gulf Coast Corridor, from Pensacola to St. Petersburg and to Tampa including U.S. Route 98 and U.S. Route 19/State Road 27.
- The Central Florida/North-South Corridor, from the Florida-Georgia border to Naples and Fort Lauderdale/Miami, including Interstate 75.
- The Central Florida/East-West Corridor from St. Petersburg to Tampa and to Titusville, including Interstate 4 and the Beeline Expressway.
- The North Florida Corridor, from Pensacola to Jacksonville, including Interstate 10, and U.S. Route 231, State Road 77 and State Road 79 from the Florida-Alabama border to Panama City.
- The Jacksonville to Tampa Corridor, including U.S. Route 301.
- The Jacksonville to Orlando Corridor, including U.S. 17.
- The Southeastern Everglades Corridor, linking Wildwood, Winter Garden, Orlando, and West Palm Beach via the Florida Turnpike.

The term "corridor" includes railways adjacent to such corridor and the roadways linking to transportation terminals, and intermodal service centers to the major highways listed as corridors.

Other Transportation Issues

The committee substitute amends s. 95.361, F.S., to clarify the ownership status of roads, built by a private developer or whose origin is unknown, but which have been maintained for many years by a public entity. The section is amended to specify a road which has been maintained by a public entity for at least seven years will vest to the maintaining public entity. Any person, firm, corporation or entity having or claiming any interest in these roads of unknown origin has one year from the effective date of this act to file a claim, or for a period of seven years from the initial date of regular maintenance or repair of the road in question to file a claim, whichever is greater.

The committee substitute repeals s. 83 of ch. 2002-20, L.O.F., as amended by s. 58 of ch. 2002-402, L.O.F., pertaining to preference for FDOT grants for counties which have a population of greater than 50,000, and which levy the full 6 cents of the local option gas tax or dedicates 35 percent or more of a discretionary sales surtax for improvements to the state transportation system.

The committee substitute designates the Florida Air Museum in Lakeland as the official state aviation museum and education center.

The committee substitute amends s. 337.401, F.S., to authorize FDOT to delegate utility permit authority to another government entity.

Section 334.071, F.S., is amended to provide FDOT may not erect markers for honorary road or bridge designations unless the affected city or county enacts an ordinance supporting the designation.

Section 335.02, F.S., is amended to provide, notwithstanding any general law or special act, regulations of any county, municipality, or special district do not apply to existing or future transportation facilities or appurtenances thereto, on the State Highway System.

Section 332.007, F.S., is amended to extend the time period airports may use FDOT capital-improvement grants for operations, maintenance, and security enhancements to 2007.

Section 163.3177, F.S., is amended to provide an airport that has received a development-of-regional impact development order, but is no longer required to undergo development-of-regional impact review, may abandon its development-of-regional impact order upon written notification to the applicable local government.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 37-0; House 118-0

CS/CS/SB 2070 — Public Transit

by Appropriations Committee; Transportation Committee; and Senator Sebesta

The committee substitute amends s. 341.031, F.S., to define "intercity bus service," as any regularly scheduled bus service for the general public which:

- Operates with limited stops over fixed routes connecting two or more urban areas not in close proximity.
- Has the capacity for transporting baggage carried by passengers.
- Makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.
- Maintains scheduled information in the National Official Bus Guide.
- Provides package express service incidental to passenger transportation.

Further, the committee substitute defines “eligible bus carrier” or “carrier” as a private company that has operated defined intercity bus service in the state, with formal authority in accordance with the rules and regulations of the Federal Motor Carrier Safety Administration and the Surface Administration Transportation Board of the U.S. Department of Transportation, for a minimum of two years.

The section is further amended to define “eligible intercity bus costs" as the total costs directly incident to the provision of intercity bus service, including any depreciation or amortization of capital assets purchased without public financial assistance. "Intercity bus capital project" is defined as a capital project undertaken by an intercity bus carrier to provide intercity bus service, and is limited to acquisition, design, construction, reconstruction, or improvement of a privately operated intercity bus service. Projects may include that portion of a governmentally owned or operated transit system designed to support privately operated intercity bus service.

Section 341.041, F.S., is amended to:

- Direct FDOT to add intercity bus service to its statewide transit plan.
- Formulate a program to finance intercity bus service projects.
- Provide technical and financial operating assistance to intercity bus companies.
- Make department-owned transit vehicles available for short-term lease to intercity bus services.
- Coordinate activities and assist in developing and implementing marketing and passenger information programs.

FDOT currently provides these services to local-government transit agencies.

The committee substitute amends s. 341.051, F.S., directing FDOT to utilize and dedicate federal funds apportioned to intercity bus service pursuant to federal guidelines to support a statewide intercity bus network, and specifies that intercity bus service and intercity bus service projects are eligible for 100 percent funding in federal transit aid for capital projects and for state matching funds. The section further authorizes FDOT to fund up to 100 percent of the federal aid apportionment for intercity bus service. Section 341.053, F.S., is amended to include intercity bus lines and terminals in the intermodal plan and to provide that the intercity lines are eligible for funding through the Intermodal Development Program. Section 339.135, F.S., is amended to provide that funds for the intercity bus program must be administered directly to eligible bus carriers.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0 House 114-0

CS/CS/SB 686 — Transportation

by Comprehensive Planning Committee; Transportation Committee; and Senators Geller, Klein, Villalobos, Dawson, Margolis, Wasserman Schultz, Campbell, and Bullard

This committee substitute amends ss. 343.51, 343.52, 343.53, 343.54, 343.55, 343.56, 343.57, 112.3148, 768.28, and creates s. 343.58, F.S. The committee substitute replaces Tri-Rail with the South Florida Regional Transportation Authority (SFRTA) whose proposed authority would extend to any transit system in the three affected counties with approval by the county commission with authority over the transit agency. The governing board of SFRTA will consist of nine members: one county commissioner from each of the three affected counties, selected by each county commission; one resident from each county, selected by each county commission, representing business or civic interests; one representative of Florida's Department of Transportation selected by its Secretary; and two residents of any of the three counties selected by the Governor.

The committee substitute provides if the SFRTA service area is expanded the new member county on the SFRTA will be represented by one member appointed by the county commission for that county; one resident from the county, selected by the county commission, representing business or civic interests; and one resident of the county selected by the Governor.

The committee substitute provides Palm Beach, Broward and Miami-Dade Counties must each contribute $2.67 million annually beginning on August 1, 2003, and the committee substitute provides these funds may come from each county's share of the ninth-cent fuel tax, the local option fuel tax, or any other source of local gas taxes or nonfederal funds available. In addition, the committee substitute authorizes the levy of an annual license tax in the amount of $2 for the registration or registration renewal of each vehicle registered in the area served by the SFRTA, upon approval by referendum from the registered voters in the county. The committee substitute specifies counties served by SFRTA must continue to dedicate $1.565 million to the SFRTA as they were dedicated annually to Tri-Rail, and the $2.67 million contribution is in addition to these funds.

The committee substitute authorizes the authority to expand the service area of the SFRTA beyond Palm Beach, Broward and Miami-Dade Counties and enter into a partnership with contiguous counties with consent from the county commission of that county. However, a county may join the SFRTA only in the year federal reauthorization legislation for transportation funds is enacted.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 33-3; House 117-0

HB 773 — Central Florida Regional Transportation

by Rep. Gardiner and others (CS/CS/SB 1720 by Comprehensive Planning Committee; Transportation Committee; and Senators Webster and Constantine)

The committee substitute amends s. 343.63, F.S., to change the membership of the governing board of the Central Florida Regional Transportation Authority from 11 members to 5 members as follows:

- The chair of the county commissions of Seminole, Orange, and Osceola Counties or their designees will each serve as members for the full extent of his or her term.
- One member must be the mayor of the city of Orlando, or a member of the Orlando City Council, as designated by the mayor, and serve for the full extent of his or her term.
- One member will be the FDOT district secretary or his or her designee.

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

HB 1813 — Local Option Fuel Taxes/Motor Fuel

by Rep. Altman and others (CS/SB 332 by Finance and Taxation Committee and Senator Saunders)

The bill amends s. 206.60, F.S., to add bicycle paths and pedestrian pathways to those projects for which the "1-cent county fuel tax," levied pursuant to s. 206.41(1)(b), F.S., may be spent, at the discretion of county commissions.

The bill amends s. 206.605, F.S., to add bicycle paths and pedestrian pathways to those projects for which the "1-cent municipal fuel tax," levied pursuant to s. 206.41(1)(c), F.S., may be spent, at local discretion.

The bill amends s. 336.025(1)(b), F.S., to expand how counties and municipalities may expend funds received from the local option gas tax. This bill authorizes funds from the last 5 cents of the 11-cent local option fuel tax to be expended for projects needed to meet immediate local transportation problems and for other transportation related expenditures critical for building comprehensive roadway networks by local governments.

Subsection (7) of s. 336.025, F.S., is also amended to provide that proceeds from the 11-cent local option gas tax may be expended on current expenditures for the construction or reconstruction of sidewalks. Subsection (8) is amended authorizing a municipality in a county with a population of 50,000 or less to use the proceeds from the first 6 cents of the 11-cent local option gas tax for infrastructure projects, provided such projects are consistent with the local government's comprehensive plan.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

HB 1833 — Secure Airports for Florida Act

by Transportation Committee and others (CS/CS/SB 2578 by Home Defense, Public Security and Ports Committee; Transportation Committee; and Senators Sebesta and Bullard)

Section 322.14, F.S., creates the Secure Airports for Florida's Economy (SAFE) Council consisting of the directors, or their designees, of commercial service airports in Florida; the Secretaries or their designees, of the Department of Community Affairs and the Florida Department of Transportation (FDOT); the director of the Office of Tourism, Trade, and Economic Development and of the Department of Law Enforcement, or his or her designee; the executive directors of two general aviation airports, appointed by the Florida Airports Council; a representative of the general aviation industry appointed by the Florida Aviation Trades Association; and a representative of the airline industry appointed by the Air Transport Association.

The airports to be represented are: Daytona Beach International Airport, Gainesville Regional Airport, Fort Lauderdale-Hollywood International Airport, Jacksonville International Airport, Key West International Airport, Melbourne International Airport, Miami International Airport, Naples Municipal Airport, Okaloosa County Regional Airport, Orlando International Airport, Orlando-Sanford International Airport, Palm Beach County International Airport, Panama City-Bay County International Airport, Pensacola Regional Airport, Sarasota-Bradenton International Airport, Southwest Florida International Airport, St. Petersburg-Clearwater International Airport, Tallahassee Regional Airport, and the Tampa International Airport.

The Section provides the SAFE Council members will serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S.

The section provides the SAFE Council must develop a five-year SAFE Master Plan defining goals and objectives needed to develop airport facilities and an intermodal transportation system. The Master Plan must include recommendations for the acquisition and construction of transportation facilities connecting any airport with another mode of transportation, and the acquisition and construction of transportation or aviation facilities designed to protect passengers and crews, enhance international trade and increase airport revenues.

The Master Plan must be updated annually, and submitted by February 1 of each year to the President of the Senate, the Speaker of the House of Representatives, the Office of Tourism, Trade, and Economic Development, the Department of Community Affairs, and FDOT. The bill further directs the SAFE Council to review existing programs in Florida and other states when developing programs for the training of minorities and secondary school students interested in aviation careers. The SAFE Council is authorized to utilize, as authorized by the legislature, any

federal, state, and local-government contributions, as well as private donations to fund the Master Plan.

The section requires the SAFE Council to promulgate rules for evaluating projects that may be funded under this act. The SAFE Council must review and approve or disapprove each project eligible to be funded under the SAFE Program.

The Department of Community Affairs is required to review the SAFE Council project list to determine a project's consistency with local government comprehensive plans. FDOT is required to review the project list to determine whether the projects are in the Five-Year Work Program, or if not, are necessary to provide for projected movement of cargo or passengers from an airport to a state transportation facility or local road. The bill provides that the Department of Law Enforcement must review the list of projects for consistency with domestic security provisions, and the Office of Tourism, Trade, and Economic Development must review the project lists to determine economic benefits of the projects and if the projects are consistent with SAFE's Mission Plan.

The section requires the SAFE Council to create bylaws and address certain administrative matters, including hiring administrative staff whose expenses are shared by the airports.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/SB 2162 — Road Designations

by Transportation Committee and Senator Sebesta

This committee substitute creates the following road and bridge designations:

- Interstate 275 which begins at the Pinellas County end of the Howard Franklin Bridge and, proceeding south, ends at the beginning of the Sunshine Skyway Bridge is designated as the "St. Petersburg Parkway."
- The new Rose Bay bridges on U.S. Highway 1, between the Cities of New Smyrna Beach and Port Orange, are dedicated in honor of United States military personnel who were prisoners of war (POW's) or who are missing in action (MIA's).
- Bridge number 550122 on Thomasville Road in the City of Tallahassee in Leon County is designated as the "Veterans Memorial Bridge."
- State Road 77 between Baldwin Road and Mowat School Road in the City of Lynn Haven in Bay County is designated as the "Lynn Haven Parkway."

- State Road 16 from the northwestern city limits of Starke in Bradford County to State Road 121 in Union County is designated as the "Correctional Officers Memorial Highway."
- Interstate 75 from the Georgia-Florida state line to the city limits of Ocala in Marion County is designated as the "Purple Heart Memorial Highway."
- Highway 417 in Seminole County is designated as the "Korean War Veterans Memorial Highway."
- State Road 100, beginning at the western city limits of the Town of Flagler Beach in Flagler County and continuing east to the eastern city limits of the Town of Bunnell, is designated as the "Veterans Memorial Highway."
- U.S. 1 from 57th Avenue to S.W. 80th Street in Miami-Dade County is designated as "South Miami All-American Parkway."
- The portion of North 36th Street from Biscayne Boulevard to N.W. 7th Avenue is designated "Borinquen Boulevard."

The Florida Department of Transportation is directed to erect suitable markers designating the above transportation facilities.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

CS/SB 1958 — Road Designations

by Transportation Committee and Senator Bullard

This committee substitute creates the following road designations:

- U.S. Highway 1 between S.W. 136th Street and S.W. 186th Street in Miami-Dade County is designated as "Steven Cranman Boulevard."
- S.W. 186th Street between U.S. Highway 1 and S.W. 107th Avenue in Miami-Dade County is designated as "Ethel Beckford Boulevard."
- State Road 5 (U.S. Highway 1) between S.W. 312th Street and S.W. 328th Street in Miami-Dade County is designated as "Phicol Williams Boulevard."
- S.W. 112th Avenue from U.S. 1 to S.W. 230th Street in Miami-Dade County is designated as "Arthur Mays Boulevard."
- U.S. Highway 1 between S.W. 232nd Street and S.W. 248th Street in Miami-Dade County is designated as "Judge Steve Levine Boulevard."

- State Road 944 on N.W. 54th Street in Miami-Dade County, from the west boundary of State House District 108 to U.S. 1, is designated as "Toussaint L'Ouverture Boulevard."
- Highway 54 from Suncoast Parkway to U.S. 19 in New Port Richey is designated as "Darce Taylor Crist Highway."

The Florida Department of Transportation is directed to erect suitable markers designating the above transportation facilities.

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

CS/SB 1994 — Road Designations

by Transportation Committee and Senator Argenziano

This committee substitute creates the following road and bridge designations:

- Interstate 75 from the Georgia-Florida state line to the city limits of Ocala in Marion County is designated as "Purple Heart Memorial Highway."
- U.S. Highway 41 located in White Springs in Hamilton County is designated as "Dr. Martin Luther King, Jr., Memorial Highway."
- The roundabout at State Road 51, Walker Avenue, and County Road 136 located in Live Oak in
- Suwannee County is designated as "Nott Circle Roundabout."
- U.S. Highway 27 (State Road 63) inside the city limits of Havana in Gadsden County is designated as the "Dr. Martin Luther King, Jr., Memorial Highway."
- The northbound and southbound spans of the Cedar River Bridge (bridge designations 720325 and 720326) on State Road 21 in Duval County are collectively designated as the "Jim Deaton Memorial Bridge."
- State Road 56 from State Road 581, Bruce B. Downs Boulevard, on the east to State Road 54 on the west is designated as the "Darce Taylor Crist Boulevard."
- State Road 54 from U.S. 301 on the east to U.S. 19 on the west is designated as the "Purple Heart Highway."
- U.S. Highway 1 between S.W. 136th Street and S.W. 186th Street in Miami-Dade County is designated as "Steven Cranman Boulevard."
- S.W. 186th Street between U.S. Highway 1 and S.W. 107th Avenue in Miami-Dade County is designated as "Ethel Beckford Boulevard."

- State Road 5, U.S. Highway 1, between S.W. 312th Street and S.W. 328th Street in Miami-Dade County is designated as "Phicol Williams Boulevard."
- S.W. 112th Avenue from U.S. Highway 1 to S.W. 230th Street in Miami-Dade County is designated as "Arthur Mays Boulevard."
- U.S. Highway 1 between S.W. 232nd Street and S.W. 248th Street in Miami-Dade County is designated as "Judge Steve Levine Boulevard."
- State Road 50 from Ocoee to State Road 436 in Orange County is designated as "Martin L. King, Jr., Drive."

The Florida Department of Transportation is directed to erect suitable markers designating the above transportation facilities.

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

HIGHWAY SAFETY AND MOTOR VEHICLES

CS/CS/SB 52 — Driver's Licenses/Vision Tests

by Health, Aging, and Long-Term Care Committee; Transportation Committee; and Senators Wise and Lynn

The committee substitute amends s 322.18 F.S., requiring a licensee who is otherwise eligible for a renewal license and who is over 79 years of age to: (1) submit to and pass a vision test administered at any driver's license office; or (2) if applying for an extension by mail, then submit to a vision test administered by a licensed physician or optometrist who must send the results of the test to the Department of Highway Safety and Motor Vehicles (DHSMV) via electronic means as approved by DHSMV, or on the proper DHSMV form signed by the physician or optometrist and meet vision standards equivalent to DHSMV's vision test. The committee substitute further modifies driver's license laws to prohibit a licensee who is over 79 years of age from submitting an application for extension by electronic or telephonic means, unless the results of a vision test have been electronically submitted in advance by the physician or optometrist. The committee substitute also requires the DHSMV to study the effects of aging on driving ability.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 39-0; House102-0

CS/HB 75 — Red Light Volunteer Fire or Medical Staff

by Rep. Stansel and others (CS/SB 1558 by Transportation Committee and Senator Argenziano)

This committee substitute amends s. 316.2398, F.S., to eliminate restrictions on the type, size, and placement of visual emergency signals used by volunteer firefighters and eligible medical staff, limits the use of the emergency signals to no more than two on his or her personal motor vehicle, and replaces the term "red light" with "red warning signal." Also, the committee substitute authorizes volunteer firefighters to display red warning signals at the scene of a fire or other emergency.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

SB 88 — High Occupancy Vehicle Lanes

by Senator Geller

The bill amends s. 316.0741, F.S., to authorize the use of High Occupancy Vehicle lanes (HOV lanes), regardless of vehicle occupancy, by Inherently Low-Emission Vehicle (ILEV) which are certified and labeled in accordance with federal regulations. In addition, upon the state's receipt of written notice from the proper federal regulatory agency authorizing such use, a hybrid vehicle may also be driven in an HOV lane at any time, regardless of its occupancy. The bill defines a "hybrid vehicle" as a motor vehicle:

- That draws propulsion energy from onboard sources of stored energy which are an internal combustion or heat engine using combustible fuel, and a rechargeable energy storage system; and
- That, in the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act, 42 U.S.C. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a decal, at a price up to $5 to cover DHSMV's costs, to be placed on authorized ILEVs. The bill authorizes DHSMV to adopt rules necessary to administer the provisions of this bill.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

SB 614 — Bus Transportation

by Senator Miller

This bill amends ss. 316.70 and 316.6145, F.S., and requires driving records of drivers of nonpublic sector buses to be checked by their employers at least once a year to ascertain whether the driver has a suspended or revoked driver's license. In addition, private school students may ride on a public school bus and public school students may ride on a private school bus, subject to the specified terms of an agreement between the local school board and the private school.

If approved by the Governor, these provisions take effect July 1, 2003
Vote: Senate 39-0; House 114-2

SB 1046 — Operation of Motorcycles/Firefighters

by Senators Villalobos and Lynn

This bill amends s. 316.209, F.S., to provide firefighters the same privileges as police officers in relation to the operation of motorcycles in the performance of their official duties.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/SB 1896 — School Speed Zones

by Education Committee and Senator Atwater

Section 316.1895, F.S., is amended to provide that manually activated flashing beacons or flashing beacons activated by a time clock, or other automatic device, may be used as an alternative to posting the times during which the restrictive school speed limit is enforced, as required by current law. The committee substitute provides that the Florida Department of Transportation is responsible for establishing adequate standards for the beacons.

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

CS/SB 2708 — Motor Vehicle Dealers

by Transportation Committee and Senator Sebesta

Section 320.60, F.S., is amended to include trucks, regardless of weight, in the definition of "motor vehicle," thereby requiring a dealership selling such trucks to be licensed by the Department of Highway Safety and Motor Vehicles (DHSMV). "Service" is defined to mean any maintenance or repair of any motor vehicle or used motor vehicle sold or provided to an owner, operator, or user pursuant to a motor vehicle warranty, or any warranty extension. "Used motor

vehicle" is defined as any motor vehicle the title to which has been transferred, at least once, by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

Section 320.64, F.S., is amended to prohibit a motor vehicle manufacturer, distributor, or importer from:

- Leasing or selling motor vehicles at retail, other than heavy trucks with a net weight of more than 8,000 pounds.
- Requiring a franchise dealer to sell or lease any used vehicle including any used motor vehicles.
- Refusing to assign or sell motor vehicles to a motor vehicle dealer because the dealer refuses to sell, lease, or certify used motor vehicles.

The committee substitute amends s. 320.642, F.S., to clarify Florida law gives standing to existing dealers to protest additional or relocated service only dealerships of the same line-make, and to provide that a protesting dealer no longer has the burden of proving benefits to consumers from the new dealership cannot be obtained by other geographic or demographic changes in the community or territory.

In addition, the committee substitute provides that proposed additional or relocation service only dealerships that do not sell or lease new motor vehicles are subject to existing notice and protest provisions. However, current mileage provisions for determining standing to protest apply; and the proposed service only dealership location is not subject to protest if the applicant is an existing dealer, there is not a dealer of the same line-make closer to the proposed service only dealership, and the proposed location is at least 7 miles from existing dealerships of the same line-make.

When determining whether existing dealers of the same line-make are providing adequate representation in a community or territory, DHSMV may not consider: impacts on consumers, public interest, existing dealers, or the licensee, except as the impact relates to service; the expected market penetration of the line-make; the adequacy of facilities other than those related to service; and the volume of registrations in the community or territory.

The DHSMV may only issue a license permitting vehicle service and not sales to applicants for a service only dealership, and notice and protest provisions will apply if the service only dealer later seeks to sell new vehicles.

Sections 320.643 and 320.644, F.S., are amended to create uniform procedures for requesting and objecting to transfers of franchise agreements, transfers of assets, and changes in executive management control. The committee substitute provides that a dealer or transferee must notify a licensee of the transfer or change in executive management control. If the licensee objects to the

transfer or change, the dealer may file a complaint. At a hearing on the complaint, the licensee is required to prove the transfer or change is to a person who is not of good moral character, does not meet the licensee's financial qualifications (in the case of transfers), or does not have the required business experience. Pending a hearing regarding a proposed transfer of an agreement or assets, or a proposed change in executive management control, the franchise agreement will continue in effect in accordance with its terms, and DHSMV must expedite the disposition.

The committee substitute also provides that it is a violation of the Act for a licensee to reject or withhold approval of a proposed transfer or change in executive management control, unless it can prove in defense of a claim brought seeking treble damages under s. 320.697, F.S., the rejection or withholding of approval was, in fact, reasonable. The committee substitute provides that what is reasonable is to be determined by application of an objective standard, and further expressly provides that a licensee is not protected from violation of the s. 320.643, F.S., by merely alleging the permitted statutory grounds in a written rejection of a proposed transfer.

The committee substitute clarifies that "executive management control" means the person or persons designated under the franchise agreement as the dealer/operator, executive manager, or similarly designated persons who are responsible for the overall day to day operation of the dealership.

Section 320.645, F.S., is amended to authorize certain distributors, or their common entities, to own and operate one or more dealerships in Florida of a different line make than the distributorship, regardless of ownership prior to July 1, 1996.

Section 501.976, F.S., is amended to provide when a dealer represents a vehicle as a "demonstrator" it must comply with the definition of demonstrator in s. 320.60(3), F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

HB 287 — Specialty License Plate/Motorcycles

by Rep. Cretul and others (CS/SB 148 by Transportation Committee and Senators Wise, Lynn, and Argenziano)

This committee substitute creates s. 320.08068, F.S., and directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop and issue reduced dimension specialty license plates for motorcycles, which are to be 4 inches wide by 7 inches long and incorporate a red, white, and blue color scheme. In addition to applicable motor vehicle registration taxes and fees, a $15 annual use fee will be charged for this new specialty license plate.

The annual use fees shall be distributed to The Able Trust as custodial agent who may retain a maximum of 10 percent of the proceeds from the sale of the plate to be used for administrative costs. The Able Trust will distribute the remaining funds as follows:

- 25 percent to the Brain and Spinal Cord Injury Program Trust Fund.
- 25 percent to Prevent Blindness Florida.
- 25 percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program under s. 413.402, F.S.
- 25 percent to the Florida Association of Centers for Independent Living in the form of matching grants from private nongovernmental sources (must be used for programs and activities serving disabled Floridians).

The committee substitute specifies, upon the sale of the motorcycle carrying it, the plate may be transferred with DHSMV's authorization to a replacement vehicle. Also, DHSMV may issue personalized prestige motorcycle specialty license plates. These provisions are parallel to provisions governing standard-sized license plates for cars and light trucks.

If approved by the Governor, these provisions take effect October 1, 2003
Vote: Senate 39-0; House 119-0

CS/SB 308 — License Plate/Sea Turtle

by Appropriations Committee and Senators Smith, Atwater, Lynn, and Pruitt

The committee substitute amends s. 320.08058, F.S., to provide that the first $500,000 in annual use fees from the sea turtle license plate are to be used by the Florida Marine Turtle Protection Program administered by the Fish and Wildlife Conservation Commission (FWCC). The next $215,000 in fees are to be distributed to the Caribbean Conservation Corporation (CCC), which is to annually distribute these funds through a Sea Turtle Grants Program that supports sea turtle research and education activities of Florida-based nonprofit groups, educational institutions, and Florida coastal counties.

The CCC is required to write and publish procedures for submitting grant applications and criteria for allocating available funds, and to appoint a technical advisory committee, which is directed to select grant recipients from proposals submitted by eligible entities. The technical advisory committee will be composed of two members from the FWCC, one member from a county bordering the Atlantic Coast with a sea turtle nesting site (rotated on a biennial basis), one member from a county bordering the Gulf Coast with a sea turtle nesting site (rotated on a biennial basis), the executive director of the CCC, and two members selected at large.

Revenue from the sea turtle license plate in excess of $715,000 is to be distributed as follows:

- 70 percent is to be deposited in the Marine Resources Conservation Trust Fund and used by the Florida Marine Turtle Protection Program for sea turtle conservation activities.
- 30 percent is to be assigned to the CCC for distribution through the Sea Turtle Grants Program.

Further, up to 15 percent of total funds distributed to the CCC may be expended for administrative costs directly associated with the grants program, and up to 10 percent of total funds distributed to the CCC may be used to promote and market the license plate. None of the funds may be expended for litigation.

The committee substitute also appropriates $350,000 from the Marine Resources Conservation Trust Fund to FWCC for FY 2003-04 for transfer to the CCC to fund the Sea Turtle Grants Program. Any remaining funds in the Marine Resources Conservation Trust Fund are to be used by FWCC for sea turtle research and management activities.

The committee substitute repeals paragraph (h) of subsection (1) of s. 370.12, F.S., which provides for the FWCC's Sea Turtle Grants Program.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/CS/CS/SB 310 — License Plate/Child Abuse Prevention

by Finance and Taxation Committee; Children and Families Committee; Transportation Committee; and Senators Smith, Lynn, and Peaden

This committee substitute amends ss. 320.08056 and 320.08058, F.S., and directs the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a Child Abuse Prevention and Intervention license plate. In addition to applicable motor vehicle registration taxes and fees required under s. 320.08, F.S., a $25 annual use fee and a $2 processing fee will be charged for this new specialty license plate.

The revenue generated from this annual use fee is to be distributed to the Children's Home Society of Florida and the Florida Network of Children's Advocacy Centers, with the first $90,000 of proceeds being equally distributed between the two organizations to pay for start-up costs. Thereafter, 50 percent of the proceeds are to be distributed to the Children's Home Society of Florida and the other 50 percent to the Board of Directors of the Florida Network of Children's Advocacy Centers Inc., who shall develop funding criteria and an allocation methodology that ensures an equitable distribution of those funds among network participant centers that meet the standards as set forth in s. 39.3035, F.S. The criteria and methodologies must take into account factors that include, but are not limited to, the center's accreditation status

with respect to the National Children's Alliance, the number of clients served, and the population of the area being served by the children's advocacy center. In addition, for the first 5 years in which the plate is issued, a maximum of 20 percent of the fees collected may be used for administrative costs directly associated with the operation of the marketing and promotion of the plate, of which half will be allocated to the Children's Homes Society of Florida and the other half will be allocated to the Florida Network of Children's Advocacy Centers, Inc.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-1; House 112-0

SB 640 — License Plates/Military Services

by Senators Fasano, Argenziano, and Lynn

The bill amends ss. 320.08056 and 320.08058, F.S., to direct the Department of Highway Safety and Motor Vehicles (DHSMV) to issue military services specialty license plates for the United States Army, Navy, Air Force, and Coast Guard. In addition to applicable motor vehicle registration taxes and fees, a $15 annual use fee will be charged for these new specialty license plates. DHSMV must retain all revenues from the sale of the plates until all start-up costs for developing and issuing the plates have been recovered. Thereafter, the annual use fees are to be deposited into the State Homes for Veterans Trust Fund and must be used solely to construct, operate, and maintain domiciliary and nursing homes for veterans, subject to planning and budgeting requirements of ch. 216, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-2; House 98-0

HB 789 — License Plate/Stop Heart Disease

by Rep. Barreiro and others (SB 1840 by Senator Diaz de la Portilla)

This committee substitute amends ss. 320.08056 and 320.08058, F.S., directing the Department of Highway Safety and Motor Vehicles to issue a Stop Heart Disease specialty license plate. In addition to applicable motor vehicle registration taxes and fees required under s. 320.08, F.S., a $25 annual use fee and $2 processing fee will be charged for this new specialty license plate. The annual use fees will be distributed to the Florida Heart Research Foundation, Inc., to be used for funding cardiovascular disease research, education, and heart disease prevention programs through a peer review grant solicitation and award process. The first $80,000 of the annual use fees are to be used to fund startup costs, including costs incurred in developing and issuing the plates. In the first year the plate is issued, no more than 25 percent of the fees collected may be used for administrative costs directly associated with the operation of the organization and for marketing the specialty license plate. In the second and subsequent years in which the plate is sold, no more than 20 percent of the fees collected may be used for administrative costs directly

associated with the operation of the organization, and marketing and promotion of the specialty license plate.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 32-1; House 111-0

HB 1155 —Challenger/Columbia License Plate

by Rep. Poppell and others (SB 1698 by Senators Posey, Fasano, Webster, Lynn, and Haridopolos)

This bill amends ss. 320.08056 and 320.08058, F.S., and changes the name of the Challenger specialty license plate to the Challenger/Columbia license plate. The bill specifies that, in addition to the seven astronauts who died on the Challenger space shuttle, the plate also commemorates the seven astronauts who died on the Columbia space shuttle.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

HB 1501 — Hospice License Plate

by Rep. Baker and others (SB 1118 by Senators Wasserman Schultz, Fasano, Jones, Bennett, Clary, Wilson, and Peaden)

The bill amends ss. 320.08056 and 320.08058, F.S., and directs the Department of Highway Safety and Motor Vehicles to issue a Hospice specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate. The annual use fees shall be distributed to Florida Hospices and Palliative Care, Inc., to fund:

- Projects relating to hospice care for special groups such as children, veterans, ethnic, religious, gender, or minority groups or to provide disease-specific research or outreach.
- Education and outreach for hospice volunteers, patients, families, and health care professionals.
- Informational and educational media programs regarding the availability of hospice services.
- Expansion or enhancement of the Florida Hospices and Palliative Care, Inc., toll-free referral line operated to provide hospice information.
- Expansion or enhancement of the website of the organization.

The sum of $90,000 in annual use fees shall be distributed to Florida Hospices and Palliative Care, Inc., to be used to recover all startup costs for developing and issuing the plates. Thereafter, the annual use fees shall be distributed to the organization which must distribute the annual use fees through a standing committee reviewing funding solicitations and awards.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-0

CS/SB 1954 — License Plates/U.S. Paratroopers/Florida Arts/Protect Our Reefs/Fish Florida

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senator Bennett

The committee substitute creates s. 320.0891, F.S., to direct the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a U.S. Paratroopers license plate. Applicants for this license plate must submit proof of decoration as a parachutist or completion of the U.S. Army Jump School. In addition to applicable motor vehicle registration taxes and fees, a $20 annual fee will be charged for these license plates. The Department is authorized to retain all annual use fee revenues from the sale of this plate until all start-up costs for developing and issuing the plate are recovered, not to exceed $60,000. Thereafter, all annual use fee revenues will be distributed to the State Homes for Veterans Trust Fund.

The committee substitute amends s. 320.08058, F.S., and changes the distribution of the Florida Arts Specialty License Plate revenues by removing the Department of State from the revenue flow cycle. The revenues will go directly to the single arts council designated by the county, in the direct proportion to the amounts of fees collected in each county. If there is no county arts council then fees collected must be forwarded to such other agency in the county as the highest ranking county administrative official designates, to be applied by the arts council or agency to support arts organizations, arts programs, and arts activities within the county. This amendment takes effect on July 1, 2003.

Also, the committee substitute amends ss. 320.08056 and 320.08058, F.S., directing DHSMV to issue a Protect Our Reefs specialty license plate, effective July 1, 2003. In addition to applicable motor vehicle registration taxes and fees required under s. 320.08, F.S., a $25 annual use fee and a $2 processing fee will be charged for this new specialty license plate. The annual use fees will be distributed to the Mote Marine Laboratory, Inc., to be used for funding Florida reef research, conservation and education programs.

Up to 15 percent of the annual use fees received by the organization may be expended for annual administrative costs directly associated with the administration of the Protect Our Reefs program, and up to 10 percent of the annual use fees may be used by the organization for promotion and marketing of the license plate. After reimbursement for documented costs

expended for establishing the license plate, Mote Marine Laboratory, Inc., must use and distribute the remaining funds to eligible Florida-based scientific, conservation, and education organizations for the collection, analysis, and distribution of scientific, educational, and conservation information to the research community; federal, state, and local government agencies; educational institutions; and the public. Eligible organizations must be based in Florida and engaged in reef research, conservation, or education. The bill authorizes the state Auditor General to examine the records of Mote Marine Laboratory, Inc., and any organization which receives funds from the sale of the Protect Our Reefs license plate to determine compliance with the law.

Further, this committee substitute amends ss. 320.08056 and 320.08058, F.S., directing the DHSMV to issue a Fish Florida license plate. In addition to applicable motor vehicle registration taxes and fees required under s. 320.08, F.S., a $22 annual use fee and a $2 processing fee will be charged for this new specialty license plate. The annual use fees will be distributed to the Florida Foundation for Responsible Angling, Inc., to fund aquatic education, marine resource stewardship, and ethical angling practices in Florida by a peer review grant solicitation and award process. A maximum of 15 percent of the funds received by the foundation may be used for administrative costs directly associated with the foundation's grant distribution program and license plate funding. A maximum of 10 percent of the funds may be used for promotion and marketing of the license plate.

If approved by the Governor, except as otherwise provided in the bill, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 117-0

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