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# 2003-A SPECIAL SESSION

## Summary of Legislation Passed



*Compiled and Edited by  
Office of the Senate Secretary*

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## **GENERAL APPROPRIATIONS**

### **SB 2-A — General Appropriations**

by Appropriations Committee

This bill is the General Appropriations Act, which provides moneys for the annual period beginning July 1, 2003 and ending June 30, 2004, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for other specified purposes of the various agencies of state government.

#### *Article V Implementation and Judiciary*

- \$2.7 Million for State Attorney Workload
- \$1.4 Million for Public Defender Workload
- \$1.5 Million for Judicial Assistant Pay Equity
- \$1.2 Million to Fund the Increased Costs of the Human Resources Outsourcing Contract
- \$375,000 for Supreme Court and District Courts of Appeal Repairs
- \$350,000 for Increased Staffing in the Justice Administrative Commission for Article V Funding Transition
- \$100,000 to Restore Sexual Predator Conflict Payments to Prior Year Level (Replaces Nonrecurring Funds)

#### *Criminal Justice*

- \$1.7 Million for Medicaid Fraud Control in the Department of Legal Affairs
- \$28.6 Million to Fund Operating Costs For Increased Prison Population
- \$67.7 Million to Fund the Construction of Approximately 4,000 New Prison Beds
- \$3 Million For Construction and Maintenance of Department of Corrections Facilities
- \$2.6 Million to Increase Substance Abuse Funding in the Department of Corrections
- \$9.3 Million to Address A Deficit in Inmate Health Care
- \$2.9 Million to Continue Funding the Integrated Criminal History System in the Department of Law Enforcement
- \$800,000 to Purchase Laboratory Equipment and Supplies in the Department of Law Enforcement
- \$900,000 to Provide for Per Diem Increase to Juvenile Justice Providers
- \$1.6 Million to Fund 50 New Specialized Treatment Commitment Beds and 15 Detention Beds
- CINS/FINS, PACE, and Day Treatment Funding Restored

## ***Education***

### Public Schools:

- \$468.2 Million for Class Size Reduction Operating Costs and \$600 Million for Related Facilities Costs
- \$25 Million for a Nonrecurring Enhancement in Supplemental Academic Instruction Funds to School Districts to Primarily Assist Students Who Are Not Being Promoted into Third Grade Or Graduating From High School Based On FCAT Scores
- An Overall Increase in the Public School Funding Formula of \$837.4 Million, or 6.35%
- Increased Funds Per Student of \$240.80, or 4.56%
- Fully Funds Projected Enrollment Growth of 42,730 New Students
- In Addition to the \$837.4 Million, \$160 Million Is Provided to Cover Anticipated Increased FRS Contribution Requirements.
- Full Funding for the Excellent Teaching Program (\$69.5 Million, An Increase of \$20.8 Million)
- \$4.8 Million for a K-8 Virtual Education Pilot Project
- \$12.25 Million for Public School Mentoring Programs
- \$25 Million for Just Read, Florida!
- \$5.5 Million for Assistance to Low Performing Schools
- \$5.5 Million for Community Education Partnerships (CEP)
- \$25 Million for the Incentives for Districts to Implement the Teacher Career Ladder (BEST) Established in the Class Size Reduction Bill.

### *Student Financial Assistance:*

- Full Funding for the Bright Futures Program (\$235.7 Million, An Increase of \$16.8 Million)

### Community Colleges:

- \$2.4 Million for the Phase-In of New Space
- \$24 Million for Challenge Grants
- \$2.9 Million for the Phase-In of Baccalaureate Programs At Miami-Dade, Edison, St. Petersburg and Chipola Community Colleges

### State Universities:

- Funds to Continue the Phase-In of :
- FAMU and FIU Law Schools – \$2 Million
- FSU Medical School – \$4.3 Million
- \$41.5 Million for Challenge Grants
- \$7.9 Million for the Phase-In of New Space

Tuition Policy:

*Community Colleges:*

- 7.5% Tuition Increase – Generates \$58 Million

*State Universities:*

- 8.5% Tuition for All Levels – Generates \$41.8 Million
- University Boards of Trustees Authorization to Further Increase Tuition By Up to 6.5% for All But In-State Undergraduate Students (Indeterminate Impact)

**General Government**

- Solid Waste Grants – \$6.5 Million TF (\$4 Million for Small Counties)
- Small County Wastewater Treatment Grants – \$3.5 Million TF
- Drinking and Wastewater Revolving Loan Programs – \$13.5 Million GR \$126.5 Million TF (Returns 5 to 1 in Federal Match)
- Florida Recreational Development Assistance Program (FRDAP) – \$6 Million TF
- Park Development, Maintenance and Repair – \$12.6 Million TF
- Phosphate Cleanup of Mulberry and Piney Point – \$45 Million TF
- Petroleum Tanks Cleanup – \$143.7 Million TF
- Beach Management – \$22.5 Million TF
- Florida Forever – \$300 Million TF – \$100 Million From P-2000/Florida Forever TF; Bond \$200 Million
- Everglades Restoration – \$200 Million TF From P-2000/Florida Forever TF
- Invasive Plant Control – \$29.4 Million TF
- Farm Share – \$200,000 GR and Food Banks – \$200,000 GR
- Sterile Insect Fly Release Program – \$1 Million GR (Federal Budget Spends Comparable Amount)
- Mosquito Control – \$1.4 Million GR
- Florida Agriculture Promotion “Fresh Florida” Campaign – \$500,000 Million GR
- Citrus Canker Eradication – \$19 Million TF; Compensation – \$1 Million GR and TF
- Automated Licensing System for Fishing and Hunting Licenses – \$1.5 Million TF
- State Portal – \$3 Million GR and Technology Help Desk – \$3.8 Million GR and TF
- Child Support Automated Management System (CAMS) – \$24 Million TF
- Transfer Excess Administrative Funds From Lottery to Educational Enhancement Trust Fund – \$20 Million TF
- Increase Transfer to Educational Enhancement Trust Fund to 39% – \$16.7 Million TF
- Florida Accounting and Information Reporting System and Cash Management Replacement (FLAIR) – \$42 Million TF

***Health and Human Services***

Agency for Health Care Administration:

- Medicaid Workload and Price Level – \$915.8 Million
- Florida Kidcare Program – \$400 Million
- Medically Needy Program for Adults – \$448.8 Million
- Adult Dental Emergency Services – \$6.4 Million
- Lifesaver Rx, Silver Saver Expansion, and Sunshine for Seniors – \$39 Million
- Physician Upper Payment Limit – \$33.9 Million
- Alzheimer’s Medicaid Waiver – \$5.6 Million
- Hospital Upper Payment Limit – \$105.5 Million
- Restrict Nursing Home Beds and Expand Diversion – \$35.6 Million
- Managed Care Enrollment – \$11.7 Million
- Reduce HMO Rates – (\$14.4 Million)
- Limit Kidcare Dental Benefits – \$12.7 Million
- Increase Kidcare Family Cost Sharing and Increase Co-Pays – \$13.7 Million
- Savings Related to Value-Added Contracts – \$16.0 Million
- Co-Payments for Emergency Room Use and Pharmacy – \$51.1 Million
- Maximize Use of Public Transportation – \$11 Million

Department of Children and Families:

- Child Welfare Staffing – 376 Positions and \$14.4 Million
- Adoptions Subsidies – \$14.2 Million
- Employee Retention Salary Increases and Bonuses – \$34.0 Million
- Background Checks, Quality and Legal Services – \$11.6 Million
- Prevention Initiatives – \$12.5 Million
- Mental Health Program – \$3.9 Million
- Substance Abuse Program – \$9.1 Million
- Developmental Services Program – \$86.8 Million

Department of Health:

- Tobacco Pilot Program – \$1 Million
- Children’s Medical Services – \$2.8 Million to Improve Foster Care and Child Protection

Department of Veterans’ Affairs:

- Veterans’ Nursing Homes Staffing – \$8.7 Million in General Revenue to Provide Start-Up Funding for the Two New Veterans’ Nursing Homes in Bay and Charlotte Counties.

***Transportation and Economic Development***

- Over \$669 Million for the School Readiness Program



- \$54.5 Million for Affordable Housing Programs and \$130.9 Million for State Housing Initiatives Partnership (SHIP). (Continues the Current Year Recurring Funding Level for State and Local Housing Programs)
- \$197.6 Million for Federally Declared Disaster Funding
- \$66 Million for the Florida Communities Trust Program
- \$84.7 Million for Economic Development Programs in the Office of Tourism, Trade and Economic Development (OTTED), Including:
  - \$21 Million for the Qualified Targeted Industries Incentive Program
  - \$10.8 Million for Enterprise Florida
  - \$18.3 Million for VISIT FLORIDA
  - \$4.4 Million for Defense Reinvestment Grants and Military Base Protection
  - \$10 Million for Economic Development Transportation Projects
- \$3.9 Million to Implement the New Driver’s License Contract for A Secure Driver License System
- \$2.1 Million for the Elections Registration Database and \$2.9 Million for Voter Education
- \$7.6 Million for Cultural and Historic Operating Grant Programs
- \$8.3 Million to Restore Non-Recurring State Aid to Libraries Funding
- \$2.2 Million for the Historic Preservation Fixed Capital Outlay Priority List
- \$3.1 Million for Library Construction Grant Priority List
- \$5.5 Billion for the Department of Transportation Work Program
- \$10 Million for Seaport Infrastructure and Security
- \$12.1 Million to Implement Florida’s High Speed Rail System

***State Employee Pay and Benefits***

Salary Increases:

- 2% Competitive Pay Increase, Effective December 1, 2003.
  - Minimum Annualized Increase of \$500.
  - Maximum Annualized Increase of \$1,400.
- Agencies May Use Up to .25% of Initial Approved Salary Rate for Discretionary Lump Sum Performance Bonuses for Permanent Employees.

Health Insurance:

- On December 1, 2003, State Employee Health Insurance Premiums Will Increase.
- The State Will Continue to Pay the Same Percentage Share of the Total New Health Insurance Premiums.
- The Employee’s Share of Health Insurance Premiums Will Be:

	July 1–Nov 30	Dec 1
Individual Coverage	\$41.96/Month	\$48.67/Month
Family Coverage	\$150.98/Month	\$175.14/Month

Some Employee Health Insurance Out of Pocket Costs Will Increase. See Section 8.2.D Through G of the Conference Report On SB 2-A, for Specifics.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.

*Vote: Senate 27-13; House 78-38*

## **BILLS IMPLEMENTING GENERAL APPROPRIATIONS**

### **SB 4-A — Appropriations Implementing**

by Appropriations Committee

Section 1: Provides legislative intent.

#### ***Education Provisions***

Section 2: Allows the state universities to use the state accounting system without providing funds to Department of Financial Services. Requires all funds appropriated to state universities for FY 2003-2004 to be distributed according to a budget approved by the university board of trustees. Requires university boards of trustees to include certain trust fund revenues within operating budget, including funds supported by student and other fees and funds within the Contracts, Grants, and Donations, Auxiliary Enterprises, and Sponsored Research budget entities. Gives each university board control of its operating budget. Provides for journal transfers of appropriations to university accounts.

Section 3: Authorizes school districts to use motor fuel tax in excess of road needs for student transportation (could include public hearing or board determination).

Section 4: Authorizes the Department of Education to conduct a pilot program in used textbooks in Hernando, Pasco, Seminole, and Polk counties.

Sections 5 and 6: Allows the Department of Financial Services to provide a state university certain otherwise confidential information relating to direct deposit authorization.

Sections 7 and 8: Clarifies that employees of the state university system are eligible to participate in the deferred compensation program.

Sections 9 and 10: Clarifies that the state universities may participate in the consolidated financing program.

Sections 11 and 12: Clarifies that the state universities are deemed self-insurers for purposes of workers' compensation.

Section 13: Establishes the Florida Uniform Management of Institutional Funds Act.

Section 14: Allows FAMU to implement a demonstration project using private developers to finance, construct, and lease a replacement building for the Commons Building on the university campus.

Section 15: Allows Chipola and Miami-Dade Community Colleges to be known as Colleges when awarding certain baccalaureate degrees.

Section 16: Transfers certain lands from University of Florida IFAS to Florida Atlantic University to expand academic programs.

Sections 17 and 18: Allows school boards to make payments toward the costs school buses owned by certain student transportation contract providers from discretionary non-voted 2 mill capital outlay funds.

Section 19: Restricts the use of certain grant funds for school districts with high growth student enrollment and provides a methodology for calculating grants.

### ***Health and Human Services Provisions***

Sections 20 and 21: Requires Department of Elder Affairs to fund more than one community care service system in counties meeting the definition of a "county" in s. 125.011(1), F.S.

Section 22: Allows Department of Children and Family Services to transfer funds within the Family Safety Program between specified appropriations without limitation.

Section 23: Allows funds in the Children and Adolescent Substance Abuse Trust Fund to be used for adult substance abuse services.

Section 24: Extends for one year the \$5 surcharge on new system construction permits that support onsite sewage treatment and disposal system research, demonstration, and training projects through the Department of Health.

Section 25: Allows funds from the Epilepsy Services Trust Fund to be used for epilepsy case management services.

Sections 26 and 27: Allows lump sum funding in the Department of Children and Family Services to provide for continuity of foster care under certain circumstances.

Section 28: Allows all new funds for substance abuse and mental health services in excess of prior year recurring appropriations to be allocated pursuant to the General Appropriations Act, but no district may receive less than its current budget.

Section 29: Limits the 10 percent transfer authority of the Department of Children and Family Services to transfer authority specifically appropriated in the General Appropriations Act.

Section 30: Requires the Department of Health to disburse brain and spinal cord research funds quarterly.

***Public Safety Provisions***

Section 31: Allows Florida Department of Law Enforcement to transfer up to 20 FTE and associated budget and 10 percent of the initial approved salary rate between budget entities.

Section 32: Allows the Correctional Privatization Commission to make expenditures to defray costs incurred by a municipality or county for privatized facilities.

Section 33: Allows funds from the Crime Stoppers Trust Fund to be used for expenses of the Department of Legal Affairs.

Section 34: Provides that funds provided in operating appropriations categories in Department of Juvenile Justice shall not be expended for fixed capital outlay.

Section 35: Allows the Executive Office of the Governor to request additional positions during FY 2003-2004 for the Department of Corrections if the Criminal Justice Estimating Conference projects a certain increase in the inmate population.

Section 36: Allows Department of Law Enforcement to transfer up to 0.5 percent of certain appropriations to provide meritorious performance bonuses for employees.

Section 37: Allows a municipality to use its special law enforcement trust fund to reimburse loans from the municipality's general fund.

***General Government Provisions***

Section 38: Requires the Department of Management Services to operate the executive aircraft pool on a full-cost recovery basis during FY 2003-2004 and to deposit funds into the Bureau of Aircraft Trust Fund to cover the normal operation of the executive aircraft pool.

Section 39: Increases the pharmacy copayments required under the state employee health insurance program.

Sections 40 through 43: Allows additional (non-aggregated) purchase of retirement credits.

Section 44: Sets the salary adjustment for the salaries of members of the Legislature at 2 percent for FY 2003-2004.

Section 45: Provides that the budget for the Council for Educational Policy Research and Improvement shall be administered by the Auditor General. The Council retains its independence for programmatic purposes.

Section 46: Grants the Executive Office of the Governor authority to transfer certain funds between agencies for the purpose of Risk Management Insurance.

Section 47: Grants the Executive Office of the Governor authority to transfer certain funds between agencies for the purpose of human resource outsourcing.

Section 48: Extends to June 30, 2004, the scheduled expiration of the Department of Management Service's duty to determine premiums necessary to fund state employees' health insurance program.

Section 49: Prohibits the payment of certain Class C travel reimbursement for state travelers.

Section 50: Requires that talent agency license fees be set at an amount sufficient to cover the costs of regulation.

Section 51: Allows expenditures from Nonmandatory Land Reclamation Trust Fund for phosphogypsum stack cleanup in excess of statutory \$50 million cap.

Section 52: Requires intensive planning for integration of central administrative and financial management information systems (FLAIR, CMS, LAS/PBS, SPURS, COPES, SUNTAX).

Section 53: Allows the Florida Citrus Commission to reduce the citrus box tax with a majority vote.

Section 54: Allows each county to retain hunting/fishing fees until the Fish and Wildlife Conservation Commission automated licensing system is implemented in that county.

Sections 55 and 56: Allows \$1.5 million in Nonmandatory Land Reclamation Trust Fund moneys to guarantee brownfield area loans.

Section 57: Requires, rather than allows, Department of Agriculture and Consumer Services to provide notice of removal of citrus trees to the owner of the property.

Section 58: Specifies that to be eligible for compensation for residential citrus trees removed as part of the state's citrus canker eradication program, individuals must be the homeowners at the time the trees are removed, and reduces the amount of compensation provided for each tree from \$100 to \$55.

Section 59: Expands the use of the funds allocated to the Relocation and Construction Trust Fund as provided in the General Appropriations Act.

Sections 60 through 65: Reduces consumer complaint processing responsibilities of the Division of Consumer Services of the Department of Agriculture and Consumer Services.

Section 66: Allows \$8 million of Florida Forever appropriation to be allocated to the South Florida Water Management District outside the statutory distribution formula to offset a 2002 veto.

Section 67: Requires the Department of Environmental Protection to award solid waste management grants in equal amounts to small counties, waste tire grants to large counties on a per capita basis, and competitive innovative grants to certain cities and counties.

Section 68: Requires the Department of Agriculture and Consumer Services to contract with the Department of Transportation for the construction of an agricultural interdiction station in Escambia County and to execute resulting contracts consistent with the provisions of chapter 337, F.S.

Section 69: Prohibits the Department of Business and Professional Regulation from regulating certain employees of aerospace industries as Professional Engineers.

Sections 70 and 71: Requires the Department of Revenue to provide certain tax forms to only counties with a population of 100,000 or fewer.

### ***Transportation and Economic Development Provisions***

Section 72: Allows funds from the Emergency Management, Preparedness, and Assistance Trust Fund to be used as provided in the General Appropriations Act, and allows certain unspent funds to be transferred to the Grants and Donations Trust Fund as the state portion of the match for federal disaster projects.

Section 73: Allows the Agency for Workforce Innovation to administer and implement the Teacher Education and Compensation Helps (TEACH) scholarship program. The program provides educational scholarships to caregivers and administrators of early childhood programs, and family day care homes.

Section 74: Provides that school readiness programs provide priority for placement to children from Temporary Assistance to Needy Families (TANF) families and subject to federal work requirements.

Section 75: Provides for certain transportation projects approved by the Office of Tourism, Trade, and Economic Development in previous years to be subject to reversion.

Section 76: Allows proceeds from the Professional Sports Development Trust Fund to be used for operational expenses of the Florida Sports Foundation and financial support of the Sunshine State Games.

Section 77: Allows the transfer of \$200 million from the State Transportation Trust Fund to the General Revenue Fund pursuant to the General Appropriations Act and provides that the amount transferred will not be included for certain statutory calculations.

Sections 78 and 79: Continues the Passport to Economic Progress demonstration project and expands the demonstration project to include Sarasota County.

Section 80: Extends from December 2003 to July 2004 the scheduled repeal date of ss. 288.9511, 288.9515 and 288.9517, F. S., relating to Enterprise Florida, Inc., technology development activities.

Section 81: Permits funds in the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund to be used for military base protection and rural defense grants.

### ***Article V Implementation and Judiciary***

Section 82: Requires a report on costs of court-related services provided by the counties; provides specific requirements; provides for reimbursement of certain expenses.

Section 83: Requires additional revenues from the tax collection enforcement diversion program to be used for the personal care attendant pilot program and for state attorney contracts.

Sections 84 through 90: Provides that the duties of capital collateral regional counsel for the northern region will be met through a pilot project using registry attorneys.

Section 91: Repeals the demonstration project for attorney ad litem. Corrects the date to transfer the guardian ad litem program.

### ***Standard Provisions***

Section 92: Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 93: Provides for a permanent change made by another law to any of the same statutes amended by this bill to take precedence over the provision in this bill.

Section 94: Provides that the performance measures and standards, filed with the Secretary of the Senate, are incorporated by reference and will be applied to programs for FY 2003-2004.

Section 95: Provides a severability clause.

Section 96: Provides that a permanent change made by another law in the 2003 Regular Session of the Legislature to any of the same statutes amended by this bill be given equal precedence to the provision in this bill.

Section 97: Provides an effective date.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.

*Vote: Senate 37-3; House 77-38*

### **CS/SB 8-A — Trust Funds**

by Appropriations Committee and Senator Pruitt

This bill continues, on a permanent basis, the one-year trust fund changes made by Chapter 2002-402, L.O.F., the law implementing the 2002-2003 General Appropriations Act. Those changes increased the General Revenue service charge for some trust funds and required that more of the interest earned on the balances of some trust funds be deposited to the General Revenue Fund.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 40-0; House 78-38*

### **SB 10-A — Criminal History Records**

by Senator Crist

This bill increases fees for criminal history background checks by the Florida Department of Law Enforcement. The current fee is \$15 for each records check, with the exception of background checks for the Department of Children and Family Services (DCF), Department of Elder Affairs (DEA), and Department of Juvenile Justice (DJJ), which is \$8.

The new fee structure will increase the fee to \$23 per name submitted, except the fee for vendors of DCF, DEA, and DJJ, which will remain \$8. In addition, the fee collected for a criminal history background check required by law to be performed by the Department of Agriculture and Consumer Services will remain \$15. The state offices of the Public Defender will continue not to



be charged a fee for criminal history information or wanted person information. Also, local and state law enforcement will continue not to be charged a fee.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 36-4; House 77-38*

## **SB 12-A — Public Employees Relations Commission**

by Senator Clary

The conference report transfers \$1.4 million to the Public Employee Relation Commission Trust Fund from the Local Government Half-cent Sales Tax Program. This is to offset the current state General Revenue subsidy for funding the Public Employee Relations Commission (PERC).

Small counties, population of 100,000 and under, are held harmless. (\$60,000 of the Half-cent Sales Tax is redirected to small counties to offset their losses.)

This reduction in city and county revenue sharing is based on an OPPAGA report that cities and counties represent 60 percent of repeat PERC users over the last three years.

Despite the changes in this bill, cities and counties will be paying less than 50 percent of the operating cost for PERC.

The provisions relating to ad valorem tax forms are no longer included in the bill.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 40-0; House 77-38*

## **SB 16-A — Trust Funds/Termination**

by Senator Webster

This bill terminates the Coconut Grove Playhouse Trust Fund, the Corporations Trust Fund, and the Public Access Data Systems Trust Fund in the Department of State and the Turnpike Controlled Access Trust Fund within the Department of Transportation.

Corporate filing fees currently deposited in the Corporations Trust Fund are redirected to the General Revenue Fund. Since the majority of the corporate filing fee revenues already go into the General Revenue Fund, this provides for consistent treatment of these revenues. Although revenues are redirected to the General Revenue Fund, cultural and historical programs in the Department of State which are currently funded through corporate filing fees are *not* terminated *nor* are the trust funds that support them (Cultural Institutions Trust Fund and Historical Resources Operating Trust Fund).

This bill directs the Board of Trustees of the Internal Improvement Trust Fund to convey the Coconut Grove Playhouse via quitclaim deed to the Coconut Grove Playhouse, Inc.

This bill authorizes the use of administrative services of the Division of Historical Resources by citizen support organizations and directs the annual use fees from the Florida Arts specialty license plate to county-designated arts councils instead of the Department of State.

Finally, this bill specifies that ranked projects under the Department of State's library, historical, and cultural grants programs which are not funded in FY 2003-2004 will maintain their relative ranking for funding and receive priority ranking over new projects in the FY 2004-2005 grant cycle.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 33-6; House 75-40*

## **SB 22-A — Health Care**

by Senators Peaden and Dawson

This bill makes the following changes to health care programs that are required in order to implement the proposed General Appropriations Act for FY 2003-2004.

- Continues nursing facility lease bond alternatives and removes the June 30, 2003 sunset.
- Delays the certified nursing assistant staffing increase from January 1, 2004 to May 1, 2004.
- Revises training requirements for administrators and staff of assisted living facilities and adult family-care home providers.
- Revises purchasing options related to health flex plans and extends the expiration date to July 1, 2008.
- Implements a maximum annual dental benefit of \$750 per enrollee in the Florida KidCare program.
- Revises the definition of "third-party" for purposes of the Medicaid program to include a third party administrator or a pharmacy benefits manager.
- Restores the Medically Needy Program and removes language that prohibits Medicaid from reimbursing expenses to meet spend down liability.
- Eliminates Medicaid coverage of Adult Visual and Hearing Services.
- Establishes the Lifesaver Rx discount drug program for seniors.
- Authorizes a program related to returning unused unit-dose packaged medications.
- Requires Medicaid recipients to pay a \$15 copayment for non-emergency use of a hospital emergency department.
- Requires a coinsurance of 2.5 percent of the Medicaid cost of prescription drugs not to exceed \$7.50 per prescription purchased.
- Revises the formulas for distributing disproportionate share hospital payments.

- Removes the limit on the number of Medicaid provider service networks.
- Provides for a utilization management program for therapies.
- Authorizes Medicaid prepaid dental health plans to provide dental services.
- Revises the Medicaid program enrollment goal for managed care to 60 percent managed care and 40 percent MediPass.
- Revises the requirements for enrollment of children in pediatric emergency room diversion programs and certain managed prepaid health plans in Miami-Dade County.
- Creates the Sunshine for Seniors Program to assist low-income seniors with obtaining prescription drugs from manufacturers' pharmaceutical assistance programs.
- Revises the Florida Healthy Kids Corporation contract requirements and membership of the board of directors of the corporation.
- Repeals the automatic repeal of the KidCare Act when certain federal triggers are reached.
- Authorizes additional payments to public hospitals to maximize payments under the Upper Payment Limit for FY 2002-03.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.

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

## **SB 24-A — Transportation Department**

by Senator Webster

This bill includes statutory modifications necessary to implement budget decisions contained in the Conference Report on the General Appropriations Act. The bill:

- Authorizes the issuance of revenue bonds for the purpose of financing or refinancing the construction, reconstruction, and improvement of projects eligible to receive state-funded infrastructure bank assistance.
- Clarifies that FDOT may use bond proceeds from the Beeline-East Expressway, Sunshine Skyway Bridge, Navarre Bridge, and Pinellas Bayway not only for improvements for the respective toll facility itself, but also for other transportation improvements within the county or counties in which the toll facility is located.
- Increases the amount of bonds allowed to be issued to fund approved turnpike projects from \$3 billion to \$4.5 billion.
- Provides for limited exceptions to the cap on projects or project phases not included in the adopted work program that may be advanced with local funds and subsequently reimbursed by the department.

- Creates a process for the development, review, and implementation of environmental mitigation requirements related to the construction of local government transportation infrastructure.

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

*Vote: Senate 39-1; House 114-0*

## **CS/SB 26-A — Driver's Licenses**

by Appropriations Committee and Senator Webster

This bill increases fees for identification cards and the reinstatement of suspended and revoked licenses; and creates new fees for each retake of the knowledge portion and the skills portion of the driver's exam after failure of the initial exam.

### ***Identification Cards***

Fees for new or renewal identification cards are increased from \$3 to \$10 and fees for replacement cards are increased from \$2.50 to \$10. Based on projected usage, it is estimated that this would generate approximately \$521,503 for the General Revenue Fund and \$4.8 million for the Highway Safety Operating Trust Fund in FY 2003-2004.

### ***Reinstatement of Suspended and Revoked Licenses***

The fee for the reinstatement of suspended licenses is increased from \$25 to \$35 and the fee for the reinstatement of revoked licenses is increased from \$50 to \$60; however, if the revocation or suspension was for a violation of driving under the influence laws or for refusal to submit to a lawful breath, blood, or urine test, the reinstatement fee is increased from \$105 to \$115. Based on projected usage, it is estimated that this would generate approximately \$2.9 million for the Highway Safety Operating Trust Fund in FY 2003-2004.

### ***Examination Retakes***

New fees of \$5 for each retake of the knowledge portion of the drivers' exam and \$10 for each retake of the skills portion of the drivers' exam after failure of the initial exam are created. Based on projected usage, it is estimated that this would generate approximately \$3.7 million for the Highway Safety Operating Trust Fund in FY 2003-2004.

If approved by the Governor, these provisions take effect October 1, 2003.

*Vote: Senate 38-2; House 107-8*

**SB 28-A — Educational Enhancement Trust Fund**

by Senator Lynn

This bill increases the percentage of gross revenue from the sale of on-line lottery tickets and other lottery revenues deposited to the Educational Enhancement Trust Fund from 38 percent to 39 percent. The Lottery Estimating Conference estimates an additional \$16.7 million will be deposited to the Educational Enhancement Trust Fund during FY 2003-2004.

Additionally, this bill clarifies the revenue sources available to the Educational Enhancement Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 36-0; House 114-0*



## **WORKERS' COMPENSATION**

### **SB 50-A — Workers' Compensation**

by Senators Clary, Alexander, and Atwater

The bill provides changes to the workers' compensation system that are designed to expedite the dispute resolution process, provide greater compliance and enforcement authority for the Division of Workers' Compensation to combat fraud, revise certain indemnity benefits for injured workers, increase medical reimbursement fees for physicians and surgical procedures, and increase availability and affordability of coverage.

#### ***Benefits***

**Permanent Total Disability** – In each of the following cases, an injured employee would be presumed to be permanently and totally disabled unless the employer or carrier establishes that the employee is physically capable of engaging in at least sedentary employment within a 50-mile radius of the employee's residence:

- Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk.
- Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage.
- Severe brain or closed head injury.
- Second-degree or third-degree burns of 25 percent or more of the total body or third-degree burns of 5 percent or more to the face and hands.
- Total or industrial blindness.

In all other cases, the employee must establish that he or she is not able to engage in at least sedentary employment, within a 50-mile radius of the employee's residence, due to physical limitations. Generally, such benefits are payable until the employee reaches age 75. If the accident occurs on or after the employee reaches age 70, benefits are payable during the continuance of permanent total disability, not to exceed 5 years following the determination of permanent total disability. The bill provides that an employee is eligible to receive permanent total disability benefits after age 75, and to receive the annual 3 percent permanent total disability supplementary benefit after age 62, if the employee is not eligible for social security benefits due to the compensable injury preventing the employee from working sufficient quarters to be eligible for such benefits.

**Permanent Partial Disability** – The bill revises the impairment benefits for a permanent partial disability, by increasing the amount of the benefit from 50 percent to 75 percent of temporary

total disability benefit, (i.e., increased to 75 percent of 66.6 percent of average weekly wage (AWW), or to about 50 percent of AWW, rather than the current 50 percent of 66.6 percent of AWW, or about 33.3 percent of AWW). However, the amount of the impairment benefit would be reduced by 50 percent (i.e., to about 25 percent of AWW) if the employee is able to earn the same wage or greater after the injury.

The duration of this impairment benefit is changed from the current 3 weeks for each percent of impairment to the following schedule:

- 2 weeks for each percent of impairment from 1 to 10 percent.
- 3 weeks for each percent of impairment from 11 to 15 percent.
- 4 weeks for each percent of impairment from 16 to 20 percent.
- 6 weeks for each percent of impairment from 21 percent and higher.

The bill eliminates the permanent partial disability supplemental benefits for employees who have at least 20 percent impairment and who are unable to earn at least 80 percent of their pre-injury wage.

Permanent impairment benefits are limited for the permanent psychiatric impairment to a 1 percent permanent impairment.

The bill also provides that only the disability or medical treatment associated with a compensable injury is payable, excluding preexisting disability or medical condition.

#### ***Other Benefits -- Funeral and Death, Chiropractic, and Training and Education***

The bill increases benefits for funeral expenses from \$5,000 to \$7,500 and increases death benefits for dependents from \$100,000 to \$150,000.

The bill increases caps on chiropractic treatments from 18 to 24 visits and the number of weeks of treatments from 8 to 12 weeks.

The bill provides that benefits for training and education authorized by the Department of Financial Services and funded by the Workers' Compensation Administration Trust Fund may include payment to attend a community college or vocational-technical school and this benefit would include securing a general education diploma (GED). The bill provides that temporary total compensation benefits paid during the training and education would be included within, and not added to, the maximum 104 weeks provided for temporary total benefits.

#### ***Compensability for Injuries***

The bill requires that an accidental compensable injury must be the major contributing cause of any resulting injury, meaning that the cause must be more than 50 percent responsible for the injury as compared to all other causes combined, as demonstrated by medical evidence only.



An injury or disease caused by toxic substance would require clear and convincing evidence establishing that exposure to the specific substance caused the injury or diseases sustained by the employee. Both causation and sufficient exposure to support causation must be proven by clear and convincing evidence in cases involving occupational disease or repetitive exposure.

The bill provides that pain or other subjective complaints alone, in the absence of objective relevant medical findings, are not compensable.

For mental and nervous injuries, there must be a physical injury requiring medical treatment which is the major contributing cause. The mental or nervous injury must be demonstrated by clear and convincing evidence. Payment of temporary benefits for mental or nervous injuries is limited to no more than 6 months, after the date of maximum medical improvement for the employee's physical injury, which shall be included in the 104-week period.

***Workers' Compensation Joint Underwriting Association (Availability and Affordability of Coverage)***

The bill revises the current subplans within the Florida Workers' Compensation Joint Underwriting Association (JUA) to address affordability and availability for small employers and charitable and nonprofit organizations. A new subplan "D" is created, in which the premiums for small employers with 15 or fewer employees and an experience modification factor of 1.10 or less would be capped at 125 percent of the rate for the voluntary market manual rate, and premiums for charitable organizations meeting certain criteria with an experience modification factor of 1.10 percent or less would be capped at 110 percent of the voluntary market rate. However, any deficits in subplan "D" would be assessed against the employers in that subplan.

The board of the JUA is reduced from 13 to 9 members. Currently 11 of the 13 members are chosen by insurance industry representatives. Under the bill, three members are appointed by the Financial Services Commission; two members by domestic insurers (Florida domiciled); two members by foreign insurers (non-Florida domiciled); one member by the largest property and casualty insurance agents' association; and the Insurance Consumer Advocate of the Department of Financial Services. The Financial Services Commission would designate a member of the board to serve as chairperson.

***Dispute Resolution***

The bill limits an employer and employee to one independent medical examination (IME) per accident rather than one per medical specialty. The party requesting and selecting the IME is responsible for all expenses associated with the examination. An employee may recoup the costs of an IME from the employer or carrier if the employee prevails in a medical dispute, as determined by a judge of compensation claims, or if benefits are paid or treatment provided after the employee has obtained an IME.

As an alternative to resolving a medical dispute, the bill authorizes the use of a consensus medical examination, if both parties agree. The findings and conclusions of such examination would be binding on both parties, would constitute resolution of the medical dispute, and would not affect the rights of the employee and carrier to have one IME per accident.

The bill also allows an employee, employer, and carrier to agree to seek consent from a judge of compensation claims to enter into binding claim arbitration in lieu of any other remedy provided in ch. 440, F.S.

### ***Attorney's Fees***

The bill continues the use of the current contingency fee schedule in awarding attorney's fees. The fee for benefits secured are limited to 20 percent of the first \$5,000 of benefits secured, and 15 percent of the next \$5,000 of benefits secured, 10 percent of the remaining amount of benefits secured to be provided during the first 10 years after the claim is filed, and 5 percent of the benefits secured after 10 years.

As an alternative to the contingency fee, the judge of compensation claims may approve an attorney's fee not to exceed \$1,500 once per accident, based on a maximum hourly rate of \$150 per hour, if the judge of compensation claims determines that the contingency fee schedule, based on benefits secured, fails to compensate fairly the attorney for a disputed medical-only claim.

If there is a written offer to settle issues, including attorney's fees, at least 30 days prior to the hearing date, for purposes of calculating the amount of attorney's fees to be taxed against the carrier or employer, the term "benefits secured" would include only that amount awarded to the claimant above the amount specified in the offer.

### ***Medical Fee Reimbursement***

The bill increases the maximum reimbursement for all physicians to 110 percent of the reimbursement allowed by Medicare; and increases the maximum reimbursement for surgical procedures to 140 percent of Medicare. The bill continues to allow deviations from fee schedules in certain circumstances, and reduces outpatient reimbursement for scheduled (nonemergency) surgeries from 75 percent to 60 percent of charges. The bill also specifies that outpatient observation status cannot exceed 23 hours.

The bill includes legislative intent to fund increases in payments to physicians by reductions in payments to hospitals.

Reimbursements for prescription drugs are reduced from 1.2 times the average wholesale price (plus a \$4.18 dispensing fee) to the average wholesale price (plus the same \$4.18 dispensing fee).

### ***Coverage Requirements and Construction Industry Exemptions***

Effective January 1, 2004, the bill limits exemptions from coverage in the construction industry to three corporate officers each having at least a 10 percent stock ownership. The bill eliminates exemptions for sole proprietors and partners in the construction industry and deletes the provisions enacted in 2002 that disallowed all exemptions for commercial construction sites valued over \$250,000, while allowing exemptions for other construction sites. The type of construction site would no longer be relevant. All persons in the construction industry remunerated for their services would be required to have coverage, except for up to three corporate officers meeting the 10 percent ownership requirement. The bill provides that an exemption certificate is applicable to the corporate officer named on the notice of exemption and applies only within the scope of the business or trade listed.

Any employer with employees engaged in the construction industry in Florida is required to obtain a Florida policy or endorsement that uses Florida class codes and rates. Failure to comply is a second-degree felony.

### ***Compliance and Enforcement -- Fraud***

The bill establishes several measures designed to fight fraud and increase prosecution of fraud in the workers' compensation system, including:

- Provides that an employer that fails to pay stop-work order penalties is ineligible for an exemption from coverage.
- Requires a carrier to submit an annual report to the department detailing losses and recoveries attributable to workers' compensation fraud and authorizes the department to fine carriers for noncompliance.
- Requires an annual report by the Bureau of Workers' Compensation Fraud and the Division of Workers' Compensation of the Department of Financial Services to provide greater accountability regarding compliance and enforcement activities.
- Authorizes the Division of Unemployment Compensation to release information in certain circumstances concerning an employee's wages to determine if an injured worker is employed and receiving workers' compensation benefits.
- Incorporates certain violations of ch. 440, F.S., in the Offense Severity Ranking Chart which would assist in the prosecution and sentencing of workers' compensation fraud by establishing ranking for these violations.

### ***Carrier Compliance***

The bill authorizes the department to examine and investigate carriers, self-insured employers, and servicing agents to determine compliance with ch. 440, F.S., and increases the department's authority to examine and fine such entities that engage in patterns or practices of unreasonable

delay in claims handling or patterns or practices of harassment, coercion, or intimidation of claimants.

The department may impose an administrative penalty in an amount not to exceed \$2,500 for each pattern or practice constituting a nonwillful pattern or practice, not to exceed an aggregate amount of \$10,000 for all nonwillful violations arising out of the same action. Any administrative penalty imposed under this section (s. 440.525, F.S.) for a nonwillful violation cannot duplicate an administrative penalty imposed under another provision in ch. 440, F.S., or the Insurance Code. The department is also authorized to impose an administrative penalty for patterns or practices constituting a willful violation in an amount not to exceed \$20,000 for each willful practice or pattern. Such fines cannot exceed \$100,000 for all willful violations arising out of the same action.

### ***Safety in the Workplace***

The bill requires the Division of Workers' Compensation to publicize on its Internet site, and encourage carriers to publicize, the availability of free safety consultation services and safety program resources. All policyholders in the Florida Workers' Compensation Joint Underwriting Association are required to participate in a safety program.

### ***Horizontal Immunity***

The bill provides immunity to a subcontractor from lawsuits by employees of another subcontractor or the contractor, if the subcontractor is providing services in conjunction with a contractor on the same project or contract work, under certain conditions. The conditions are: 1) that the subcontractor or contractor has secured workers' compensation coverage for the subcontractor's employees and 2) that the subcontractor's own gross negligence was not the major contributing cause of the injury.

### ***Intentional Torts***

Provides that the liability of an employer for compensation under s. 440.10, F.S., is exclusive and in place of all other liability except in cases where the employer commits an intentional tort that causes the death or injury of an employee. An employer's actions are deemed to constitute an intentional tort only when the employee proves by clear and convincing evidence that the employer deliberately intended to injure the employee or the employer engaged in conduct that the employer knew was virtually certain to result in injury or death to the employee. The bill also expands immunity from third-party civil liability for safety consultants to all employees of the employer or employees of its subcontractors on a jobsite.

### ***Joint Select Committee on Workers' Compensation Rating Reform***

The bill establishes a Joint Select Committee on Workers' Compensation Rating Reform to study the merits of requiring each insurer to individually file its expense and profit portion of a rate filing, while permitting each insurer to use a loss cost filing made by a licensed rating organization. The committee must also study options for the current prior approval system, including procedures that would promote greater competition and would encourage insurers to write coverage in the state while protecting employers from rates that are excessive, inadequate, or unfairly discriminatory. The committee, consisting of three Senators and three Representatives, must issue its final report by December 1, 2003.

If approved by the Governor, these provisions take effect October 1, 2003, unless otherwise provided.

*Vote: Senate 25-14; House 81-34*

## **AUTOMOBILE INSURANCE**

### **CS/SB 32-A — Motor Vehicle Insurance**

by Banking and Insurance Committee and Senator Alexander

This bill creates the "Florida Motor Vehicle Insurance Affordability Reform Act" which implements various changes to the personal injury protection (PIP) automobile insurance laws and other related statutory provisions. The bill provides for the following:

#### ***Criminal Penalties for PIP Fraud***

The bill creates new crimes for soliciting accident victims; intentionally causing motor vehicle accidents; disclosing confidential vehicle accident reports; presenting false or fraudulent motor vehicle insurance cards; and specified fraudulent actions by insurers and providers. It increases penalties for soliciting accident victims and presenting false or fraudulent insurance applications; provides minimum mandatory penalties for intentionally causing motor vehicle accidents and soliciting accident victims during the 60-day period accident reports are confidential; and increases the ranking of solicitation crimes and certain motor vehicle insurance fraud offenses under the Offense Ranking Chart law.

#### ***Regulation of Health Care Clinics***

The bill transfers health care clinic regulation from the Department of Health to the Agency for Health Care Administration (AHCA) to be funded by license application fees up to \$2,000, effective October 1, 2003. License applications must be submitted by March 1, 2004. The bill strengthens clinic regulation by requiring licensed clinics to meet specified financial and other conditions; authorizes AHCA to conduct clinic inspections; and requires Level 2 criminal

background screenings, under ch. 435, F.S., of clinic applicants who have a 5 percent or more ownership interest in the clinic, and other licensed medical employees.

It further prohibits an applicant who has committed a Level 2 crime (including violations relating to insurance fraud) within the past 5 years from obtaining a clinic license or working as a licensed medical provider, medical director, or clinical director; provides that civil rights must be restored prior to obtaining a license; mandates clinics to allow AHCA complete access to premises and records; authorizes the agency to impose administrative fines or seek corrective action from clinic owners or directors under specified circumstances; and requires magnetic resonance imaging (MRI) clinics to become accredited by specified national organizations within one year of licensure, with a single 6-month extension if there is evidence of good cause shown.

The bill authorizes AHCA to promulgate rules and to institute injunctive proceedings and other agency actions under specified circumstances. It provides for new crimes and penalties associated with operating an unlicensed clinic and requires that providers who are aware of the operation of an unlicensed clinic, but fail to report such clinic, be reported to an appropriate licensing board. The bill appropriates \$2.5 million from the Health Care Trust Fund for 51 full-time equivalent positions for AHCA to implement the clinic licensure program.

***PIP Payment and Billing Provisions, Disclosure and Acknowledgment Form; Unnecessary Diagnostic Tests, Independent Medical Examinations***

The bill revises provisions governing the submission and payment of PIP benefits so that statements are in compliance with specified coding and billing requirements. It provides that consideration may be given to evidence of the usual and customary charges and payments accepted in the community when determining whether a particular charge for medical services covered by PIP is reasonable, including consideration of other reimbursement levels in the community, state and federal fee schedules, and other information applicable to automobile and other insurance coverages. It provides that PIP coverage will be voided by an act of insurance fraud that is admitted to in a sworn statement or determined by a court of competent jurisdiction. It allows insurers to sue to recover monies paid to a person who committed insurance fraud and provides for recovery of costs and attorneys fees to the prevailing party in any such action.

The bill specifies that PIP insureds and insurers are not required to pay for charges that are not lawful, contain false or misleading statements, or are improperly upcoded or unbundled for the purpose of obtaining a higher reimbursement than otherwise due. However, an MRI facility may globally combine both the technical and professional components, if the total billed amount is not more than the components billed separately.

The bill clarifies that the current fee schedule that applies to specified services based on a percentage of the Medicare fee schedule is the participating physician fee schedule under Medicare Part B, and revises the method for making an annual adjustment to the fee schedule on August 1 of each year.

The bill requires the Financial Services Commission to adopt by rule (by October 1, 2003) a “disclosure and acknowledgment form” which providers and the insured person or his or her guardian must execute, at the *initial treatment* of the insured. The form must reflect that:

- The insured or guardian attests to the fact that the services set forth therein were actually rendered.
- The insured or guardian was not solicited to seek medical services from the provider.
- The provider rendering the service explained the services to the insured or guardian.
- If the insured notifies the insurer in writing of a billing error, the insured may be entitled to a certain percentage of a reduction in the amounts paid by the insured’s motor vehicle insurer.

This legislation further requires the original disclosure and acknowledgment form to be furnished to the insurer when billed by the provider. The bill mandates that for subsequent services, a provider (except for a hospital) maintain a patient log signed by the patient by date of service that is consistent with services being rendered. Hospitals must, however, maintain specified medical records and make such records available to insurers upon request.

The bill provides for an anti-fraud financial incentive to consumers that if, based on a written report by a person, the insurer finds improper billing by a medical provider, the insurer would pay the person 20 percent of the amount of the reduction up to \$500, or pay 40 percent if the provider is arrested due to improper billing. The bill also prohibits insurers from systematically downcoding with the intent to deny reimbursement otherwise due.

The bill authorizes the Department of Health, in consultation with the appropriate professional licensing boards, to establish by rule a list of diagnostic tests that are *not medically necessary*, and therefore not compensable, by January 1, 2004. Such lists shall be revised from time to time as determined by the department.

The bill requires that only Florida physicians may conduct independent medical examinations (IME); prohibits insurers or their employees from improperly requiring physicians to materially change IME reports (provided that this does not preclude the insurer from notifying the physician of errors of fact in the report based on information in the claim file); and, provides that the denial of payment as the result of such a changed opinion constitutes a material misrepresentation by the insurer under the Insurance Code. The bill mandates physicians who prepare IME reports, and physicians rendering expert opinions on behalf of persons claiming PIP benefits, to maintain such reports and applicable payment records for at least 3 years.

### ***Demand Letter***

This legislation expands the current presuit demand letter provision to be applicable to all PIP disputes and increases the time for insurers to respond to the demand letter from 7 business days to 15 calendar days. A demand letter must be sent to a PIP insurer prior to filing any action for

PIP benefits, and if the claim is paid by the insurer together with applicable interest and a penalty of 10 percent of the overdue amount, up to \$250, no action may be brought against the insurer (and, therefore, no attorney's fees would be awarded against the insurer).

### ***Increased PIP Benefits by the Financial Services Commission***

The bill provides that if the Financial Services Commission determines that cost savings under PIP have been realized due to the provisions in this act, prior reforms, or other factors, then the Commission *may increase* the minimum \$10,000 benefit coverage requirement. However, in establishing the amount of the increase, the Commission must determine that the additional premium for such coverage is approximately equal to the premium cost savings that have been realized by the \$10,000 PIP coverage.

### ***Deductibles***

The bill changes the calculation of the PIP deductible to require that it must be applied to 100 percent of medical expenses, rather than to the current 80 percent of expenses that PIP pays. It also changes the calculation of the PIP deductible so that the full \$10,000 in PIP benefits can be obtained. This latter provision has the effect of requiring PIP to pay more than it does currently if a deductible is elected. The bill also eliminates the \$2,000 PIP deductible, so that the allowable deductibles would be: \$250, \$500, and \$1,000. The bill further provides that liability suits may be brought by an injured person to recover the amount of his or her PIP deductible from the at-fault driver.

### ***PIP Reports to the Legislature***

The bill requires the Department of Financial Services, the Department of Health, and AHCA to each submit a report by December 31, 2004, to the President of the Senate and the Speaker of the House of Representatives on the implementation of this bill and recommendations, if any, to further improve the automobile insurance market, and reduce costs, fraud, and abuse. The report by the Department of Financial Services must include a study of the medical and legal costs associated with PIP claims.

### ***Sunset Provision***

The bill provides that effective October 1, 2007, the Florida Motor Vehicle No-Fault Law is repealed, unless reenacted by the Legislature during the 2006 Regular Session.

### ***Repeals \$10 Fee Increase Pertaining to Licensed General Lines Agents***

The bill repeals the \$10 per policy fee increase (from \$10 to \$20) that general lines agents would have been authorized to charge to cover administrative expenses on motor vehicle insurance policies which passed during the 2003 Regular Session in CS/SB 2364. The bill provides that,



notwithstanding the amendments made by CS/SB 2364, s. 627.7295(5)(a), F.S., is *not amended* and is reenacted. In effect, the bill returns to current law the agent fee provision.

### ***Effective Dates***

The bill takes effect October 1, 2003, with certain exceptions. In addition to the specific effective dates noted above, the bill provides the following effective dates:

- Section 456.0375, F.S., relating to clinic regulation by the Department of Health, is repealed effective March 1, 2004 (because that is the date applications for clinic licenses are to be submitted to AHCA).
- Any increase in benefits approved by the Financial Services Commission under this bill shall apply to new and renewal policies that are effective 120 days after the order issued by the commission becomes final.
- The provisions pertaining to PIP deductibles shall apply to new and renewal policies issued on or after October 1, 2003.
- The provisions applying to the presuit demand letter shall apply to actions filed on and after August 1, 2003.
- The provisions applying to IMEs shall apply to examinations conducted on and after October 1, 2003.
- The provisions applying to subsection (5) of s. 627.736, F.S., (charges for treatment of injured persons) shall apply to treatment and services occurring on or after October 1, 2003.

If approved by the Governor, these provisions take effect October 1, 2003.

*Vote: Senate 36-0; House 97-19*

## **USE OF CREDIT REPORTS BY INSURERS**

### **SB 40-A — Insurance Consumer Protection (Use of Credit Reports; Managing General Agent Fees)**

by 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. The bill takes effect January 1, 2004, except that it shall not take effect unless SB 42-A or similar legislation is adopted and becomes law. SB 42-A was also adopted, which provides a public records exemption for credit scoring methodologies filed with the Office of Insurance Regulation. See the summary of SB 42-A for additional information.

This bill also repeals the increase in the maximum per-policy fee (from \$25 to \$40) that managing general agents (MGAs) would have been permitted to charge, as provided in HB 513 that was adopted during the 2003 Regular Session. Notwithstanding the amendments to s. 626.6451, F.S., by HB 513, this bill (SB 40-A) provides that s. 626.7451(11), F.S., is not amended and is reenacted. In effect, the current law and the current MGA fee remain unchanged.

This bill requires 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. If 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, except that it shall not take effect unless SB 42-A or similar legislation is adopted and becomes law.

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

### **CS/SB 42-A — Credit Scoring Insurance Information/Public Records**

by Banking and Insurance Committee and Senator Miller

This bill creates a public records exemption for credit scoring methodologies and related information that are trade secrets as defined in s. 688.002, F.S., and that are filed with the Office of Insurance Regulation (OIR) pursuant to a rate or other filing by an insurance company. Section 688.002, F.S., defines a “trade secret” to be information, including a formula, device, or method that derives independent economic value from not being generally known to other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The bill further provides that it is a public necessity for credit scoring methodologies and related data to be confidential and exempt because such information contains proprietary information that has economic value and could harm the business of the insurer. The bill provides for future review and repeal.

The related substantive credit scoring bill, which also passed during 2003 Special Session “A” (SB 40-A), regulates and limits the use of credit reports and credit scores by insurers for underwriting and rating purposes relating to personal lines motor vehicle and homeowner’s insurance.

If approved by the Governor, these provisions take effect January 1, 2004, provided that SB 40-A or similar legislation is adopted in the same legislative session, or extension thereof, and becomes law.

*Vote: Senate 37-1; House 112-2*



**SB 30-A — Quality Education/Class Size Reduction**

by Senators Constantine, Carlton, and Bullard

This bill implements the class size requirements of s. 1, Art. IX, State Constitution, which provides that, beginning in the 2010 school year, the maximum number of students assigned per teacher for prekindergarten through grade 3 may not exceed 18 students, grades 4 through 8 may not exceed 22 students, and grades 9 through 12 may not exceed 25 students. The bill provides a roadmap for school districts and the state to meet the constitutional requirements relating to class size reduction. Specifically, the bill:

*Class Size Implementation and Accountability*

- Defines “core-curricula” and “extra-curricular” courses for purposes of identifying courses that are subject to the class size requirements. Only core-curricula courses are subject to the class size requirements.
- Requires school districts that are not in compliance with the maximum class size requirements beginning with FY 2003-2004 to reduce the average number of students per classroom for each of the three grade groupings, prekindergarten through grade 3, grades 4 through 8, and grades 9 through 12. The reduction in the average number of students must be calculated at the district level for FY 2003-2004 through 2005-2006, at the school level for FY 2006-2007 through 2007-2008, and at the individual classroom level for FY 2008-2009 through 2009-2010.
- Requires that school districts, before adopting their 2004-2005 budgets, must conduct public hearings to review school district attendance zones.
- Requires school districts to consider implementation of certain options to meet the class size reductions.
- Requires the Executive Office of the Governor, beginning in FY 2003-2004, to transfer a proportionate amount of undistributed funds of school districts that do not meet the two-student-per-year reductions, from the district’s class size reduction operating categorical allocation to the district’s fixed capital outlay appropriation to meet class size reduction requirements. However, the Legislative Budget Commission may approve an alternate transfer amount if the State Board of Education determines that a district has been unable to meet class size reduction requirements despite appropriate efforts.
- Requires, beginning in the 2005-2006 school year, each district that has not met the two-student-per-year reduction to implement year-round schools, double sessions, rezoning, or maximization of instructional staff through changing teacher loads, using adjunct educators, returning district employees with professional certification to the classroom, or operating beyond specified hours or more than one session per day.

### ***Bonding and Categorical Funding of Class Size Reduction***

- Creates the Class Size Reduction Operating Categorical Fund as allocated in the General Appropriations Act. Any funds not required to meet the class size requirements may be used for any lawful operating expense with priority given to teacher salary increases and implementation of the differentiated pay model for teachers.
- Creates the Classrooms for Kids Program, which provides for the allocation of capital outlay funds as appropriated in the General Appropriations Act to be used to provide educational facilities to reduce class size.
- Creates the District Effort Recognition Program, which provides capital outlay grants to eligible districts from funds appropriated in the General Appropriations Act. Eligibility is limited to school districts in which the voters through referendum have provided local funds for district capital outlay projects. School districts that do not meet the constitutional class size requirements must use the funds for capital outlay to reduce class size. Districts that have met the class size requirements may use the funds for any lawful capital outlay purpose.
- Creates the Class Size Reduction Lottery Revenue Bond Program, which authorizes the issuance of lottery revenue bonds to finance educational facilities for class size reduction.
- Revises the Equity in School-Level Funding Act to provide that an average of 90 percent of the funds generated by all schools in a district shall be allocated to those schools and a minimum of 80 percent of the funds generated by a particular school shall remain at the school.
- Revises the cost-per-student stations for public schools in 2002 dollars as adjusted annually by the Consumer Price Index.
- Creates the “Florida Qualified Public Educational Facilities Private Activity Bond Allocation Act” to implement federal law requirements relating to private activity bonds for qualified educational facilities.

### ***Alternative Educational Settings***

- Funds the Florida Virtual School through the Florida Education Finance Program based on credits successfully completed.
- Creates the Florida Business and Education in School Together (Florida BEST) Program to encourage businesses to house K-3 public schools in their facilities.

### ***Charter Schools***

- Revises the charter school district pilot program into a statewide program. Charter school districts may be formed if a minimum of 50 percent of the schools in the district earn an “A” or “B” and no school earns a “D” or “F” for two consecutive years. Charter school districts are provided greater institutional flexibility.
- Repeals the cap on the number of charter schools that may be approved in a school district.

### ***Corporate Scholarships***

- Revises the cap on the corporate income tax credit scholarship program to \$88 million each state fiscal year for scholarships to certain students who qualify for free or reduced-price school lunches under the National School Lunch Act.

### ***High School Graduation***

- Establishes accelerated high school graduation options beginning in the 2003-2004 school year that allows students three options: completion of the general requirements for high school graduation in current law, completion of a 3-year standard college preparatory program that requires a minimum of 18 academic credits, or completion of a 3-year career preparatory program that requires a minimum of 18 academic credits.
- Provides an exemption from the 135 hours of bona fide instruction for high school graduation requirements to 120 hours for a school in which the district school board has implemented block scheduling.

### ***Instructional Staff***

- Amends the Deferred Retirement Option Program (DROP) to authorize instructional personnel in K-12 and in the Florida School for the Deaf and the Blind to participate in DROP up to eight years at the discretion of the district school superintendent or the Board of Trustees of the Florida School for the Deaf and the Blind on an annual contractual basis.
- Requires school districts to implement a differentiated pay model for teachers in the 2004-2005 school year with four levels: associate teacher, professional teacher, lead teacher, and mentor teacher. The bill restricts school districts from assigning a higher percentage than the district average of first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools above the district average of minority and economically disadvantaged students or schools that are graded a “D” or “F.”

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise expressly provided, and the provisions relating to the Deferred Retirement Option Program shall take effect June 1, 2003.

*Vote: Senate 35-0; House 77-38*

## **HB 51-A — State Universities/Board of Governors**

by Rep. Mealor (SB 36-A by Senator Constantine)

This bill implements the requirements of s. 7, Art. IX, State Constitution, by enacting staggered terms for the members of the Statewide Board of Governors that governs the State University

System and the local boards of trustees that administer the state universities. The bill makes conforming changes to s. 1001.71, F.S., which provides membership criteria for the university boards of trustees.

The bill authorizes each university board of trustees to establish a nonrefundable admissions deposit in an amount not to exceed \$200 for an applicant who accepts admission to a state university. If the applicant enrolls in the state university, the admissions deposit would be credited towards tuition. If the applicant does not enroll, the admissions deposit would be used to provide financial assistance, scholarships, and student academic and career counseling services at the state university. Each state university that adopts the admissions deposit must also adopt a waiver provision for an applicant who demonstrates financial hardship.

The bill imposes a \$225,000 cap on state university president salaries using public funds. A state university president may be compensated above the cap as long as public funds are not used.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 38-0; House 115-1*

## **HB 55-A — Charter Schools**

by Rep. Baxley (SB 38-A by Senator Webster)

The bill provides guiding principles for the establishment and operation of charter schools including high standards of student achievement, increased accountability, and a specific emphasis on reading. The charter itself must contain specific information relating to the reading curriculum and show that instructional strategies are grounded in scientifically based reading research.

Beginning September 1, 2003, charter school applications must include specific content which: details how the school will use the guiding principles; demonstrates the alignment of Sunshine State Standards with curriculum; identifies goals and objectives for improving and measuring learning; describes the reading curriculum; and contains a financial plan for each requested year of operation. A school's failure to participate in the state's education accountability system created in s. 1008.31, F.S., is added as grounds for non-renewal or termination of a charter. The State Board of Education's time to review and make a decision on appeals of application denials is extended from 60 to 90 days. Except for charter schools developed with community colleges, the deadline for receiving and considering charter school applications is changed from October 1 to September 1. Existing caps on the number of charter schools that may be established are removed.

Charter schools must conduct internal audits and the auditors are required to notify the charter school governing board, the sponsor, and the Department of Education if the audit reveals a deficit financial position. Also, the auditor must report such findings in the form of an exit



interview to the principal and chair of the governing board within 7 working days of finding the deficit position. A final report must be provided to the entire governing board, the sponsor, and the Department of Education within 14 days after the exit interview.

The four state universities authorized to have lab schools are restricted to one lab school each. The restriction of one lab school per university does not apply to the following charter lab schools authorized prior to June 1, 2003: Florida State University Charter Lab Elementary School in Broward County; Florida Atlantic University Charter Lab 9-12 High School in Palm Beach County; and Florida Atlantic University Lab K-12 School in St. Lucie County. The role of the university as a sponsor is clarified in relation to the entity holding the charter. Community colleges may work with a school district to develop charter schools. Deadlines for community colleges applying to start such schools are eliminated and the school district may consider such an application at any time. If a community college offers secondary education at a charter school, it must provide an option for students to receive an associate degree. Students reported for FTE funding through the Florida Education Finance Program may not be reported by the community college as FTE.

The bill revises the charter school administrative services fee that may be charged by a school district from a uniform rate of 5 percent of available funds to the following: for the first 500 students in a charter school — 5 percent; for all students over 500 — the 5 percent of available funds shall be kept by the charter school and may only be used for capital outlay purposes as specified in s. 1013.62(2), F.S.

The bill establishes new eligibility criteria for charter schools to receive capital outlay funding. Also revised are the purposes for which a charter school may use state capital outlay funds and formulas are provided for the allocation of Charter School Capital Outlay Funds based upon whether the amount appropriated in any year is the same, less, or more than the amount appropriated for FY 2002-2003.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 39-0; House 86-30*



## **TAX AMNESTY**

### **CS/SB 18-A — Directs the Department of Revenue to Develop and Implement an Amnesty Program for Taxpayers**

by Finance and Taxation Committee and Senator Campbell

This bill creates an amnesty program for a four-month period, beginning on July 1, 2003 and ending on October 31, 2003, for taxpayers subject to taxes administered by the Department of Revenue. Under the program, eligible taxpayers who pay delinquent taxes will not have to pay any penalties, will not be subject to criminal prosecution, and will receive an interest waiver of 25 percent or 50 percent, depending on the circumstances. The bill also increases the interest rate on tax delinquencies from the prime rate to prime plus 4 percentage points, and provides an appropriation of \$610,000 from the General Revenue Fund to the Department of Revenue to implement the amnesty program.

The bill also changes the distribution of taxes collected on premiums for surplus lines insurance and independently procured coverage, reducing tax deposited to the Insurance Commissioner's Regulatory Trust Fund and increasing the distribution of tax deposited to the General Revenue Fund.

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

*Vote: Senate 35-0; House 112-2*



## **ADMINISTRATIVE AND CIVIL PROCEEDINGS**

### **HB 143-A — Florida Civil Rights Act of 1992**

by Rep. Kottkamp and others (CS/SB 46-A by Judiciary Committee and Senators Villalobos, Smith, Miller, Diaz de la Portilla, and Campbell)

This bill amends the Florida Civil Rights Act of 1992 (ss. 760.01-760.11, F.S., and s. 509.092, F.S.) and provides that this act may be cited as the “Dr. Marvin Davies Florida Civil Rights Act.” The bill gives the Attorney General the independent authority to initiate, upon reasonable cause, a civil action for damages, injunctive relief, civil penalties up to \$10,000 per violation, and other appropriate relief against any person or group for: 1) patterns or practices of discrimination; or 2) for discrimination that raises an issue of great public interest. The bill further provides that a respondent in such a proceeding may request, before any responsive pleading is due, that a hearing be held at which the court shall determine whether the complaint on its face makes a prima facie showing that a pattern or practice of discrimination exists or that, as a result of discrimination, an issue of great public interest exists. A prevailing party would be entitled to an award of reasonable attorney’s fees and costs and any damages recovered would accrue to the injured party. The bill expands the power of the Attorney General’s Office of Civil Rights to investigate and initiate actions under the new statutory provisions of this act.

The bill also defines the term “public accommodations” for purposes of the Florida Civil Rights Act and provides that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any public accommodation without discrimination or segregation on the ground of race, color, national origin, sex, handicap, familial status, or religion.

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

*Vote: Senate 36-1; House 112-1*

## **JUDICIARY**

### **HB 113-A — Judicial System**

by Rep. Benson and others (SB 34-A by Senators Smith and Villalobos)

This bill continues the 4-year phase-in legislative implementation of constitutional Revision 7 to Article V (relating to the judicial branch) of the State Constitution begun in 2000. Revision 7, adopted by the voters in 1998, requires the state to shift primary costs and funding for the operation of the state courts system to the state and to reallocate other costs and expenses among

the local governments and other users and participants in the state courts system. Briefly, this bill:

- Delineates state and county funding responsibilities for the state courts system, the offices of the state attorney, the offices of the public defender, and the local requirements and other court-related functions performed by the clerks of the court.
- Delineates and expands substantially the duties of the clerks of the court including collection and submission of revenues sufficient to support court-related functions and the operations of their offices, the provision of ministerial assistance solely to pro-se litigants, and the submission of various reports including budget reports.
- Establishes a 9-member Clerk of Court Operations Conference as a review and advisory body with authority to recommend changes to court-related service charges, fines, and fees; to receive, review, and approve clerks' court-related projected revenues, court projected revenues, and budgets; to certify budget deficits; to develop accountability and performance standards; and to publish and adjust fee schedules.
- Creates a 12-member Article V Indigent Services Advisory Board whose responsibilities include recommending qualifications for authorized state-funded due process services including eligibility and performance standards for court-appointed counsel, recommending adjustments to compensation standards for court-appointed counsel and other providers of due process services, identifying due process services for indigents, recommending statewide contracting standards for procurement of such services, and advising the Legislature on strategies and policies for cost-containment.
- Delineates the responsibilities or role of the courts in issues relating to indigence, collection of costs and fees, jury management, selection, and process.
- Circumscribes the scope of prosecution by state attorneys and defense by public defenders and private court-appointed counsel and prescribes the process for compensation.
- Prescribes methodologies and processes for selection, appointment, and compensation of court-appointed counsel including the establishment of a rotating registry of qualified attorneys and state- and circuit-level administrative bodies for the purpose of administering indigent services.
- Creates a statutory cause of action for civil enforcement of violations of municipal or county ordinances in which the county or municipality would be the plaintiff.
- Revises various provisions affecting local government finances including replacing the local option county levy to fund, in part, mediation and arbitration services with a

statewide mandatory \$1 filing fee on all circuit and county court proceedings, redefining guaranteed entitlement for municipalities, revising the authority to pledge state-shared revenue, and expanding the use of discretionary sales surtaxes.

- Adjusts court fines, fees, costs, and service charges and redirects other court fines, fees, costs, and service charges from the counties to the state and the clerks of the circuit court in order to implement Revision 7 at the state level.
- Directs the Chief Financial Officer to conduct a study to determine county expenditures for court-related services for FY 2001-2002 and provides for a \$200,000 appropriation from the Insurance Regulatory Trust Fund to support the study.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided for within the bill.

*Vote: Senate 40-0; House 110-6*





**CS/SB 54-A — Environmental and Conservation Lands**

by Natural Resources Committee and Senator Dockery

The bill simplifies land acquisition and land management responsibilities for state and water management district lands purchased and managed under the state's land acquisition programs. Revisions are made to appraisal requirements when the value of a proposed acquisition exceeds \$1 million. A 10-year land management planning process for conservation lands and a 10-year land use planning process for nonconservation lands are established. The Division of State Lands at the Department of Environmental Protection is authorized to determine the sale price of surplus lands, and requirements that surplus lands be sold to other units of government for no more than the original amount paid by the state or a water management district are eliminated.

The bill requires that the Division of State Lands, with assistance from counties, begin preparing a state inventory identifying all federal lands and all lands titled in the name of the state, a state agency, a water management district, or a local government on a county-by-county basis. In certain small counties with populations of 75,000 or fewer, lands titled in the name of the state, a state agency, or a water management district may be made available for purchase under certain conditions. A new process to expedite surplus land requests made by local governments is created. The bill also creates a new process for the exchange of donated state lands to local governments, including a requirement that the exchange provide an equal or greater conservation benefit to the state. The Board of Trustees of the Internal Improvement Trust Fund is directed to complete two land exchanges under certain conditions.

The bill reaffirms the state's commitment to funding Everglades restoration by reenacting provisions of law enacted during the 2002 Regular Session that created a bond program to fund the state's Everglades restoration efforts. The Everglades Forever Act, which was amended during the 2003 Regular Session by the enactment of Chapter 2003-12, L.O.F., is revised to remove all references to the phrases "earliest practicable date" and "maximum extent practicable." Finally, the bill provides that if moderating provisions are adopted in the state water quality standard rule establishing a numeric phosphorus criterion, the moderating provisions may not extend beyond 2016 without legislative authorization.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise expressly provided.

*Vote: Senate 34-4; House 96-18*



**HB 63-A — Clean Indoor Air Act**

by Rep. Prieguez and others (CS/SB 44-A by Regulated Industries Committee and Senator Diaz de la Portilla)

This bill implements section 20, of Article X, of the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. The bill amends the “Florida Clean Indoor Air Act” (the act) to implement the constitutional amendment.

The bill prohibits tobacco smoking in enclosed indoor workplaces. It also adopts and implements the definitions of the constitutional amendment. The bill implements the exceptions in the constitutional amendment for private residences whenever not being used for certain commercial purposes, stand-alone bars, and designated smoking rooms in hotels and other public lodging establishments.

The bill implements the exception for retail tobacco shops. It defines a retail tobacco shop as including a business that manufactures, imports, or distributes tobacco products and tobacco loose leaf dealers. It permits manufacturers, importers, or distributors of tobacco products and tobacco loose leaf dealers to heat, burn, smoke, or light for testing tobacco products when it is a necessary and integral part of the processes of making, manufacturing, importing, or distributing tobacco.

The bill provides an exception for tobacco smoking to the extent that tobacco smoking is an integral part of a smoking cessation program approved by the Department of Health, medical research, and scientific research. The bill permits the designation of a smoking room in an in-transit lounge in a customs area of an airport. The bill provides requirements for these designated smoking rooms intended to protect persons from the hazards of second-hand smoke. The bill clarifies the definition of the term “workplace” to provide that the term does not include facilities owned or leased by a membership association, including veterans’ groups, that are used exclusively for non-commercial activities performed by the members and guests of the association, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work as the term is defined in the act.

A stand-alone bar may not derive more than 10 percent of its gross revenue from the sale of food. Every three years a stand-alone bar that serves food other than pre-packaged items must file a report with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation attesting to the percentage of food sales. The report must be attested to by a Certified Public Accountant.

The bill provides for enforcement of the act by the Department of Health and the Department of Business and Professional Regulation. It provides specific penalties for violations by stand-alone

bars ranging from a warning for a first violation to revocation of the right to smoke on the premises for a fourth or subsequent violation. It changes the penalties for violations of the act by other proprietors to provide a first violation penalty of not less than \$250 and not more than \$750. It changes the penalty provisions for subsequent violations to not less than \$500 and not more than \$2,000. The bill maintains the penalty provisions under the current act for violations by individuals.

If approved by the Governor, these provisions take effect July 1, 2003.

*Vote: Senate 38-2; House 106-10*

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