2009 Regular Session

Summary of Legislation Passed

Revised 06/16/09 to reverse position of summaries for CS/CS/CS/SB 1986, in the Health Regulation section

Compiled and Edited by
Office of the Senate Secretary

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The 2009 Regular Session *Summary of Legislation Passed* is a collection of reports submitted by Senate Committees to the Secretary of the Senate. These reports have been compiled and edited for standardization. This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

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Senate Committee: Agriculture

CS/HB 169 — Nicole's Law

by Policy Council and Rep. Abruzzo and others (SB 68 by Senator Aronberg)

This bill, known as "Nicole's Law," requires minors under the age of 16 to wear helmets while riding an equine on any publicly owned or controlled property. The helmet must meet the current applicable standards of the American Society of Testing and Materials (ASTM) for protective headgear used in horseback riding. In addition, the helmet must be fitted properly and fastened securely upon the child's head.

A trainer, instructor, supervisor, or other person may not knowingly lease or rent an equine for riding by a minor unless a helmet is provided that meets ASTM standards. Parents of a minor are prohibited from authorizing or knowingly permitting the child to violate the requirement to wear a helmet. This bill provides for punishment of violations through a noncriminal penalty. It also provides for certain exceptions such as riding at shows or events, riding on private land, and riding while engaged in agricultural pursuits.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 34-3; House 115-1

CS/CS/HB 333 — Off-Highway Vehicles

by Economic Development and Community Affairs Policy Council; Roads, Bridges and Ports Policy Committee; and Rep. Workman (CS/CS/SB 798 by Transportation Committee; Agriculture Committee; and Senator Baker)

This bill amends the basic definition of "ATV" to encompass larger, heavier vehicles; creates a new statutory definition of "ROV" for recreational off-highway vehicles; and expands the definition of "off-highway vehicle" to include ROVs.

The new definitions increase the number of vehicle types which may be titled under ch. 317, F.S., and consequently, the number of vehicle types authorized for operation on public lands. When operated on public lands, ROVs would have to comply with the safety requirements found in chs. 261 and 316, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 115-2

HB 7001 — Department of Citrus/Florida Government Accountability Act

by Government Accountability Act Council and Rep. Grimsley (SB 1210 by Agriculture Committee)

The Department of Citrus, and its respective advisory committees, and the Florida Citrus Commission were subject to a sunset review process pursuant to the Florida Government Accountability Act (ss. 11.901-920, F.S.). Consistent with the findings made during the review process, HB 7001 continues the existence and functions of the department and the commission. The bill repeals s. 601.154, F.S., the Citrus Stabilization Act of Florida, and thereby the School Marketing Program Administrative Committee, which was formed under the authority of the Act. That language was considered to be a duplication of authority and to be more broadly covered in s. 601.15, F.S.

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

HB 255 — Pest Control Compact

by Rep. Bembry and others (SB 1286 by Senator Dean)

The bill codifies the Interstate Pest Control Compact (IPCC) and allows Florida to remain a member of the IPCC, which the state has been a member of since 1995. The IPCC provides funding resources to states that may not have the necessary available capital to respond to a new pest outbreak posing a threat to agriculture. Member states pay an initial base assessment of $2,000 plus a percentage of the value of the state's agriculture and forestry crops. Florida's payment totaled $39,342 and was paid in full in 2001. Since becoming a member in 1995, Florida has received $240,522 in funding from the IPCC Insurance Fund for noxious weed and tomato virus control activities.

The bill creates s. 570.345, F.S., and sets forth the following criteria for enacting the compact and membership in the IPCC:

- Departments, agencies, and officers of the state may cooperate with the Insurance Fund established by the IPCC;
- Bylaws, and any amendments to the bylaws, must be filed with the Commissioner of Agriculture;
- The Compact Administrator for the State is the Commissioner of Agriculture;
- The Commissioner of Agriculture has authority to request assistance from the insurance fund;
- Any department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program must credit the appropriate account in the state treasury for the amount of any payments made to the state to defray the cost of such programs, and;

- As used in this compact, with reference to the state, the term "executive head" means the Governor.

The bill also provides details regarding the internal workings of the IPCC, such as the establishment of the Insurance Fund, administration of the IPCC, administration of the Insurance Fund, assistance and reimbursement procedures, and the creation of advisory and technical committees, among other things.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 114-0

CS/HB 7053 — Rural Agricultural Industrial Centers

by Policy Council; Agriculture and Natural Resources Policy Committee; and Rep. T. Williams (CS/CS/SB 2572 by Transportation and Economic Development Appropriations Committee; Agriculture Committee; and Senators Dean, Baker, and Lynn)

This bill provides legislative findings regarding rural agricultural industrial centers and amends s. 163.3177, F.S., to create an alternative process for amending local government comprehensive plans to expand the uses or facilities of these centers. It defines a "rural agricultural industrial center" as a developed parcel of land in an unincorporated area with an operating agricultural industrial facility that:

- Employs at least 200 full-time employees;
- Is used for processing and preparing for transport farm products or biomass material that could be used for the production of fuel, renewable energy, bioenergy, or alternative fuel;
- May include contiguous land not used for the cultivation of crops but on which activities are conducted that are essential to the operation of the facility; and
- Is located in or within 10 miles of a Rural Area of Critical Economic State Concern.

An owner of land within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan to expand the uses or facilities so long as the expansion is compatible with agriculture and the existing uses and facilities. If the amendment meets conditions outlined in the bill, the local government must transmit the application within 6 months to the state land planning agency for review pursuant to ch. 163, F.S. The bill creates a presumption that the amendment does not promote urban sprawl and is presumed to be consistent with rule 9J-5006(5), Florida Administrative Code, subject to rebuttal by a preponderance of the evidence.

The amendment process created by this bill does not apply in rural areas with an optional sector plan or in a rural land stewardship area, or to a plan amendment that includes an inland port terminal or affiliated port development.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 116-1

FINANCIAL MATTERS

SB 318 — Criminal Usury Laws/Discriminatory Language

by Senators Sobel and Rich

This bill (Chapter 2009-22, L.O.F.) removes the terms "shylock" and "shylocking" from s. 687.071, F.S., Florida's criminal usury/loan sharking statute, and s. 772.102, F.S. The removed terms are viewed as offensive and discriminatory towards Jewish people. The removed terms were not vital to the application of the statutes from which they were removed so the bill will have no substantive impact on the effect and application of ss. 687.071 and 772.102, F.S.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 39-0; House 115-0

CS/CS/CS/HB 569 — Financial Instruments

by Finance and Tax Council; General Government Policy Council; Insurance, Business, and Financial Affairs Policy Council; and Rep. Roberson (CS/CS/SB 732 by Policy and Steering Committee on Ways and Means; Governmental Oversight and Accountability Committee; and Senator Smith)

Financial Instruments and Devices Issued in Payment of Wages or Salary

Currently ss. 17.57 and 218.415, F.S., allow the Chief Financial Officer and local governments, respectively, to invest surplus public funds in certificates of deposit. This bill provides that both entities may now invest in any "financial deposit instruments insured by" the Federal Deposit Insurance Corporation (FDIC). These instruments include money market accounts, savings accounts, certificates of deposit, and other deposit instruments that are FDIC insured.

Section 532.01, F.S. provides for devices, such as a check, that may be used "in payment of wages or salary" so long as the device is "negotiable and payable in cash." This bill expands the list of devices to include payroll debit cards.

The Florida Hurricane Catastrophe Fund (FHCF)

Section 215.555, F.S. provides for the Insurance Capital Buildup Incentive Program within the FHCF. The bill extends for three years the sale of $10 million in optional additional FHCF coverage below the fund's mandatory coverage retention to limited apportionment companies and companies qualifying for the program in 2008. This bill further provides that this coverage is available before the mandatory coverage in the event of reimbursement.

If approved by the Governor, these provisions will become law on July 1, 2009.
Vote: Senate 40-0; House 116-0

HB 379 — Florida Uniform Principal and Income Act

by Rep. Wood (SB 1222 by Senator Richter)

The Florida Uniform Principal and Income Act provides a means for allocating monies held in trust between principal and income where the terms of the trust do not provide for such allocation. This bill amends allocation provisions for payments from deferred compensation plans, annuities, and retirement plans or accounts in order to allow marital deduction trusts to continue to receive favorable federal estate tax treatment.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 112-0

CS/CS/HB 483 — Investor Protection

by General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee; and Rep. Grady and others (CS/SB 1126 by Judiciary Committee and Senators Richter, Ring, Storms, Oelrich, Lynn, Crist, and Aronberg)

The bill provides greater enforcement tools and regulatory oversight for securities transactions in Florida, which will increase the state's effectiveness in combating securities fraud. The bill provides the following changes:

- Authorizes the Office of Statewide Prosecution to initiate and pursue investigations for securities transactions and money laundering and to prosecute criminal violations;
- Authorizes the Attorney General to investigate and bring actions against violators of the fraud provisions of ch. 517, F.S., the Securities and Investors Protection Act. The Attorney General may seek injunctive relief, restitution, and civil penalties. Currently, the Office of Financial Regulation (OFR) has the jurisdiction under ch. 517, F.S.;
- Requires the OFR to adopt disciplinary guidelines for persons who violate ch. 517, F.S.;
- Increases the cap on administrative fines from $5,000 to $10,000 per violation; and
- Authorizes the emergency suspension of an individual's securities registration under ch. 517, F.S., for failure to promptly provide books and records to the OFR.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 114-0

CS/SB 1534 — Money Services Businesses

by Finance and Tax Committee and Senators Storms and Fasano

Money services businesses offer financial services, such as check cashing, money transmittals (wire transfers), sales of monetary instruments, and currency exchange outside the traditional banking environment.

The bill clarifies terminology in ch. 560, F.S., which regulates money services businesses. Currently, fees for authorized vendors are assessed by the Office of Financial Regulation (office) on a per location basis. The bill modifies s. 560.141, F.S., to reflect current administrative practices of the office relating to license applications. The bill does not impose any new fees.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

CS/CS/SB 2226 — Mortgage Brokering and Mortgage Lending

by Judiciary Committee; Banking and Insurance Committee; and Senators Fasano, Lynn, and Richter

In response to the recent turmoil in the housing market and reports of abusive lending practices in Florida as well as other states, the federal Housing and Economic Recovery Act was enacted on July 30, 2008. Title V of this act is titled "The Secure and Fair Enforcement for Mortgage Licensing Act of 2008" (S.A.F.E.). The intent of S.A.F.E. is to provide greater accountability and regulation of individual loan originators (mortgage brokers and mortgage lenders) and enhance consumer protections by establishing minimum licensure and registration requirements for loan originators. The act creates a national database for consumers to inquire about the credentials and disciplinary history of loan originators, mortgage brokers, and mortgage lenders.

The bill implements the minimum standards of S.A.F.E. and provides increased licensure and enforcement authority for the Office of Financial Regulation (OFR) to regulate loan originators, mortgage broker businesses, and non-depository, mortgage lender businesses. The bill provides the following changes in the regulation of loan originators, mortgage brokers and mortgage lenders:

- Establishes licensure requirements for individuals that work for mortgage brokers or mortgage lenders.
- Requires licensure and renewal on an annual, rather than biennial, basis.
- Prohibits licensure of a person who has had a felony conviction during the seven-year period preceding the date of the application (or at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering).
- Authorizes the OFR to obtain and review credit reports of an applicant or licensee on annual basis to determine if a person demonstrates financial responsibility for purposes of licensure. The applicant is provided an opportunity to provide further information to mitigate adverse items contained in the credit report.
- Requires annual criminal background checks of licensees.
- Establishes a guaranty fund to compensate persons suffering monetary damages due to a violation of ch. 494, F.S., by a licensed mortgage broker or mortgage lender. Fees

assessed on loan originators, mortgage brokers and mortgage lenders finance the guaranty fund.

The bill also provides for a transition from the current licensure system and categories of licensees to a system meeting minimum federal requirements.

If approved by the Governor, these provisions take effect July 1, 2009, except as otherwise provided.
Vote: Senate 39-0; House 119-0

HEALTH INSURANCE

CS/SB 1122 — Health Insurance/Payment of Benefits/Claims Forms

by Health Regulation Committee and Senators Gaetz, Sobel, Oelrich, Fasano, Bennett, Lynn, and Altman

The bill requires insurers to make payments directly to any provider not under contract with the insurer if the insured makes a written assignment of benefits. Under current law, direct payment by an insurer is only required for emergency services and care. The bill provides that OPPAGA is to complete a report to the President of the Senate and the Speaker of the House by March 1, 2012, and if that report finds that the act has caused a net loss in physicians in the preferred provider plan network of the state group health plan, the provisions of the act will be repealed.

This bill substantially amends s. 627.638, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 31-7; House 102-11

CS/CS/HB 675 — Medicare Supplement Policies

by General Government Policy Council; Health and Family Services Policy Council; and Rep. Workman and others (CS/CS/CS/SB 1022 by Policy and Steering Committee on Ways and Means; Health Regulation Committee; Banking and Insurance Committee; and Senators Altman, Fasano, Detert, Rich, Hill, Siplin, and Lynn)

The bill requires insurers that provide Medicare supplement policies (Medigap) to issue such policies on a guaranteed-issue basis to persons in Florida who are: under 65 years of age and eligible for Medicare due to a disability determination or diagnosis of end-stage renal disease (ESRD). Qualified Medicare beneficiaries must be enrolled in Medicare Part B and must purchase Medigap coverage within 6 months after initial Medicare eligibility or within 2 months following termination of coverage under a group health insurance policy.

The bill allows Medigap insurers that already offer coverage to Medicare beneficiaries under the age of 65 a process to make a one-time rate schedule change without activating the 5-year

lockout period required in s. 627.410(6)(e)2., F.S. The authorized rate change allows insurers to address concerns in the premium relativities between the premium class, which includes the under age 65 and the balance of the block, by redefining the age bands of the premium classes. A second rate change provided in the bill allows an insurer to address problems in the premium relativities between the premium class, which includes the under age 65 individual, and the balance of the block, in the first rate filing in 2012. This provision is intended to allow a company to consider the experience data for the premium class, including the under age 65 individuals, on a much more credible basis than the current rules authorize.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 115-0

MISCELLANEOUS

CS/CS/SB 926 — Cemeteries

by Higher Education Appropriations Committee; Banking and Insurance Committee; and Senators Altman, Oelrich, Rich, King, and Dockery

This bill provides for an exemption from the rules pertaining to cemeteries under the Florida Funeral, Cemetery, and Consumer Services Act (Act) to allow for a columbarium consisting of five acres or less to be located on the main campus of any of the eleven state universities. A university or direct-support organization which establishes the columbarium must ensure that it is constructed and maintained in a manner consistent with the Act. The bill allows containers and caskets used in cremation to be made of chemically "consumable" materials to allow for the use of a new cremation process.

If approved by the Governor, these provisions will become law on July 1, 2009.
Vote: Senate 39-0; House 116-0

CS/SB 198 — Firefighter Memorial Flag

by Banking and Insurance Committee and Senators Justice, Smith, Joyner, Bennett, Lawson, Fasano, Storms, Diaz de la Portilla, Gaetz, Rich, Dockery, Baker, Deutch, Lynn, Jones, King, Wise, Detert, Gelber, Wilson, Aronberg, Dean, Peaden, Oelrich, Constantine, Hill, and Crist

This bill requires the Division of State Fire Marshal within the Department of Financial Services (Department) to design, create, and distribute an official state firefighter memorial flag. The flag will honor firefighters who have died in the line of duty. The flag may be displayed at fire stations, firefighter memorials, funeral services, and otherwise as the State Fire Marshal deems proper. The bill mandates a specific design for the flag which includes the Great Seal of the State of Florida and the phrase "Florida Fallen Firefighters" over a blue background. The bill grants the Department authority to adopt rules relating to the production and distribution of the flag.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/SB 2282 — First-Responder Services

by Banking and Insurance Committee and Senators Bennett, Lynn, and Lawson

The legislation prohibits counties and cities from imposing fees or obtaining reimbursement for costs or expenses incurred for services provided by first responders (law enforcement officers, firefighters, emergency medical technicians or paramedics), including volunteer first responders, which include costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident. The bill provides exceptions for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by ambulance services.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 102-15

HB 741 — Insurance Premium Financing

by Rep. Patterson and others (SB 1432 by Senator Storms)

This bill provides that the provisions in parts XV and XVI of chapter 627 of the Florida Insurance Code do not apply to any discount granted an insured if the insured pays the premium for the entire policy term at the term's inception so long as the discount is actuarially justified and approved by the Office of Insurance Regulation (OIR). The bill further provides that no actuarially justified discount approved by the OIR is a component of or related to premium financing.

If approved by the Governor, these provisions will become law on July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/CS/SB 2252 — Professional Liability Claims

by General Government Appropriations Committee; Banking and Insurance Committee; and Senator Baker

Section 627.912, F.S., requires that insurers providing professional liability coverage to specified health care providers or to members of The Florida Bar must report to the Office of Insurance Regulation (OIR) any claim or action for damages due to injuries claimed to have been caused by error, omission, or negligence in the performance of the insured's professional services, if the claim results in a settlement, final judgment, or disposition of a medical malpractice claim with no indemnity payment on behalf of the insured.

The bill defines the term "claim" for reporting purposes, requires that the claim be in writing, and specifies the circumstances under which an insurer is to report a claim to the OIR. Under the legislation, an insurer will be obligated to report a claim when any of the following occurs:

- Upon the entry of a judgment against the provider;
- Upon the execution of a settlement;
- Upon the final payment of indemnity on behalf of any provider for damages alleged in the performance of professional services; or
- Upon a final disposition of a claim for which no indemnity payment was made, but for which loss adjustment expenses exceeded $5,000.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 119-0

CS/SB 2158 — Public Records Exemption for the Florida Insurance Guaranty Association

by Governmental Oversight and Responsibility Committee and Senator Haridopolos

The Florida Insurance Guaranty Association (FIGA) services the claims of insurers that have become insolvent. This bill creates a public records exemption for the following records of FIGA: claim files; medical records that are part of a claims file and other medical information relating to the claimant; and information relating to matters covered by privileged attorney client communications.

If approved by the Governor, these provisions will become law on July 1, 2009.
Vote: Senate 39-0; House 119-0

CS/CS/HB 845 — Self-Insurance Funds

by General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee, and Rep. Drake and others (CS/CS/CS/SB 1138 by Policy and Steering Committee on Ways and Means; Higher Education Committee; Communications, Energy, and Public Utilities Committee; and Senator Gaetz)

The bill requires an application for workers' compensation coverage issued by a group self-insurance fund to contain a notice in 10-point boldface type that it is a fully assessable policy and that, if the fund is unable to pay its obligations, policyholders must contribute, on a pro rata earned premium basis, the money necessary to meet any unfilled obligations.

The legislation authorizes any two or more electric cooperatives to operate a self-insurance fund for pooling and spreading liabilities of group members in securing payment of benefits for workers' compensation purposes. The legislation establishes standards for these electric cooperative self-insurance funds including requiring members to be jointly and severally liable for the obligations of the fund; maintain excess insurance coverage and reserves; subscribe to a

rating organization; employ an independent certified public accountant; limit membership to Florida electric cooperatives; provide members with a specified disclosure statement and require payment of premium taxes. The bill also exempts the electric cooperative self-insurance fund and the independent educational institution self-insurance fund from being members of the Florida Workers' Compensation Insurance Guaranty Association.

The bill changes the financial data reporting period for administrators of an association representing health care providers, administrators of a pooled governmental self-insurance program or of a university from a calendar year to a fiscal year and provides reporting deadlines.

If approved by the Governor, these provisions take effect July 7, 2009.
Vote: Senate 39-0; House 117-0

PROPERTY INSURANCE

CS/CS/SB 714 — Condominiums

by General Government Appropriations Committee; Regulated Industries Committee; and Senators Jones, Fasano, and Ring

This bill revises and clarifies the property insurance and other requirements of condominium associations and condominium unit owners under ch. 718, F.S., known as the Condominium Act. The legislation corrects inconsistencies with terms used under the Insurance Code and repeals certain insurance requirements placed on condominium unit associations and owners. Specifically, the bill contains the following provisions:

- Creates a provision under the Insurance Code to require that residential condominium unit owner policies issued or renewed on or after July 1, 2009, must include loss assessment coverage of $2,000 for certain assessments. The bill authorizes insurers to apply a deductible of no more than $250 per direct property loss under certain conditions.
- Requires that every unit owner's residential property insurance policy contain a provision stating that the coverage is excess coverage over the amount recoverable under any other policy covering the same property.
- Deletes the requirement that a unit owner's hazard insurance policy, issued or renewed on or after January 1, 2009, include special assessment coverage of $2,000 per occurrence and removes a provision prohibiting the policy from providing rights of subrogation against the owner's condominium association.
- Deletes the requirement that a unit owner's hazard insurance policy provide that the policy coverage is "excess coverage" over the amount recoverable under any other policy covering the same property.
- Clarifies what property is the responsibility of the unit owner and covered by the owner's property insurance policy.

- Deletes the requirement that all improvements or additions to the condominium property that benefit fewer than all unit owners be insured by the unit owner or owners having the use thereof, or may be insured by the association at the cost and expense of the unit owners having such use.
- Removes the provision that the association must require owners to provide evidence of hazard and liability insurance upon written request, and, should the owner fail to provide such proof of insurance, the association may purchase a policy on the owner's behalf wherein the owner is responsible for the cost.
- Deletes the requirement that the association be an additional named insured and loss payee on all casualty insurance policies issued to unit owners in the condominium operated by the association.
- Clarifies that adequate "property" insurance, as opposed to "hazard" or "casualty" insurance, be provided by the condominium association and condominium unit owner.
- Provides that adequate property insurance be based upon the "replacement cost" of the insured property, which must be determined at least once every 36 months.
- Deletes the requirement that notices of association board meetings contain specified provisions relating to deductibles and that such meetings may be held in conjunction with budget meetings.

The bill revises the following non-insurance provisions related to condominiums:

- Clarifies requirements related to the election of board members, the terms of board offices, vacancies on the board, and the qualifications of board members.
- Exempts timeshare condominiums from the requirement that the terms of all members of the condominium board expire at the annual meeting.
- Exempts condominium associations that do not include timeshares from the prohibition that co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit and are not co-occupants of a unit.
- Extends the deadline for the retrofitting of sprinkler systems in common areas in high-rise condominiums from 2014 to 2025.
- Exempts specified condominiums from the requirement to install a manual fire alarm system. The exemption in limited to one and two story condominiums that have an exterior means of egress corridor.
- Repeals the requirement for emergency generated power for elevators in high-rise multifamily dwellings over 75 feet in height. The repeal is based on the recommendations of an a interim report by the Regulated Industries Committee (Interim Report 2009-125).

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-2

CS/CS/CS/HB 1495 — Property Insurance

by Full Appropriations Council on General Government and Health Care; General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee; and Reps. Nelson, Hays, and others (CS/CS/SB 1950 by Policy and Steering Committee on Ways and Means; Banking and Insurance Committee; and Senator Richter)

The bill makes wide-ranging changes to the regulation of property insurance, including:

Citizens Property Insurance Corporation ("Citizens")

- Implements a rate "glide path" capped at 10 percent per year for Citizens' policyholders until rates are actuarially sound. This provision will go into effect on or after January 1, 2010. The incremental rate increase was a recommendation of the Citizens Mission Review Task Force.
- Allows Citizens to increase its rates to pay the Florida Hurricane Catastrophe Fund's (FHCF) "cash build up" program for 5 years. Estimated rate impact is less than 1 percent.
- Staggers the terms of office for members of the Board of Governors.
- Insurers may offer ex-wind policies to homeowners within the boundaries of the HRA (high risk account) area who are no longer eligible for coverage by Citizens because the replacement value of the home exceeds $2 million or because the replacement value of the home exceeds $750,000, but the home does not have hurricane shutters.
- Deletes the provision that required on January 1, 2010, a seller of a home which is insured by Citizens and located in the wind-borne debris region, with an insured value of $500,000 or more, to disclose in writing to the prospective purchaser its windstorm mitigation rating based on the uniform home grading scale, prior to sale.
- Extends from February 1, 2010 to December 1, 2010, the requirement that Citizens reduce its HRA area boundaries in order to lower its 100-year probable maximum loss (PML).

Florida Hurricane Catastrophe Fund ("FHCF" or "Fund")

- Implements provisions to reduce the FHCF's exposure and increase its cash reserves. The bill phases out the Temporary Increase in Coverage Limit (TICL) layer of coverage over a 6-year period at a rate of $2 billion per year.
- Increases the price of the TICL layer by an additional multiple each year until TICL is eliminated in 6 years.
- Authorizes the Fund to implement a "cash build up" factor which would increase the reimbursement premiums that the Fund charges property insurers for the mandatory layer of coverage provided by the Fund. The cash build up factor is based on a 5 percent annual increase which will be phased in over a 5-year period, at which time the increase will be 25 percent.

- Allows small insurers to continue to purchase an additional amount of FHCF reimbursement coverage up to $10 million until December 31, 2011.
- Establishes the contract period for the Fund to be the calendar year (January through December).

My Safe Florida Homes Program ("MSFH")

- Adds mitigation improvements relating to roof hardening to help facilitate the MSFH program to access federal "weatherization" stimulus money and FEMA grant money.
- Clarifies that the MSFH program provide grants rather than participate in a no-interest loan program.
- Authorizes the Department of Financial Services to adopt by rule the maximum grant allowances for mitigation improvements.
- Revises the threshold for grant and contract review by the Legislative Budget Commission.

Insurance Rate Filings

- Allows insurers to make a separate expedited rate filing limited solely to an adjustment of its rates for reinsurance or financing costs relating to the purchase of reinsurance or financing products to replace or finance the payment of the amount covered by the Fund's TICL layer, including replacement reinsurance for the TICL reductions, as well as the cash build up factor and the increase in the price for the remaining TICL layers. All costs contained in the filing are capped at 10 percent per policyholder; however, financing products such as a liquidity instrument or line of credit may not result in an overall premium increase exceeding 3 percent. The bill provides that insurers purchasing this reinsurance do so at a price no higher than would be paid in an "arms-length" transaction. An insurer may make only one filing under this provision in any 12-month period.
- Prohibits "use and file" rate filings until December 31, 2010.

Public Adjusters

- Prohibits public adjusters, public adjuster apprentices and persons acting on behalf of public adjusters or apprentices from accepting referrals of business from any person with whom the public adjuster conducts business.
- Prohibits a public adjuster from compensating any person, except for another public adjuster, for the purpose of referring business to the public adjuster.
- Requires an applicant for a public adjuster apprentice license to pass a written examination prior to licensure and receive a specified designation.
- Limits the number of public adjuster apprentices that are maintained by public adjusting firms.

- Requires OPPAGA to review the claims practices and laws relating to public adjusters and submit a report to the Governor, President of the Senate, Speaker of the House of Representatives, the CFO, and the Insurance Commissioner by February 1, 2010.

Other Provisions

- Authorizes the Florida Hurricane Loss Projection Methodology Commission to study and issue a report on mitigation credits, discounts and deductibles.
- Provides that premium discounts resulting from the home grading scale (due in 2011 from OIR) will supersede the current mitigation discounts approved by OIR.
- Authorizes reinsurers to issue coverage directly to a self-insuring public housing authority.
- Allows an insurer to repair damaged property in compliance with its policy.
- Allows insurance agents to explain the applicability of FIGA to consumers.
- Repeals the statute that prevents OIR attorneys from asserting attorney-client privilege or work-product confidentiality on certain communications with other OIR personnel.
- Changes recoupment by insurers for Citizens assessments, eliminating the need to receive prior OIR approval before recouping costs from policyholders. Instead, OIR would review the final accounting report of the recoupment after it has been completed.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-6; House 80-35

CS/CS/HB 1171 — Residential Property Insurance

by General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee; and Reps. Proctor, Wood, and others (CS/SB 2036 by Banking and Insurance Committee and Senator Bennett)

The bill allows certain insurers to use a rate in excess of the filed rate if:

- The insurer has surplus as to policyholders of $500 million or more;
- The insurer has a surplus of $200 million or more and a ratio of net written premium to surplus of two to one or less; or
- The insurer has a surplus of $150 million or more, and offers insurance primarily as a service to members of a nonprofit corporation.

An insurer using this provision cannot purchase coverage from the temporary increase in coverage limit (TICL) of the Florida Hurricane Catastrophic Fund. An insurer may not use this provision for policies that exclude coverage for wind or hurricane. An insurer using this provision must provide notice in bold type that the rate is not approved by the Office of Insurance Regulation (OIR), and that a rate regulated policy may be available from Citizens

Property Insurance Corporation (Citizens) or another carrier. The insured must be given a quote from Citizens or another carrier and sign an acknowledgement form.

The bill creates Section 627.7031, Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 27-9; House 105-13

CS/SB 742 — Sinkhole Losses

by Banking and Insurance Committee and Senators Fasano and Storms

This bill allows an insurer offering sinkhole coverage to nonrenew those policies in Pasco and Hernando Counties, and instead offer coverage for catastrophic ground cover collapse. The insurer must offer an endorsement for sinkhole coverage, subject to an inspection and subject to the insurer's underwriting guidelines. The bill mandates the creation of a building code effectiveness grading schedule to be adopted by the Financial Services Commission by rule. Four years after a county amends the Florida Building Code with a "sinkhole loss prevention ordinance," the Office of Insurance Regulation will use the building code effectiveness grading schedule to evaluate the effectiveness of the county ordinance in reducing the number of sinkholes and the severity of sinkhole losses. The bill further mandates the creation of insurance premium discounts or surcharges on personal residential property insurance based on a property's compliance with sinkhole loss prevention ordinances and the effectiveness of the ordinance as determined by the grading schedule.

This bill creates s. 627.7063, F.S.

If approved by the Governor, these provisions take effect January 1, 2010.
Vote: Senate 39-0; House 117-0

CS/HB 853— Surplus Lines Insurers

by General Government Policy Council and Rep. Patterson and others (CS/CS/SB 1894 by Finance and Tax Committee; Judiciary Committee; and Senators Bennett and Baker)

Surplus lines insurance is the market of last resort for difficult to place commercial and personal lines risks in Florida. Historically, surplus lines insurers have not been subject to the majority of insurance requirements under ch. 627, F.S., or the regulatory authority of the Office of Insurance Regulation due to a specific exemption under the chapter. However, two recent rulings by the Florida Supreme Court and a federal appellate court have altered the manner in which surplus lines insurers have historically been regulated.

This legislation is in response to these court decisions and amends the surplus lines law (s. 626.913, F.S.) by providing that except where specifically stated, the provisions of ch. 627, F.S., do not apply to surplus lines insurance. The bill specifies that the amendment to s. 626.913, F.S., is remedial in nature and operates retroactively to the regulation of surplus lines insurers

from October 1, 1988, except with respect to lawsuits that are filed on or before May 15, 2009. The bill also imposes the following requirements on surplus lines insurers:

- Requires surplus lines policies to have printed on the face of the policy a statement in 14-point boldface type that surplus lines insurers' policy rates and forms are not approved by any Florida regulatory agency;
- Specifies the types of claims payments that can be made under surplus lines insurance contracts;
- Specifies the policy information that must be included in a disclosure statement by surplus lines insurers regarding liability insurance claims;
- Provides for an award of attorney's fees upon a judgment or decree by any Florida court against a surplus lines insurer in favor of any named or omnibus insured or named beneficiary;
- Requires surplus lines insurers to have printed on the face of a personal lines residential property insurance policy a statement in 14-point boldface type that the policy contains a separate deductible or a co-pay provision for hurricane or wind losses, which may result in high out-of-pocket expenses to the insured; and
- Provides that if a provision of the act is held invalid, that invalidity shall not affect the other provisions of the act.

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

WORKERS' COMPENSATION

CS/HB 903 — Attorney's Fees in Workers' Compensation Cases

by General Government Policy Council and Rep. Flores and others (CS/CS/SB 2072 by General Government Appropriations Committee; Judiciary Committee; and Senators Richter and Baker)

Prior to the 2003 reforms, Florida was ranked as having the highest or second highest workers' compensation insurance premiums nationwide. The Legislature enacted significant changes to the workers' compensation laws in 2003 that were designed to increase the affordability and availability of coverage, expedite the dispute resolution process, provide greater compliance and enforcement authority to combat fraud, and revise certain indemnity benefits for injured workers. This legislation continued the contingency fee schedule for attorney's fees, but eliminated hourly fees.

In October 2008, the Florida Supreme Court in *Murray-v.-Mariner Health and ACE USA* determined that the attorney's fee schedule, when read with a provision that entitles certain prevailing claimants to "a reasonable attorney's fee," creates an ambiguity as to whether the fee schedule is the sole basis for determining a reasonable attorney's fee. The court concluded that the fee schedule is not the sole basis, and held that the factors set forth in a Florida Bar rule for

determining attorney's fees (which includes the discretionary factors removed from the workers' compensation statute in 2003), were to be applied to determine a "reasonable attorney's fee" when the term is not otherwise defined. This decision eliminated workers' compensation attorney fee caps and allowed hourly fees in Florida.

The bill clarifies that the attorney's fee schedule provisions in ch. 440, F.S., are to be calculated based solely on the fee schedule, except in certain medical-only cases.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 22-16; House 84-35

CARE OF CHILDREN

HB 381 — Care of Children

by Rep. N. Thompson and others (CS/CS/CS/CS/SB 1276 by Health and Human Services Appropriations Committee; Governmental Oversight and Accountability Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Storms; CS/CS/SB 126 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Dockery, Bennett, Lynn, and Bullard)

This bill creates the ***"Zahid Jones, Jr., Give Grandparents and Other Relatives a Voice Act."***

Notification to Relatives

The bill ensures that relatives who so request will be provided notice of all proceedings and hearings regarding a child involved in a child protective investigation or in dependency court proceedings.

Specifically, the bill:

- Allows a relative, at any time after the commencement of a protective investigation, to submit a request to the child protective investigator (CPI) or case manager to receive notice of all proceedings and hearings involving the child;
- Provides that the case plan must describe the case manager's responsibility for forwarding a relative's request for notification to the attorney for the Florida Department of Children and Families (DCF or the department);
- Requires the attorney for the department to notify any relative who has requested notification, of the date, time, and location of all proceedings and hearings involving the child, and to notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child; and
- Requires the court to notify any relative who is providing out-of-home care for the child of his or her right to attend subsequent hearings, submit reports to the court, and speak to the court regarding the child.

The bill strengthens the child protective investigation process, by requiring that, if a protective investigation is commenced on the basis of a report to the central abuse hotline from certain specified reporters (*e.g.*, physicians, teachers, law enforcement officers), that reporter must be given:

- The contact information of the investigator within 24 hours after the investigator has been assigned; and

- The opportunity to provide a written summary of his or her report to the investigator, which must be made part of the master file.

In addition, the bill provides that, if parents refuse voluntary services, the CPI must speak to a collateral contact, which includes a relative, if the CPI has knowledge of and the ability to contact a relative. The bill also requires the department to include as a component of its quality assurance program an analysis of unaccepted reports to the hotline by relatives.

The bill authorizes the department to utilize available funds to develop liaison functions for relatives caring for children and designates the first Sunday after Labor Day as "Grandparents' and Family Caregivers' Day."

Records of Children in Foster Care

The bill requires that a case record for a child under the supervision, or in the custody of the department be maintained in a complete and accurate manner, and be made available for inspection and copying, upon the request of, and at no cost to, the child and the child's guardian ad litem or attorney, or to a caregiver who has responsibility for the child in a residential setting. The release of the case record must be in a manner and setting appropriate to the age and maturity of the child and the nature of the information being released. The bill provides for sanctions and penalties if a person or entity fails to provide the child's case record or does not do so within a reasonable time.

This bill authorizes a court to approve the release of confidential information contained in a case record if the court determines that the information is necessary to ensure access to appropriate services for the child or for the safety of the child. Additionally, the bill authorizes the sharing of confidential and exempt information among all state and local agencies and programs that provide services to children or are responsible for children's safety, if the information is reasonably necessary to assure access to services or for the safety of the child. The bill provides that records or information made confidential by federal law may not be shared.

The bill also authorizes access to confidential and exempt child abuse records by persons with whom the department is seeking to place a child or with whom placement has been granted (*e.g.*, foster and adoptive parents).

In addition, the bill ensures that the abuse records of a child will be made available to a physician, psychologist, or mental health professional treating or caring for the child, and requires the department to preserve in a permanent form all photographs, reports on examinations, and X-rays it holds.

The bill also requires the department to:

- Maintain the records of any child who has been in its custody until the child reaches the age of 30; and
- Provide notice to any child who has been in its custody, or to the legal custodian of the child, which specifies how the child may obtain his or her records.

The bill authorizes the department to adopt rules regarding the format, storage, retrieval, and release of such records.

Children's Zones

In 2008, the Legislature enacted s. 409.147, F.S., entitled "Children's Zones," to encourage community partners to commit financial and other resources to severely disadvantaged areas. At the time the legislation was passed, the Legislature was unaware that the name "Children's Zones" was trademarked by the Harlem Children's Zone.

This bill changes "Children's Zones" to "Children's Initiatives" throughout s. 409.147, F.S.

In addition, the bill moves the governance of the program to the Miami/Dade County Commission, and reappropriates funds unexpended as of June 30, 2009, to the department to contract with the Ounce of Prevention Fund of Florida, Inc., to implement the provisions of this bill.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 113-1

CS/CS/CS/SB 904 — Parental Responsibility and Time-Sharing

by Policy and Steering Committee on Ways and Means; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Deutch, Bullard, and Altman

Parenting Plans and Parental Relocation

This bill revises statutes relating to dissolution of marriage and parental responsibility for minor children. Specifically, the bill amends the definition of "parenting plan" to provide that if the parents cannot agree on a plan or the court does not approve the agreed-upon plan, then the plan will be established by the court, with or without the use of a court-ordered parenting plan recommendation. The bill amends the definition of "parenting plan recommendation" to allow not only psychologists, but also court-appointed mental health practitioners and other professionals, to make nonbinding parenting plan recommendations. The definition of "time-sharing schedule" is amended to conform to the new definition of "parenting plan."

The bill clarifies that there is no presumption for or against a particular time-sharing schedule in a parenting plan, and provides that modification of a parenting plan or time-sharing schedule requires a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the child's best interests.

The bill makes significant changes to the statute relating to parental relocation with a child in order to streamline the requirements and criteria for relocation.

Parenting Coordination

The bill also authorizes the use of parenting coordination as an alternative dispute resolution process in the creation or implementation of a parenting plan. The bill provides that any action involving a parenting plan (except one involving domestic violence) may be referred to parenting coordination, upon agreement of the parties. The bill makes special provisions for the use of parenting coordination in cases where there is a history of domestic violence.

The bill prescribes the qualifications of parenting coordinators, and also identifies factors that disqualify individuals from serving as parenting coordinators. The bill provides that the court shall determine the allocation of fees and costs of parenting coordination between the parties, and specifies the factors the court must consider in determining whether a nonindigent party has the ability to pay.

The bill protects the confidentiality of communications by, between, or among the parties and the parenting coordinator, and precludes the parenting coordinator from testifying or offering evidence, except in specified circumstances. The bill requires a parenting coordinator to inform the court of any emergency situation, and describes what constitutes an emergency situation. The bill limits the civil liability of a parenting coordinator who acts in good faith.

Domestic Violence, Child Abuse, and Parental Responsibility for Minor Children

Current law requires the court in a dissolution of marriage proceeding to order shared parental responsibility for a minor child, unless shared responsibility is detrimental to the child. Evidence that a parent has been convicted of a felony of the **third degree or higher** involving domestic violence or child abuse creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including time-sharing, may not be granted to the convicted parent. In addition, even in the absence of a conviction, the court must consider evidence of domestic violence or child abuse in determining the best interests of a child for purposes of establishing parental responsibility.

This bill lowers the threshold for this rebuttable presumption to a **first-degree misdemeanor**. The bill also provides that if the court accepts evidence of prior or pending actions involving domestic violence, sexual violence, or child abuse, neglect, or abandonment, the court must specifically acknowledge in writing that such evidence was considered.

Additionally, the bill amends the domestic violence injunction statute, permitting a court to create a temporary parenting plan, including a time-sharing schedule, that may award the petitioner with up to 100 percent time-sharing.

The bill makes additional technical amendments to the law, including an amendment that precludes parents from agreeing to not have certain child support payments made to the State Disbursement Unit, to conform to federal law.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 38-0; House 101-13

CS/SB 1018 — Guardians Ad Litem

by Judiciary Committee and Senator Joyner

The Florida Guardian Ad Litem Program is a partnership of community advocates and professional staff who act on behalf of children who are involved in court proceedings. A guardian ad litem is a volunteer who is appointed by the court to protect the rights and advocate the best interests of a child involved in a court proceeding. The Statewide Guardian Ad Litem Office (the Office) oversees the operations of the guardian ad litem programs in the 20 judicial circuits.

Since FY 2004-2005, the Office has operated under proviso language that prohibits it from using funds to represent children in dissolution of marriage proceedings, unless a child is also subject to dependency proceedings. As a result of this limitation, as well as limited resources, the guardian ad litem programs currently do not certify citizens to act in dissolution of marriage proceedings.

This bill provides that a person certified by a not-for-profit legal-aid organization may serve as a guardian ad litem in dissolution of marriage cases, after the organization has conducted a security background investigation and provided training to the person.

Pursuant to s. 39.821(3), F.S., it is a first-degree misdemeanor for an applicant to willfully, knowingly, or intentionally fail to disclose any material fact relating to his or her qualifications to be a guardian ad litem. This bill clarifies that guardians ad litem who are appointed in dissolution cases are subject to the same provisions.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/HB 1409 — Interstate Compact on the Placement of Children

by Health Care Services Policy Committee and Rep. Sands (CS/SB 2240 by Children, Families, and Elder Affairs Committee and Senators Rich, Storms, Detert, Bullard, Lynn, and Joyner)

The Interstate Compact on the Placement of Children (ICPC) provides a uniform set of regulations meant to ensure that children placed across state lines for purposes of adoption (public or private) or foster care, are placed with individuals who are safe, suitable, and able to provide proper care. First drafted in 1960, the ICPC has recently been rewritten in response to criticisms that, in its current form, it is not relevant for the 21st century. The advent of interstate highways and the Internet, and the development of administrative law, have redefined the parameters under which the compact was first drafted, and its language and procedures are outdated, misunderstood, and inadequately enforced.

This bill creates s. 409.408, F.S., authorizing and directing the Governor to execute the redrafted ICPC on behalf of Florida, on July 1, 2009 or upon the enactment of the compact into law by the 35th state, whichever occurs later. The bill delineates the provisions of the compact. Specifically, the bill:

- Describes the purposes of the compact;
- Provides definitions;
- Prescribes the applicability of the compact;
- Prescribes the jurisdiction of the sending and receiving states;
- Describes the process for placement evaluations;
- Delineates the placement authority and responsibilities of child-placing agencies;
- Establishes the Interstate Commission for the Placement of Children;
- Provides information about the effective date of the compact;
- Describes the process for withdrawal from and dissolution of the compact;
- Provides for the severability, liberal construction, and binding effect of the compact; and
- Makes particular provisions for the application of the compact to Indian tribes.

The bill provides that the existing ICPC will remain in effect until repealed by entry into the new compact by the Governor.

The bill also ensures that, following entry into the new compact, any rules adopted by the Interstate Commission will not be binding on Florida unless also adopted by Florida through the rulemaking process. The bill gives the Department of Children and Families rulemaking authority to implement the provisions of the ICPC.

This bill shall take effect upon becoming law. However, the ICPC will not become effective until it is enacted by at least 35 states.

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

ELDER AFFAIRS

CS/CS/CS/HB 935 — Area Agencies on Aging

by Health Seniors Appropriations Committee; Health and Family Services Policy Council; Elder and Family Services Policy Committee; and Rep. Bogdanoff and others (CS/CS/SB 770 by Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee; and Senator Fasano)

The bill clarifies that Area Agencies on Aging (AAA) are nongovernmental, independent, not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code.

The bill extends the period of lead agency designation to once every six years from the current three, and provides that the AAA shall make the designation pursuant to a competitive

procurement request for proposal process (RFP). The guidelines for the RFP are to be developed by the AAA.

The Department of Elder Affairs (DOEA) must, by August 1, 2009, adopt a rule creating standards for a bid protest of the RFP and a procedure for its resolution. This rule must be followed by all AAA. The bill provides standards for DOEA's rulemaking, including the requirement that a qualified, impartial decisionmaker conduct a hearing to determine whether the RFP complies with its own specifications and was conducted appropriately. In addition, the rule must provide for an automatic stay of the contract award until the dispute is resolved.

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

HOMELESSNESS

CS/HB 597 — Homelessness

by Health and Family Services Policy Council and Rep. Reed and others (CS/SB 1054 by Children, Families, and Elder Affairs Committee and Senator Crist)

This bill revises provisions of the "Affordable Housing Planning and Community Assistance Act." It defines "homeless" as applied to an individual to conform to the federal McKinney-Vento Act. The bill revises the membership of the Council on Homelessness (council) to include the Secretary of Health Care Administration, or his or her designee; the Commissioner of Education, or his or her designee; and one representative from the Florida League of Cities. The bill also removes the representative of the Florida State Rural Development Council from the council and requires instead that the council advise on issues related to rural development.

The bill creates the Housing First program as an alternative approach to ending homelessness for individuals and families. Among other things, Housing First places emphasis on the importance of background checks and the completion of any necessary rehabilitation prior to an individual receiving assistance.

The bill establishes the Legislature's intent that state agencies and community-based care providers develop and implement procedures designed to reduce the number of young adults who become homeless after leaving the child welfare system. Revisions are also made in sections of statute relating to homeless children in the public education system to advance this goal.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

MENTAL HEALTH AND SUBSTANCE ABUSE

CS/CS/SB 456 — Mental Illness/Deputy Anthony Forgione Act

by Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Gaetz

This bill creates the "Deputy Anthony Forgione Act" within ch. 394, F.S., relating to the Baker Act. The bill defines the term "Electronic means" as a form of telecommunication that requires all parties to maintain visual as well as audio communication.

The bill requires each law enforcement agency to develop a memorandum of understanding with each receiving facility within the law enforcement agency's jurisdiction, which must include protocols for the safe and secure transportation of the person and transfer of custody of the person. The memorandum must also address crisis-intervention measures.

The bill specifies that transfer of custody of a person who is transported pursuant to the Baker Act can be relinquished only to a responsible individual at the appropriate receiving or treatment facility.

The bill permits second opinions supporting a recommendation for involuntary placement under the Baker Act to be conducted either in person or by electronic means.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

HB 767 — Mental Health and Substance Abuse Services

by Rep. Fitzgerald and others (CS/SB 892 by Children, Families, and Elder Affairs Committee and Senators Bennett and Detert)

This bill creates s. 394.4612, F.S., authorizing the Agency for Health Care Administration, in consultation with the Department of Children and Family Services, to establish integrated mental health crisis stabilization and addictions receiving facilities for adults. The bill specifies the categories of individuals who may receive services in these facilities, and requires the department, in consultation with the agency, to adopt, by rule, standards governing the facilities.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/CS/SB 2612 — Substance Abuse and Mental Health Services

by Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Wise

This bill makes numerous technical and conforming changes to statutes relating to substance abuse and mental health services.

The bill deletes a requirement for a contract between the Department of Children and Families (DCF or the department) and residential treatment facilities for children and adolescents and instead requires that they be licensed by the Agency for Health Care Administration.

The bill revises legislative intent for the substance abuse services program by requiring the collaboration of state agencies, service systems, and program offices to address the needs of the public; to establish a comprehensive system of care for substance abuse; and to reduce duplicative requirements across state agencies. The Legislature also intends to establish services for individuals with co-occurring substance abuse and mental disorders. In order to carry out this charge, the bill:

- Sets client eligibility for substance abuse and mental health services by establishing priority populations to receive these services;
- Makes substantial changes to the definitions in ch. 397, F.S., related to substance abuse services;
- Makes substantial changes to the licensure process for substance abuse programs and requires licenses to be issued by service component, rather than issuing a license by facility (physical location);
- Requires the department to coordinate licensure inspections with other state agencies;
- Provides a process for medication assisted treatment services for substance-use disorders other than opiate dependence;
- Adds physician assistants and advanced registered nurse practitioners (ARNPs) who have a specialty in psychiatry to the list of qualified professionals who may provide substance abuse services, and physician assistants to the group of licensed medical professionals who may provide certain substance abuse services; and
- Substitutes the term "client" with "individual" and "service district" with "substate entity" in ch. 397, F.S., related to substance abuse services.

The bill also authorizes DCF to establish a medical review committee to provide peer review, utilization review, and mortality review of substance abuse, mental health, and forensic programs. The members of the committee, and any health care provider furnishing it information, are immune from liability in accordance with ss. 766.101(3) and (4), F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

RECORDS

CS/CS/SB 126 — Access to Records of Children in Foster Care

by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Dockery, Bennett, Lynn, and Bullard

This bill requires that a case record for a child under the supervision, or in the custody of the department be maintained in a complete and accurate manner, and be made available for inspection and copying, upon the request of, and at no cost to, the child and the child's guardian ad litem or attorney, or a caregiver who has responsibility for the child in a residential setting. The release of the case record must be in a manner and setting appropriate to the age and maturity of the child and the nature of the information being released. The bill provides for sanctions and penalties if a person or entity fails to provide the child's case record or does not do so within a reasonable time.

This bill authorizes a court to approve the release of confidential information contained in a case record if the court determines that the information is necessary to ensure access to appropriate services for the child or for the safety of the child. Additionally, the bill authorizes the sharing of confidential and exempt information among all state and local agencies and programs that provide services to children or are responsible for children's safety, if the information is reasonably necessary to assure access to services or for the safety of the child. The bill provides that records or information made confidential by federal law may not be shared.

The bill also authorizes access to confidential and exempt child abuse records by persons with whom the department is seeking to place a child or with whom placement has been granted.

The bill requires the department to:

- Maintain the records of any child who has been in its custody until the child reaches the age of 30; and
- Provide notice to any child who has been in its custody, or to the legal custodian of the child, which specifies how the child may obtain his or her records.

The bill authorizes the department to adopt rules regarding the format, storage, retrieval, and release of such records.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 116-0

HB 7021 — Open Government Sunset Review/Children's Services Councils

by Governmental Affairs Policy Committee and Rep. Schenck (CS/SB 748 by Governmental Oversight and Accountability Committee and Children, Families, and Elder Affairs Committee)

In 1986, the Legislature empowered Florida counties to create special, countywide districts for the sole purpose of funding children's services. The governing boards of the special districts are

known as children's services council or CSCs. The following eleven counties have active CSCs: Broward, Duval, Highlands County, Hillsborough, Lake, Martin County, Miami-Dade, Okeechobee, Palm Beach, Pinellas, and St. Lucie.

Section 125.901, F.S., provides a public records exemption for personal identifying information held by a CSC or by a service provider or researcher under contract with a CSC, concerning a child or the child's parent or guardian. This exemption was subject to review under s. 119.15, F.S., the Open Government Sunset Review Act, and was scheduled to sunset on October 2, 2009, unless saved from repeal through reenactment by the Legislature. This bill reenacts the exemption.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 113-0

HB 7039 — Open Government Sunset Review/Insurance Claim Data Exchange Information

by Governmental Affairs Policy Committee and Rep. Stargel (CS/SB 750 by Government Oversight and Accountability Committee and Children, Families, and Elder Affairs Committee)

Current law requires the Department of Revenue (DOR or "the department") to develop and operate a data match system in which an insurer may voluntarily provide DOR with the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each noncustodial parent who has a claim with the insurer and who owes past-due child support. Specified information collected by DOR regarding a noncustodial parent who owes past-due child support is confidential and exempt from public records. This exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

In February 2006, Congress enacted the Deficit Reduction Act of 2005. The act amended federal law to authorize the Federal Department of Health and Human Services (HHS) to compare information concerning individuals owing past-due child support with information maintained by insurers concerning insurance claims, settlements, awards, and payments.

Although the department does not currently match data files with insurance companies, it is concerned that due to the recent implementation of the federal program, the repeal of the voluntary state program established in s. 409.25659, F.S., would eliminate Florida's ability to implement a state program if the federal program fails to gain sufficient insurance company participation. The department reported that it expects to be able to determine the success of the federal program by January 2010.

This bill reenacts the exemption and schedules a new repeal date of October 2, 2010.

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

OTHER

CS/SB 746 — Direct-Support Organizations/Ticket Resale

by Governmental Oversight and Accountability Committee and Senator Fasano

Direct-Support Organizations

The bill provides for the establishment of a direct-support organization for the Department of Elder Affairs. The organization will provide assistance, funding, and support for the department in carrying out its mission.

The bill also authorizes the Florida Historic Capitol Curator to assist the Florida Historic Capitol in the performance of its mission through specified actions.

The bill provides for the establishment of a direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum (Center). The organization will provide assistance, funding, and support for the center and curator, including, but not limited to, support for the Center's educational programs and initiatives, and will be governed by a Board of Directors. Initial Board appointments shall be made by the President of the Senate and the Speaker of the House of Representatives.

Ticket Resale

The bill limits the resale of tickets to $1 above the admission price for tickets issued by a charitable organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code for events where no more than 3,000 tickets are sold. The tickets must have a specific statement conspicuously printed on the face or back of the ticket providing notice of the resale limitation. However, this limitation does not apply to tickets issued or sold by a third party contractor ticketing services provider on behalf of a charitable organization unless the required disclosure is printed on the ticket.

The bill imposes a civil penalty of treble the amount of a ticket or tickets sold in violation of the statute, payable to the state. It also imposes the same penalty on persons who intentionally use or sell software to circumvent a ticket seller's website security. The bill defines "software" for purposes of the section.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 119-0

BUSINESS ORGANIZATIONS

SB 872 — Fictitious Names

by Senator Smith

This bill repeals s. 15.16, F.S., which permits the Department of State (department) to waive the requirement that a business advertise its intention to register a fictitious name with the department in a newspaper in the county of its principal place of business, if the business makes its fictitious name registration available on the department's website. Consequently, should this bill become law, businesses wanting to do business under a fictitious name will be required to publish its intent to use a fictitious name at least one time in a local newspaper before the registration of a fictitious name.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 116-0

CS/HB 1517 — Corporate Annual Financial Statements

by Insurance, Business and Financial Affairs Policy Committee and Rep. Murzin and others (SB 1500 by Senator Fasano)

Section 607.1620(3), F.S., requires corporations to "mail" shareholders annual financial statements within 120 days of the close of the fiscal year. This bill permits corporations to furnish shareholders with annual financial statements by "electronic transmission," as an alternative to mailing those financial statements.

In addition, this bill clarifies that when a corporation that has an outstanding class of securities registered under s. 12 of the Securities Exchange Act furnishes annual reports to its shareholders in a format permitted under federal law, then the corporation's obligation to furnish annual financial statements to shareholders under current state law may be satisfied by furnishing the financial statements in that manner. (This provision is substantially similar to s. 6 of SB 2330, enrolled.)

If approved by the Governor, these provisions take effect upon becoming law, and apply to all fiscal years ending on or after December 31, 2008.
Vote: Senate 40-0; House 115-0

SB 2330 — Corporations

by Senator Richter

This bill makes revisions to chs. 607 and 617, F.S., concerning for-profit and not-for-profit corporations, respectively. The revisions relate to administrative matters, voting rights, membership rights, distributions, dissolution, and creditors' rights.

As to not-for-profit corporations, this bill integrates provisions from the Revised Model Nonprofit Corporation Act, prepared by the American Bar Association. The bill also amends a number of provisions in ch. 617, F.S., to be consistent with ch. 607, F.S. In addition, the bill creates a number of provisions to recognize a new category of not-for-profit corporations, known as "mutual benefit corporations."

As to for-profit corporations, the bill incorporates revisions suggested by the Division of Corporations of the Department of State, and the Business Law Section of the Florida Bar.

A summary of the changes to chs. 607 and 617, F.S., is as follows:

Chapter 607, F.S. (For-Profit Corporations)

As to for-profit corporations, the bill makes the following revisions to ch. 607, F.S.:

- Allows corporations to establish a greater voting requirement than a plurality voting requirement for the election of directors.
- Allows the effective date of resignations to be conditioned on an event, allows such resignations to be irrevocable, and allows for the filling of vacancies for such resignations before the effective date as long as the new director does not take office until the effective date.
- Deletes language in current law that prohibits the department from charging fees for giving the public general information about corporations, to conform to recent changes made to the law.
- Allows corporations to furnish shareholders with annual financial statements by electronic transmission, as well as by mail, which is the current requirement. (This provision is substantially similar to CS/HB 1517 enrolled.)

Chapter 617, F.S. (Not-For-Profit Corporations)

As to not-for-profit corporations, the bill makes the following revisions to ch. 617, F.S.:

Administrative

- Prescribes the procedures for filing documents with the department and specifies the format of such documents.
- Requires the department to collect a $35 fee when a registered agent files a statement of resignation from an inactive, rather than an administratively dissolved, corporation.

- Specifies which filed documents may be corrected, extends the time to correct such documents, and deletes a requirement to have a copy of the defective document attached to the filed correction.
- Deletes language in current law that prohibits the department from charging fees for giving members of the public general information about corporations to conform to recent changes made to the law.
- Prescribes the procedure for an alien business organization to withdraw its registered agent.
- Provides that when there is a conflict between ch. 617, F.S., and provisions relating to condominium corporations (ch. 718, F.S.), cooperatives (ch. 719, F.S.), homeowners' associations (ch. 720, F.S.), vacation and timeshare plans (ch. 721, F.S.), and mobile home owners' associations (ch. 723, F.S.), the provisions of those chapters apply.
- Repeals s. 617.2103, F.S., which exempts corporations described in s. 501(c) of the Internal Revenue Code of 1986, from ss. 617.0808, 617.1601, 617.1602, 617.1603, 617.1604, 617.1605, or s. 617.2102, F.S. With this repeal, all not-for-profit corporations under s. 501(c) of the Internal Revenue Code will be subject to the same requirements as other not-for-profit corporations. This proposed change is prospective and should not affect current practices for existing corporations.

Members

- Clarifies that mutual benefit corporations may purchase equity membership interest of any membership and that purchase does not constitute a distribution.
- Requires the resignation, expulsion, suspension, or termination of membership to be recorded in the membership book.
- Prohibits members from transferring or purchasing a membership or membership rights, except members of mutual benefit corporations may make such transfers or purchases if permitted under the articles of incorporation or bylaws.
- Clarifies that a resigning member maintains obligations incurred before the resignation.
- Mandates and prescribes a procedure for carrying out the expulsion, suspension, or termination of a member, which must be made in good faith and in a fair and reasonable manner.
- Permits members having a voting power of at least 5 percent to call a special meeting, but clarifies that this provision does not apply to condominiums, cooperatives, homeowners' associations, mobile home parks, and certain real estate membership corporations.
- Expands the amount of time members have to provide written consent for the corporation to take a certain action and expands the time to notice members who have not consented in writing to the corporate action.
- Provides for derivative actions by members.

Directors

- Permits one director of a corporation, other than condominiums, cooperatives, homeowners' associations, mobile home parks, and certain real estate membership corporations, to be 15 years of age or older if permitted by the articles of incorporation, bylaws, or by a resolution of the board of directors.
- Clarifies that the articles of incorporation or bylaws may allow for staggered terms for directors.
- Provides certain procedures for the removal of directors, the filling of a vacancy on the board of directors, and the term limit of a director filling a vacancy.
- Provides procedures for voting when one or more directors have a conflict-of-interest.

Voting and Corporate Powers

- Allows a corporation to reject proxy votes under certain circumstances and allows members or proxies to participate in meetings at a location other than where the meeting is being held through electronic communication under certain circumstances.
- Clarifies what constitutes a quorum and prohibits a director younger than 18 years of age from being counted toward a quorum.
- Permits not-for-profit corporations to make guaranties.
- Permits only condominiums, cooperatives, homeowners' associations, mobile home parks, and certain real estate membership corporations to make certain distributions.

Merger and Dissolution

- Prescribes what must be, and what may be, included in a plan of merger.
- Permits a merger of a not-for-profit corporation with another business entity as long as the surviving entity is a not-for-profit corporation.
- Permits a corporation to immediately assume the name of a dissolved corporation, if the dissolved corporation files an affidavit with the department allowing the immediate assumption of the name.
- Provides procedures for notifying and distributing assets to unknown and known creditors of the dissolved corporation.
- Requires a corporation to file a reinstatement form provided by the department if the corporation has been administratively dissolved and seeks reinstatement.
- Requires a certain number of members or a director to seek judicial dissolution before the matter may be heard before a court.

Foreign Corporations

- Requires that if a foreign corporation uses an alternate name in this state, it must be cross-referenced in the department's records to the name the corporation uses in its resident state.

- Requires a foreign corporation's name to be distinguishable from any for-profit corporation doing business in this state.
- Describes and clarifies the legal consequences of domestication of a foreign corporation.

Recordkeeping and Financial Statements

- Permits a member to inspect the corporation's records at a reasonable location specified by the corporation and requires the member to give the corporation at least 10, as opposed to 5, days notice prior to the inspection of those records.
- Requires corporations to provide annual financial statements to members who submit written requests, as opposed to sending statements routinely to all members, and to state the nature of the financial statements to be provided.

If approved by the Governor, these provisions take effect October 1, 2009, except as otherwise expressly provided in the act.
Vote: Senate 38-0; House 117-0

CONSUMER SERVICES

CS/CS/HB 167 — Energy-efficient Appliance Rebate Program

by Finance and Tax Council; Energy and Utilities Policy Committee; and Rep. Abruzzo and others (CS/CS/SB 942 by Finance and Tax Committee; Commerce Committee; and Senators Sobel, Baker, and Bennett)

This bill directs the Florida Energy and Climate Commission (commission) to develop and administer a consumer rebate program for energy-efficient residential appliances consistent with federal guidance or regulations. The commission is authorized to adopt rules designating eligible appliances, rebate amounts, and the administration of the issuance of rebates. The commission may also enter into contracts or agreements to administer this new section.

The bill appropriates $150,000 to the commission from the General Revenue Fund for FY 2009-2010. The release of the appropriation to the commission is contingent upon submission of a report by the commission to the Legislative Budget Commission certifying that the creation of Florida's rebate program meets the federal requirements, including those of the American Recovery and Reinvestment Act of 2009. Pursuant to current federal law, in order to implement the rebate program and receive federal funding, the state must show that it will use the allocation to supplement, but not supplant, funds made available to carry out the state's program. The federal allocation may be used to pay up to 50 percent of the cost of establishing and carrying out the state rebate program. The U.S. Department of Energy is currently developing guidelines for state rebate programs to be eligible for funding under the American Recovery and Reinvestment Act of 2009. The commission estimates that Florida's share of the federal funding will be about $18 million.

If approved by the Governor, these provisions take effect on July 1, 2009.
Vote: Senate 40-0; House 115-0

CS/CS/HB 375 — Reimbursement of Federal Excise Taxes on Motor Fuel

by Civil Justice and Courts Policy Committee; Insurance, Business, and Financial Affairs Policy Committee; and Rep. Legg (CS/SB 1024 by Commerce Committee and Senators Dean, Lynn, Baker, and Justice)

The bill creates a new section of Florida law to address fuel supply contracts that require reimbursement of federal fuel excise taxes. It allows a party who is required by contract to reimburse another party for federal fuel excise taxes imposed by federal law to exercise an option to make the reimbursement 1 business day before the tax is to be remitted to the Internal Revenue Service (IRS). The bill specifies that exercising the option does not relieve a party of an obligation to make reimbursement, but alters the timing of that payment. Notice of the exercise of the option is required to be made in writing, and will not be effective for 30 days or the beginning of the other party's next federal excise tax quarter, whichever is later. The reimbursed party may require additional security and may request funds to be delivered by electronic transfer.

The bill applies to all contracts entered into after July 1, 2009, and all continuing contracts with no fixed expiration in effect on July 1, 2009. The bill does not apply to contracts of fixed expiration entered into prior to July 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 112-0

CS/CS/SB 2700 — Secondhand Dealers

by Finance and Tax Committee; Commerce Committee; and Senator Gelber

This bill amends s. 538.03, F.S., to exclude cardio and strength training or conditioning equipment designed for indoor use from the definition of "secondhand goods," and creates part III of ch. 538, F.S., to define, require registration, and provide regulation of "mail-in secondhand precious metals dealers."

This bill proposes regulatory requirements for mail-in secondhand precious metals dealers that are similar to those regulatory requirements for precious metals secondhand dealers currently provided for in part I of ch. 538, F.S., except the proposed part III does not require the physical verification of the identity of the seller and the submission of a thumbprint by the seller at the time of the transaction. (The regulatory provisions of this bill are substantially similar to section 3 of CS/CS/HB 339, enrolled.) However, the bill does require the seller to provide his or her name, address, telephone number, e-mail address, if available, and driver's license number and issuing state or other government-issued identification number. If the seller fails to provide this information, the buyer must verify the identity and information through a national provider of personal identification services, or request the information from the seller. A seller who has

not provided sufficient information to the mail-in secondhand precious metals dealer may request that the property be returned. If the seller does not provide the required information or request that the property be returned, the seller's property is deemed to be abandoned and is relinquished to the Bureau of Unclaimed Property.

The bill provides a process by which, if there is probable cause that the goods are stolen, a law enforcement agency can take possession of the goods for the purpose of a legal proceeding to determine ownership, to determine whether a crime has been committed, or to safeguard the property.

The bill also provides for penalties for violations of the requirements provided for in the bill. The penalties are consistent with current penalties provided for in part I of ch. 538, F.S., relating to non-mail-in precious metals secondhand dealers.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 119-0

ECONOMIC DEVELOPMENT

CS/CS/HB 127 — Enterprise Zones

by Economic Development and Community Affairs Policy Council; Economic Development Policy Committee; and Rep. Chestnut and others (SB 628 by Senators Lynn and Oelrich)

The bill creates an opportunity for the city of Ocala to apply for and receive an enterprise zone designation. Ocala's proposed enterprise zone may be located in the city's west end and may be up to 5 square miles in size.

City officials must file the enterprise zone application to the Governor's Office of Tourism, Trade and Economic Development (OTTED) by December 31, 2009. The application must comply with the requirements in s. 290.0055, F.S. OTTED is given discretion to designate the enterprise zone, and if that happens, must establish the enterprise zone's effective date.

If approved by the Governor, these provisions take effect January 1, 2010.
Vote: Senate 40-0; House 117-0

CS/CS/HB 485 — Fast Track Economic Stimulus for Small Businesses

by Finance and Tax Council; Economic Development Policy Committee; and Rep. Weatherford and others (CS/CS/SB 1502 by Community Affairs Committee; Commerce Committee; and Senators Fasano, Haridopolos, Richter, Bennett, Sobel, Oelrich, Storms, Lynn, and Crist)

Also called the "New Markets Development Tax Credit Program," the bill creates state tax credits for corporate income tax, under s. 220.11, F.S., and premium insurance tax, under s. 624.509, F.S., for private investments through a Qualified Community Development Entity

(CDE) in businesses within low-income communities. It is modeled after the federal New Markets program managed by the U.S. Treasury Department.

The cap on the Florida tax credits is $97.5 million over 7 years, and the tax credits can be carried forward for up to 5 years. The credits can be claimed beginning in the program's third year, which is FY 2011-2012. The program expires December 31, 2022.

Investors in Florida New Markets projects can recapture up to 39 percent of their investment as a state tax credit, in addition to the 39-percent federal income tax credit allowed under the federal program.

To be eligible to receive the private investments, a business must comply with a number of requirements, including:

- Derive at least 50 percent of its total gross income each taxable year from its business activities within the low-income community;
- Create or retain jobs that pay an average wage of at least 115 percent of the federal poverty wage for a family of four (which currently is $25,357); and
- Not be engaged in such activities as golf courses, massage parlors, tanning salons, and sale of alcohol for off-site consumption.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 116-0

CS/CS/HB 7031 — Economic Development

by Finance and Tax Council; Economic Development and Community Affairs Policy Council; Economic Development Policy Committee; and Rep. Carroll and others (CS/CS/CS/SB 2034 by Finance and Tax Committee; Governmental Oversight and Accountability Committee; and Commerce Committee)

The bill creates or modifies a number of economic development-related programs in Florida law. Specifically, the bill:

- Amends the state's Innovation Incentive Program in s. 288.1089, F.S., to improve monitoring, oversight, and reporting, as detailed in Interim Project Report 2009-107.
- Creates a uniform state incentive application review and approval process for the various state business incentives reviewed by Enterprise Florida, Inc. (EFI) and approved by the Office of Tourism, Trade, and Economic Development (OTTED). Basically, a business owner applying for a state incentive will learn within 32 days if he or she is successful.
- Codifies two programs that address rural economic development: the Rural Infrastructure Fund, the Rural Economic Development Initiative (REDI), and the Rural Area of Critical Economic Concern (RACEC).

- Adjusts the definition of "rural community" in state law to increase the population cap from 100,000 to 125,000 for any county that is adjacent to another county with no more than 75,000 residents. This will allow Highlands County to continue, and Putnam County in the near future, to be eligible to participate in the state RACEC program.
- Reinstates the so-called "QTI economic-stimulus exemption" for qualified targeted industries for 30 months, from January 1, 2009, to July 1, 2011, to allow eligible businesses to renegotiate and extend the receipt of the incentive, rather than lose it.
- Authorizes EFI and OTTED to waive Quick Action Closing Fund (QACF) eligibility criteria for projects located in RACECs.
- Authorizes the Florida Opportunity Fund to make direct investments or to provide loans to early-stage Florida businesses, or to invest in infrastructure projects.
- Designates EFI as the clearinghouse for information about Florida's business opportunities and economic incentives.
- Allows nonresident boat purchasers to stay an extra 90 days in Florida – for a total of 180 days – before having to pay sales tax on their new boats. The extension decal costs $425.
- Gives OTTED access to confidential and exempt tax records held by the Department of Revenue and confidential unemployment compensation records held by the Agency for Workforce Innovation, to assist in its review of the state's incentive programs.
- Amends the Qualified Defense and Spaceflight Contractor Incentive Program to reduce the cumulative award cap an eligible business may receive (for all fiscal years) from $7.5 million to $5 million.
- Lowers the capital investment requirement for the brownfields incentive program from $2 million to $500,000 for areas that do not require extensive site cleanup.
- Updates several industry identification codes.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/HB 7043 — Open Government Sunset Review/Scripps Florida Funding Corporation

by Economic Development and Community Affairs Policy Council; Governmental Affairs Policy Committee; and Rep. Schenck (CS/SB 2032 by Governmental Oversight and Accountability Committee and Commerce Committee)

The bill reenacts the public records/open meetings exemptions for the Scripps Florida Funding Corporation, the entity created by the Legislature in 2003 to oversee the state's 20-year agreement with The Scripps Research Institute and to release the state funds earmarked for the institute's Florida research facility.

It also:

- Extends the exemptions' repeal date 5 years, from October 2, 2009 to October 2, 2014;
- Declares that The Scripps Research Institute and its Florida research facility are not subject to the public records and open meetings requirements;
- Removes the Governor's Office of Tourism, Trade, and Economic Development from the exemption, since its access to confidential and exempt business-related records is protected by another statute related to economic incentive programs;
- Reduces the penalty for persons who willfully and knowingly disclose confidential information from a first-degree misdemeanor to a second-degree misdemeanor, which is consistent with the penalty for similar exemptions; and
- Makes several grammatical and technical changes to the existing statute.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 38-1; House 86-28

WORKFORCE DEVELOPMENT

CS/CS/SB 810 — Unemployment Compensation

by Policy and Steering Committee on Ways and Means; Commerce Committee; and Senators Garcia, Hill, and Lynn

This bill has four major components:

- Creation of a temporary state extended unemployment compensation benefits program;
- Changes in the computation of employers' tax rates and the parameters for the replenishment of the Unemployment Compensation Trust Fund;
- Specific authorization to the Governor to request and repay federal advances to the trust fund; and
- Clarification of disqualification for benefits in certain situations to address an emerging issue.

Temporary State Extended Unemployment Compensation Benefits

Effective between February 1, 2009, and January 2, 2010, the bill creates temporary state extended benefits for unemployed individuals in order to qualify for federal funds under the American Recovery and Reinvestment Act of 2009. Individuals who have exhausted regular benefits and emergency federal extended benefits between February 1, 2009, and December 12, 2009, will be eligible for temporary state extended benefits to be paid for up to 13 or 20 weeks, depending on the average total rate of unemployment, from February 22, 2009, until January 2, 2010. By implementing a state extended benefits period based upon the average total unemployment rate, Florida will qualify for 100 percent funding, or federal sharing

(approximately $418 million in stimulus funds), for the state extended benefits for private employers.

Extended benefits for former state and local employees do not qualify for federal funding, due to the fact that these entities are self-insured and the federal law does not allow for their participation in federal sharing. The extended benefits for these former employees must be paid by the governmental entity. The cost is estimated to total $24.4 million, approximately $2.4 million from state funds and $22 million from local government funds. In order to participate in federal sharing, the state extended benefits program must encompass unemployed individuals of both the private and public sectors.

Unemployment Compensation Trust Fund

The bill also amends portions of the unemployment compensation statutes in ch. 443, F.S., related to calculation of employers' tax rates and Unemployment Compensation (UC) Trust Fund solvency. The effect is to replenish the UC Trust Fund sooner than under the parameters in current law for recoupment.

The bill decreases the portion of an individual's wages exempt from determining an employer's contributions from the excess of $7,000 to the excess of $8,500. After January 1, 2015, the portion is increased back to wages in excess of $7,000. In other words, employers will be taxed on an additional $1,500 for the next 5 years.

For the calculation of employers' contributions rates effective January 1, 2010, the bill increases the positive fund balance adjustment factor (low trigger) from 3.7 percent of taxable payrolls to 4 percent. Additionally, the time to recapture the funds is shortened from 4 years to 3 years. The recapture time period is restored to 4 years on January 1, 2015. Further, the positive adjustment factor remains in effect until the balance of the UC Trust Fund equals or exceeds 5 percent of the taxable payrolls for the year; this will effectively leave the rate at a higher level for longer, resulting in the recoupment of more funds. This will revert to 4 percent on January 1, 2015.

The bill increases the negative fund balance adjustment factor (high trigger) from 4.7 percent of taxable payrolls to 5 percent. It delays the annual computation of the negative adjustment factor until January 1, 2015. Thereafter, the negative adjustment factor will remain in effect until the balance of the UC Trust Fund is between 4 and 5 percent of taxable payrolls for the year. However, the negative adjustment factor is suspended in any calendar year in which an advance, or loan, from the federal government is still in repayment for the principal amount of the loan.

The proposed changes to the tax structure will infuse significant cash into the UC Trust Fund; however, it is estimated that the fund will continue in deficit over the next 5 years, thereby requiring advances from the federal government to maintain the solvency of the trust fund. The projected deficit in the second quarter of 2014 would improve from $3.7 billion under current law to $863.4 million under the proposed law.

Requests and Repayment of Federal Advances

As stated above, the UC Trust Fund balance will decline into a deficit in upcoming years, and this will require Florida to request advances from the federal government in order to maintain the solvency of the trust fund. In the bill, the Governor, or his designee, is specifically authorized to request advances from the federal government to finance the UC Trust Fund. Further, the use of moneys in the trust fund to repay advances is specifically authorized.

Clarification of Disqualification for Benefits

The bill adds provisions related to disqualification for benefits for two situations when an employee separates from employment. One provision ensures that if an individual gives notice that he or she is going to quit, and the employer fires that individual, without misconduct, before his or her end date, then the individual will be eligible for unemployment benefits until the effective date of his or her notice. Conversely, the second provision states that when an employer gives an individual notice that he or she will be discharged, and that individual quits work before that date without good cause, then the individual is not available for work and not eligible for unemployment benefits until the effective date of the employer's discharge.

If approved by the Governor, these provisions take effect at different times. The temporary state extended benefits program is effective upon becoming a law, but is retroactively effective dating back to February 1, 2009, and expires January 2, 2010. The issues relating to the UC Trust Fund take effect January 1, 2010. All other issues take effect upon becoming a law.
Vote: Senate 38-0; House 117-0

CS/CS/SB 1062 — Unemployment Compensation

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

This bill amends ss. 443.036 and 443.1216, F.S., to establish the "Accurate Employment Statistics Enhancement Act," which requires employee leasing companies, also known as Professional Employer Organizations (PEOs), to file reports with the Labor Market Statistics Center of the Agency for Workforce Innovation (AWI). Compared to current law, this bill requires that employee leasing companies report additional and more specific information more frequently (quarterly instead of biannually) to AWI. The quarterly reports must contain specific information about each employee leasing company and client "establishment," including various types of identification, the number of employees, wages paid, and contract information.

This bill also prescribes a format for such reports and the time within which the reports must be filed. This bill grants AWI authority to adopt rules to implement these provisions and to administer, collect, enforce, and waive penalties for failure to file such reports.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 37-0; House 116-0

TELECOMMUNICATIONS

CS/CS/SB 2626 — Telecommunications Companies

by Commerce Committee; Communications, Energy, and Public Utilities Committee; and Senators Haridopolos, Ring, Oelrich, Smith, Bennett, Gaetz, Altman, Pruitt, and Baker

The bill:

- Directs the Florida Department of Management Services (DMS) to engage in certain activities necessary to draw down federal stimulus funds to provide broadband service in rural, unserved, or underserved areas of Florida. DMS may enter into contracts, establish work groups and adopt rules.
- Exempts from Public Service Commission jurisdiction broadband and voice over Internet protocol (VOIP) service. It entitles a competitive local exchange telecommunications company to interconnect with a local exchange telecommunication company for voice traffic purposes and requires the commission to afford procedural and substantive rights available to companies with regard to interconnection.
- Amends the definitions of "basic local telecommunications service" and "nonbasic service" to provide that only single-line, flat-rate residential service taken with no additional calling features or other services is classified as basic service. It provides that combining basic with nonbasic or unregulated service is nonbasic service for the purpose of regulation.
- Reduces from 20 percent to 10 percent the amount of rate increase in a 12-month period for any nonbasic telecommunication service, where competition exists. The price for any service that was treated as basic service before July 1, 2009, cannot be increased more that CPI – 1. The cap for certain multi-line business and SUNCOM service is removed. Provides that the price charged for a nonbasic service must cover the direct costs of providing that service.
- Removes PSC authority to oversee otherwise exempt services as specifically authorized by federal law, resolve service complaints concerning nonbasic services, compel repairs to secure adequate service or facilities for the provision of nonbasic services, regulate the terms of telecommunications service contracts of companies subject to price cap regulation and establish maximum rates and charges for all providers of operator services within the state.
- Repeals the section prohibiting the giving of rebates or special rates.
- Raises the income eligibility test for Lifeline service to 150 percent of the federal poverty income level, up from the current 135 percent.
- Allows telecommunications companies to publish their rate schedules through electronic or physical media and removing the requirement that companies file the schedules with

the PSC. These provisions also apply to operator services. Other requirements relating to the publishing of schedules are deleted.

- Allows the holder of a certificate, granted by the commission for purposes of constructing, operating, and controlling a telecommunications facility, to transfer the certificate to another certificate holder, its parent, or affiliate for purposes of acquiring ownership or control of a telecommunications facility without prior commission approval.
- Removes the condition that a local exchange telecommunications company must be subject to the expired carrier-of-last-resort obligation in order to be eligible to request recovery of storm damage costs from the commission.
- Amends the methodology for changing telecommunications providers, to require the commission to resolve anticompetitive behavior concerning a local preferred carrier freeze ("pick freeze") and placing a burden of proof on the carrier asserting the existence of a freeze.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 36-2; House 117-1

PUBLIC RECORDS

HB 7093 — Public Records/Proprietary Business Information/DMS

by Economic Development and Community Affairs Policy Council and Reps. Murzin and Brise (CS/CS/SB 2126 by Governmental Oversight and Accountability Committee; Communications, Energy, and Public Utilities Committee; and Senator King)

This bill creates an exemption from public records requirements for proprietary confidential business information obtained from a telecommunications company or broadband company by the Department of Management Services. The exemption applies to any proprietary or otherwise confidential information or documentation, including plans, billing and payment records, trade secrets, or other information that is intended to be confidential and not otherwise publicly available. The exemption does not apply to aggregate information related to maps and location of facilities and broadband services, or the speed of services that are available in the state. The provision stands repealed on October 2, 2014, unless reviewed and reenacted.

If CS/CS/SB 2626 and this provision are approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 108-7

SB 166 — Public Records/Donors' Identification/Public Buildings

by Senator Ring

This bill creates a public records exemption for information that identifies a donor or prospective donor of a donation made for the benefit of a publicly owned building or facility. At the request of the donor or prospective donor, identifying information is confidential and exempt from the public records provisions of s. 119.07(1)(a), F.S., and s. 24(a), Art. I of the State Constitution. The exemption will stand repealed October 2, 2014, unless reviewed and reenacted by the Legislature as provided in s. 119.15, F.S., the Open Government Sunset Review Act.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 109-0

CS/CS/SB 360 — Growth Management

by Policy and Steering Committee on Ways and Means; Community Affairs Committee; and Senators Bennett, Gaetz, Ring, Pruitt, Haridopolos, Richter, Hill, King, and Lynn

This bill amends a number of provisions of law with the goal of stimulating economic development, promoting development in urban areas, and providing for affordable housing.

Urban Service Areas

The bill amends s. 163.3164, F.S., to change "existing urban service area" to "urban service area" and to redefine the term to include built-up areas where public facilities and services, including central water and sewer and roads are already in place or are committed within the next three years. The definition also grandfathers-in existing urban service areas or their functional equivalent within counties that qualify as dense urban land areas. This definition is important because for counties that are dense urban land areas, the area within the urban service area will become automatically exempt from transportation concurrency and development-of-regional-impact review.

Dense Urban Land Areas

A definition of a "dense urban land area" is created. The definition includes:

- A municipality that has an average population of at least 1,000 people per square mile and at least 5,000 people total;
- A county, including the municipalities located therein, which has an average population of at least 1,000 people per square mile; and
- A county, including the municipalities located therein, which has a population of at least 1 million.

Those jurisdictions that qualify as dense urban land areas will be ascertained by the Office of Economic and Demographic Research, and the designation will become effective upon publication on the state land planning agency's website. To support the Office of Economic and Demographic Research, municipalities that change their boundaries will be required to send the boundary changes and information on the population effect to the Office of Economic and Demographic Research.

Capital Improvements Element

The bill changes the deadline to submit the CIE financial feasibility element and the implementation of the associated penalty from December 1, 2008 to December 1, 2011.

School Concurrency

The bill changes the penalties triggered when a local government or a school board fails to enter into an approved interlocal agreement or fails to implement school concurrency. The local government will be subject to the penalties set forth in s. 163.3184(11)(a) and (b), F.S., and the school board will be subject to penalties set forth in s. 1008.32(4), F.S. The bill gives a waiver from school concurrency when student enrollment is less than 2,000 even if the growth rate is more than 10 percent. The bill specifies that school districts must include certain relocatables as student capacity for purposes of school concurrency and that the construction of charter schools counts as mitigation for school concurrency.

Transportation Concurrency Exception Areas

The bill amends s. 163.3180, F.S., to designate the following areas as transportation concurrency exception areas (TCEAs):

- A municipality that qualifies as a dense urban land area;
- An urban service area that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area; and
- A county, such as Pinellas and Broward, that has a population of at least 900,000 and qualifies as a dense urban land area, but does not have an urban service area designated in its comprehensive plan.

A municipality that does not qualify as a dense urban land area may designate the following areas in its comprehensive plan as transportation concurrency exception areas:

- Urban infill as defined in s. 163.3164(27), F.S.;
- Community redevelopment as defined in s. 163.340(10), F.S.;
- Downtown revitalization as defined in s. 163.3164(25), F.S.;
- Urban infill and redevelopment as defined in s. 163.2517, F.S.; or
- Urban service areas as defined in s. 163.3164(29), F.S.

A county that does not qualify as a dense urban land area may designate in its comprehensive plan as transportation concurrency exception areas:

- Urban infill as defined in s. 163.3164(27), F.S.;
- Urban infill and redevelopment as defined in s. 163.2517, F.S.; or
- Urban service areas as defined in s. 163.3164(29), F.S., or urban service areas under s. 163.3177(14), F.S.

TCEAs are not created for designated transportation concurrency districts within a county, such as Broward County, that has a population of at least 1.5 million that uses its transportation concurrency system to support alternative modes of transportation and does not levy transportation impact fees. TCEAs are also not created for a county such as Miami-Dade that has exempted more than 40 percent of its urban service area from transportation concurrency for purposes of urban infill.

Any local government that has a transportation concurrency exception area under one of these provisions must, within 2 years, adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. If the local government fails to adopt such a plan it may be subject to the sanctions set forth in s. 163.3184(11)(a) and (b), F.S.

If a local government uses s. 163.3180(5)(b)6., F.S., the existing method of creating TCEAs, it must first consult the state land planning agency and the Department of Transportation regarding the impact on the adopted level-of-service standards established for regional transportation facilities as well as the Strategic Intermodal System (SIS).

Subsection (10) of s. 163.3180, F.S., is amended to provide an exemption from transportation concurrency on the SIS for projects that the local government and the Office of Tourism, Trade, and Economic Development (OTTED) agree are job creation programs as described in s. 288.0656, F.S. (for REDI projects), or s. 403.973, F.S. (expedited permitting).

The bill clarifies that the designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees. The bill further clarifies that the creation of a TCEA does not affect any contract or agreement entered into or development order rendered before the creation of the transportation concurrency exception area except for developments of regional impact that choose to rescind under s. 380.06(29)(e), F.S.

The Office of Program Policy Analysis and Government Accountability must study the implementation of TCEAs and corresponding local government mobility plans and report back to the Legislature by February 1, 2015.

The bill contains a statement that within TCEAs the local government will be deemed to achieve and maintain level-of-service standards. It also includes a statement that level-of-service standards transportation for development of regional impact purposes must be the same as for transportation concurrency.

Comprehensive Plan Amendments

The bill requires local governments to make concurrent zoning and comprehensive plan changes upon the request of an approved application. The bill also exempts urban service areas from the twice-a-year restriction on plan amendments and gives them expedited review.

Any local government may use the alternative state review process to designate urban service areas as defined in s. 163.3164(29), F.S.

Development of Regional Impact Exemptions

Section 380.06(29), F.S., is added to exempt developments from the development-of-regional-impact process in the following areas:

- Municipalities that qualify as a dense urban land area;
- An urban service area that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area; and
- A county, such as Pinellas and Broward, that has a population of at least 900,000 and qualifies as a dense urban land area, but does not have an urban service area designated in its comprehensive plan.

Developments that meet the DRI thresholds and are located partially within a jurisdiction that is not exempt still require DRI review. DRIs that had been approved or that have an application for development approval pending when the exemption takes effect may continue the DRI process or rescind the DRI development order. Developments that choose to rescind are exempt from the twice a year limitation on plan amendments for the year following the exemption. In exempt jurisdictions, the local government would still need to submit the development order to the state land planning agency for any project that would be larger than 120 percent of any applicable DRI threshold and would require DRI review but for the exemption. The state land planning agency would still have the right to challenge such development orders for consistency with the comprehensive plan.

If a local government that qualifies as a dense urban land area for DRI exemption purposes is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved. This section does not limit or modify the rights of any person to complete any development that has been authorized as a DRI. An exemption from the DRI process does not apply within the boundary of any area of critical state concern, within the boundary of the Wekiva Study Area, or within 2 miles of the boundary of the Everglades Protection Area.

Intergovernmental Coordination

The bill requires the intergovernmental element of a local government's comprehensive plan to have a dispute resolution process and requires unresolved disputes to go through mandatory mediation.

Ordinances Levying Impact Fees

Section 163.31801(3)(d), F.S., is modified to allow a local government to decrease, suspend, or eliminate an impact fee without waiting 90 days.

The Definition of "In Compliance"

Section 163.3184, F.S., is amended to delete the modifying language that should have been deleted with the reference to s. 163.31776, F.S., when the statute was revised in 2006.

Security Cameras

The bill creates a new section of law that prevents local governments from requiring that a business expend funds for security cameras. This does not limit the ability of a county, municipality, airport, seaport, or other local governmental entity to adopt standards for security cameras.

Mobility Fee Study

The bill requires the Department of Transportation and the Department of Community Affairs to continue their mobility fee studies with the goal of developing a mobility fee that can replace the existing transportation concurrency system. The mobility fee should be designed to:

- Provide for mobility needs,
- Ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts,
- Fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and
- Promote compact, mixed-use, and energy-efficient development.

The bill requires the Department of Community Affairs and the Department of Transportation to submit to the Legislature no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report shall also contain an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

Extension of Permits

The bill creates an undesignated section of law to provide a retroactive 2-year extension and renewal from the date of expiration for:

- Any permit issued by the Department of Environmental Permitting or a Water Management District under ch. 373, part IV, F.S.,
- Any development order issued by the DCA pursuant to s. 380.06, F.S., and
- Any development order, building permit, or other land use approval issued by a local government which expired or will expire on or after September 1, 2008 to January 1, 2012. For development orders and land use approvals, including but not limited to certificates of concurrency and development agreement, the extension applies to phase, commencement, and buildout dates, including a buildout date extension previously granted under s. 380.016(19)(c), F.S.

The conversion of a permit from the construction phase to the operation phase for combined construction and operation permits is specifically provided for. The completion date for any mitigation associated with a phased construction project is extended and renewed so the mitigation takes place in the appropriate phase as originally permitted. Entities requesting an extension and renewal must notify the authorizing agency in writing by December 31, 2009, and must identify the specific authorization for which the extension will be used.

Exceptions to the extension are provided for certain federal permits, and owners and operators who are determined to be in significant noncompliance with the conditions of a permit eligible for an extension. Permits and other authorizations which are extended and renewed shall be governed by the rules in place at the time the initial permit or authorization was issued. Modifications to such permits and authorizations are also governed by rules in place at the time the permit or authorization was issued, but may not add time to the extension and renewal.

State Allocation Pool – Private Activity Bonds

The bill limits the Florida Housing Finance Corporation's access to the State Allocation Pool for private activity bonds permitted to be issued in the state under the Internal Revenue Code to the amount of the initial allocation authorized under s. 159.804, F.S. After the initial allocation, the corporation may not receive more than 80 percent of the amount remaining in the state allocation pool on November 16th of each year. The corporation may also not receive more than 80 percent of any additional amounts that become available during each year. However, the limitation does not apply to the distribution of the unused allocation of the state volume limitation to the corporation as provided in s. 159.91(2)(b), (c), and (d), F.S.

Community Land Trusts

Section 193.018, F.S., is created to provide for the assessment of structural improvements, condominium parcels, and cooperative parcels on land owned by a community land trust and used to provide affordable housing. A community land trust must be a nonprofit entity that

qualifies as a charitable entity under s. 501(c)(3) of the Internal Revenue Code and must have as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing. The responsibility of the community land trust to convey structural improvements, condominium parcels, or cooperative parcels to persons or families who are income-qualified for affordable housing is codified in statute. The structural improvements or parcels being conveyed must be subject to a ground lease of at least 99 years, and the ground lease must contain a formula that limits the resale amount. The community land trust retains the first right of purchase at the time the structure or parcels are sold.

For purposes of assessing improvements or parcels conveyed subject to a ground lease, the property appraiser must assess based on the resale restrictions and limited uses contained in the lease. A lease, an amendment or supplement to the lease, or a memorandum documenting the restrictions contained in the lease are deemed land use regulations during the term of the lease if such lease or documents are recorded in the official public records of the county in which the affected property is located.

Ad valorem tax exemption for affirmative steps taken to provide affordable housing

The bill amends s. 196.196, F.S., to provide that property owned by an exempt organization qualified as a charitable organization under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose and is exempt from ad valorem taxes if the organization has taken affirmative steps to prepare the property for use as affordable housing for income-qualified persons. Affirmative steps include environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.

If property granted an exemption is transferred for purposes other than the provision of affordable housing, or if the property is not actually used as affordable housing within 5 years after the exemption is granted, the property appraiser must record a tax lien against the property, and the property owner is subject to taxes otherwise due and owing for failure to use the property for the purpose for which the exemption is granted. The organization owning the property is subject to the taxes otherwise due and payable as a result of the failure to use the property for the exempt purpose. Interest on such taxes at 15 percent per annum and the organization is further subject to a penalty of 50 percent of the taxes owed. The 5-year limitation may be extended if the property continues to the affirmative steps to develop the property for affordable housing.

Affordable Housing – Limited Partnership

Section 196.1978, F.S., is amended to extend the affordable housing property ad valorem tax exemption to property that is held for the purpose of providing affordable housing to income-qualified persons if the property is owned by a Florida-based limited partnership, the sole general partner of which is a not-for-profit corporation, or if the property is owned by a nonprofit entity that is a not-for-profit corporation qualified as charitable under s. 501(c)(3) of the Internal Revenue Code, and that is in compliance with the Revenue Procedure Low-Income Housing Guidelines as published by the Internal Revenue Service. Any property owned by a limited

partnership which is disregarded as an entity for federal income tax purposes will be treated as if owned by its sole general partner.

Land acquired for residential housing projects

The bill amends s. 212.055, F.S., to provide that the expenditure of local government infrastructure surtaxes to acquire land which will be used for a residential housing project is an authorized use of the surtax under specified conditions. At least 30 percent of the housing units in the project must be affordable to specified individuals and families and the land the project is constructed on must be owned by a local government or a special district that has entered into an interlocal agreement with a local government to provide such housing. The local government or the special district may enter into a ground lease with any entity for the construction of the residential housing project on land acquired from the expenditure of local infrastructure surtax proceeds.

Maintaining Density

Section 163.3202, F.S., is amended to provide that local land development regulations that contain specific and detailed provisions necessary to implement a local comprehensive plan must also maintain the density of residential property or recreational vehicle parks if the properties are intended for residential use and are located in unincorporated areas that have sufficient infrastructure as determined by a local governing authority. The properties and parks must not be located within a coastal high-hazard area.

Florida Housing Finance Corporation

The bill revises the State Apartment Incentive Loan Program (SAIL) and the State Housing Initiatives Partnership Program (SHIP) to clarify program purposes and to the allow the use of SAIL dollars for moderate rehabilitation of housing units. Projects that include green building principles, storm-resistant construction, or other elements to reduce long-term maintenance costs are projects eligible to apply for and receive SAIL funding.

The Florida Housing Finance Corporation is authorized to create criteria for contractor preference for developers and general contractors domiciled in the state, or for developers and general contractors regardless of domicile who have substantial experience in developing or building affordable housing through the corporation's programs. In determining substantial experience, the corporation must consider whether the developer or general contractor has completed at least five developments using funds provided by or administered by the corporation.

The Florida Housing Finance Corporation, other agencies that receive funds under the SHIP program, local housing finance agencies, and public housing authorities are directed to coordinate with the Department of Children and Families, and the department's agents and community-care providers to develop and implement strategies and procedures that will increase affordable housing opportunities for young adults leaving the child welfare system.

The bill makes clarifying revisions to certain definitions and provides that eligible housing for purposes of the SHIP program includes manufactured housing installed in accordance with the installation standards for mobile and manufactured homes contained in rules of the Department of Highway Safety and Motor Vehicles. Local affordable housing advisory committees are authorized to propose local housing incentive strategies in the triennial evaluation of how local governments are implementing affordable housing. Local governments are authorized to use SHIP dollars to provide a one-time relocation grant of up to $5,000 to tenants of rental properties who are evicted because the property has gone into foreclosure without the tenant's knowledge. Income-restriction exemptions for Monroe County are reinstated and retroactively applied so that housing awards may be made to Monroe County residents whose income exceeds 120 percent of the area median income.

With respect to local housing distributions, the Florida Housing Finance Corporation is authorized to distribute funds on a quarterly or more frequent basis, subject to the availability of funds. The corporation may withhold up to $5 million in funds distributed from the Local Government Housing Trust Fund to provide funding to counties and cities to purchase properties subject to a SHIP lien on which foreclosure proceedings have been instituted, and may withhold an additional $5 million to provide additional funding to counties and cities in a state of emergency. Not more than 20 percent of SHIP funds provided to counties and eligible cities may be used for manufactured housing.

Finally, school districts in areas of critical state concern are authorized to use certain property that provides affordable housing for teachers to also provide housing for essential services personnel.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 30-7; House 78-37

CS/SJR 532 — Property Tax Limit/Additional Homestead Exemption

by Finance and Tax Committee and Senators Lynn and Altman

This joint resolution proposes an amendment to s. 4, Art. VII of the State Constitution, to provide that except for school district levies, the annual maximum assessment change on nonhomestead residential real property is reduced from 10 percent to 5 percent of the assessment for the previous year.

The joint resolution further proposes an amendment to create subsection (f) in section 6, Art. VII of the State Constitution, to provide that the Legislature, by general law, must provide an additional homestead exemption to a person or persons who establish the right to receive a regular homestead exemption within one year after purchasing the homestead property, and who have not owned a principal residence during the 8-year period prior to the purchase of the property. For married persons, neither spouse may have owned a principal residence during the preceding eight years. The additional exemption is equal to 25 percent of the just value of the property on January 1 of the year in which the regular homestead exemption may first apply to assessment of the property but may not exceed $100,000. The additional exemption is reduced

each subsequent year by an amount equal to 20 percent of the initial additional exemption, or by an amount that is equal to the difference between just value and assessed value, whichever is greater. The additional exemption may not apply after the fifth year in which it is granted, and only one additional exemption may apply to a single homestead property. The additional exemption applies to all levies, including school district levies.

The joint resolution proposes to amend the schedule of implementation in Art. XII of the State Constitution to provide that if approved by voters, the revision to s. 4, Art. VII of the State Constitution will take effect January 1, 2011; and the revision to s. 6, Art. VII of the State Constitution will take effect January 1, 2011 and first apply to homestead property purchased by first-time homebuyers on or after January 1, 2010.

If approved by 60 percent of persons voting in the November 2010 General Election, these provisions take effect January 1, 2011.
Vote: Senate 26-11; House 104-13

CS/SB 538 — Publicly Funded Retirement Programs

by General Government Appropriations Committee and Senators Baker and Deutch

This bill requires the State Board of Administration to identify and offer at least one terror-free investment product to the Public Employee Optional Retirement Program by March 1, 2010, if the investment product is deemed by the board to be consistent with prudent investor standards. No person may bring a civil, criminal, or administrative action against a provider, the board, or any employee, officer, director, or trustee of a provider based on the divestiture.

The bill revises provisions relating to firefighter and municipal police pensions for purposes of determining prior service credit and terms of office for members of both pension plan boards. Both boards are authorized to increase from 10 percent to 25 percent plan asset investments in foreign securities on a market-value basis, and the investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law. Both pension boards are directed to identify and report any direct or indirect holdings in any scrutinized company as provided in s. 215.473, F.S., and proceed to sell, redeem, divest, or withdraw all publicly traded securities in such company beginning January 1, 2010, and ending September 30, 2010.

The bill revises the boundaries of special fire control districts which have been annexed to provide that for purposes of assessments and the imposition of excise taxes on insurance premiums, the district may continue to receive ad valorem taxes, non-ad valorem assessments and insurance premium taxes if it continues to provide services to the annexing municipality until the completion of the 4-year service period, or other agreed to extension, or under an executed interlocal agreement.

The bill makes revisions to audit and compliance requirements, and plan beneficiaries may change the designated joint annuitant or beneficiary up to two times without the approval of the pension plan board. The bill repeals apportionment provisions relating to assets distributed upon

termination of a firefighter or police officer pension termination, and codifies in statute the ruling of the District Court of Appeals, 4th District, in *Board of Trustees of the Town of Lake Park Firefighters Pension Plan v Town of Lake Park.*[1] The pension board must determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after accounting for expenses. The board must inform the special fire district or the city if additional assets are required, and if so, the city or district must continue to financially support the plan until all nonforfeitable benefits have been funded. Accrued benefits are nonforfeitable. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest, if the plan provides for interest, less the value of any plan benefits previously paid to the employee.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/SB 624 — Law Enforcement Officers and Correctional Officers

by Community Affairs Committee and Senator Fasano

This bill expands the provisions of s. 112.532, F.S., the "Officers' Bill of Rights," to clarify that the rights of law enforcement officers or correctional officers under investigation for reasons which could lead to disciplinary action, demotion, or dismissal, also apply in instances where investigation could lead to suspension. Prior to the interrogation of any law enforcement or correction officer under investigation, the officer who is the subject of the complaint must receive not just the complaint and all witness statements, but also all other existing subject officer statements, and all other existing evidence, including but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation.

The bill expands the waiver of the public records exemption in s. 112.533(2), F.S., which provides that although certain records and information relating to an investigation of an officer are confidential and exempt, the officer under investigation may review the complaint and all witness statements made prior to the beginning of the investigation. The bill provides that the officer or the officer's representative must, upon request, be given a copy of the investigative file, including the final investigative report and all evidence prior to the imposition of any disciplinary action that could result in suspension with loss of pay, demotion, or dismissal.

With respect to the limitation period for disciplinary action, the bill clarifies that an action to suspend a law enforcement or correctional officer may not be undertaken if the investigation of the allegation of misconduct is not completed within 180 days after the date the agency receives notice of the allegation against the officer. If the agency determines that disciplinary action is appropriate, the agency must provide the officer in writing, of its intent to proceed with disciplinary action, including a proposal of the specific action, including the length of suspension. However, the limitation period is tolled during the time that a compliance hearing

[1] 966 So.2d 448

proceeding is ongoing, beginning with the filing of the notice of violation of a right by an officer under investigation and a request for hearing, and ending with the written determination of the compliance review panel or a remediation of the violation by the agency conducting the investigation.

The bill amends s. 112.534, F.S., to create a compliance review hearing process when an officer under investigation believes that the investigator, an investigating supervisory, or the agency supervising the investigation intentionally violates the officer's rights. The officer under investigation must advise the investigator of the intentional violation which is alleged to have occurred, and this advisement is notice to the investigator of the requirements of the rights which have been violated and the factual basis of each violation.

If the investigator fails to cure the violation or continues committing a violation, the officer under investigation must request that the agency head or a designee be made aware of the violation. Once this request is made, the interview of the officer under investigation must cease and the officer's refusal to answer additional questions does not constitute insubordination or any similar type of policy violation.

Within 3 working days, the officer under investigation must then file a written notice of violation of rights and a request for a compliance review hearing which must contain enough information to identify the rights which have been violated and the factual basis for each violation. All evidence of the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing must be considered part of the original investigation.

If no corrective action is taken by the investigative agency, a compliance review hearing must be conducted within 10 working days after the request for hearing is filed unless an alternate date is approved with the mutual consent of all parties. The compliance review panel must review the circumstances and facts surrounding the alleged violation and determine if the violation was intentional. The compliance review panel consists of one member selected by the investigative agency head, one member selected by the officer under investigation, and one member selected by the other two members. All members must be active law enforcement officers or correction officers who are active in the same law enforcement discipline as the officer requesting the hearing.

The officer filing the notice of violation bears the burden of establishing by preponderance of the evidence that the violation of rights was intentional. The compliance review panel must make a written determination at the conclusion of the hearing and must file such written determination with the agency head and the officer who filed the notice of violation. Where the violation is found to be intentional, the investigating officer must be immediately removed and be placed under investigation. If that investigation is sustained, the allegations against the investigator shall be forwarded to the Criminal Justice Standard and Training Commission for review as an act of official misconduct or misuse of position.

Finally, the bill provides that the provisions of the Administrative Procedures Act do not apply to ch. 112, part VI, F.S., relating to the "Officers' Bill of Rights."

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 24-14; House 116-0

CS/CS/SB 712 — Special Districts/Commodities/Contractual Services

by Policy and Steering Committee on Ways and Means; Community Affairs Committee; and Senators Pruitt and Lynn

This bill creates s. 189.4221, F.S., to authorize special districts to purchase commodities and contractual services from the purchasing agreements of other special districts, counties, and municipalities if such purchasing agreements meet the procurement requirements of the purchasing special district. The purchasing agreements under which commodities and contractual services are being purchased must have been procured pursuant to competitive bid, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and be in compliance with general law.

The bill amends s. 189.418, F.S., to provide that for purposes of notifying the Department of Community Affairs of a district boundary change, the boundaries of a special district are not changed and will include an annexed area when the special district continues to provide services to the annexing municipality for the 4-year service period as required under s. 171.093(4), F.S., or other mutually agreed upon extension. The bill also provides that special district boundaries are not changed and will include an annexed area when the district is providing services under an interlocal agreement entered into with the annexing municipality under s. 171.093(3), F.S. For purposes of special fire control districts, these revisions mean that a special fire control district providing services to an annexed area may continue to receive state excise tax revenues on insurance premiums collected within the annexed area.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 119-0

CS/CS/SB 1000 — Discretionary Sales Surtaxes/Fire Rescue Services

by Judiciary Committee; Military Affairs and Domestic Security Committee; and Senators Fasano, Aronberg, Deutch, and Ring

This bill provides that the governing authority of a county may levy, by ordinance, a discretionary sales surtax of up to 1 percent for emergency fire rescue services. Any county already imposing two separate discretionary surtaxes without an expiration date may not levy the additional surtax. Once the local ordinance has been adopted, the levy of the surtax must be placed on the ballot and will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose at a regularly scheduled election.

The Department of Revenue is directed to distribute the taxes collected, less an administrative fee, to the county enacting the ordinance. The county must distribute the proceeds to the jurisdictions participating in the delivery of emergency fire and rescue services under an

interlocal agreement, and may also charge an administrative fee of not more than 2 percent of the taxes collected.

The county governing authority must develop and execute an interlocal agreement with the participating jurisdictions which shall be the governing bodies of cities, dependent special districts, independent special districts, or municipal service taxing units that provide emergency fire and rescue services within the county. The interlocal agreement, which must be executed prior to the referendum, must include a majority of the emergency fire and rescue service providers in the county.

The interlocal agreement must specify that the amount of surtax proceeds to be distributed to each participating jurisdiction is based on the amounts collected within that jurisdiction based on the distribution formula provided in s. 218.62, F.S., and used by the Department of Revenue to distribute the local government half-cent sales tax. If a county has special fire control districts within its boundaries, the surtax proceeds must be distributed between the county, the participating cities, and the special fire control districts based on the proportion of ad valorem and non-ad valorem assessments for fire control and emergency rescue services spent by each entity in each of the immediately preceding 5 fiscal years compared to the total expenditures for all participating entities.

The interlocal agreement must further specify that if a participating jurisdiction is requested to provide personnel or equipment to any other service provider on a long-term basis, the jurisdiction providing the personnel or equipment is entitled to payment from the other service provider's share of the surtax proceeds for all costs of the equipment or personnel. However, if the interlocal agreement prohibits one or more participating jurisdictions from providing the same level of service for prehospital emergency medical treatment within the jurisdiction's boundaries, or if the county has issued a certificate of public convenience and necessity or its equivalent to a county department or a dependent special district, the surtax allocation formula does not apply, and the jurisdiction does not have to agree to pay the provider of prehospital emergency medical treatment from its surtax proceeds.

When a surtax is approved by voters and collection of the tax is initiated, the enacting county and each participating jurisdiction must reduce the ad valorem tax levy or any non-ad valorem assessment for fire control and emergency rescue services in the next and subsequent budgets by the amount of surtax proceeds estimated to be collected. Use of the surtax proceeds does not relieve a local government from complying with the provisions of ch. 200, F.S., or any related provision of law that establishes millage caps or limits undesignated budget reserves and procedures for establishing rollback rates for ad valorem taxes and budget adoption. Any surplus taxes collected in any fiscal year must be used to further reduce ad valorem taxes in the next fiscal year.

Any city, special fire control district, and any contract service provider that does not enter into an interlocal agreement with a county levying the surtax is not entitled to receive any portion of the surtaxes collected and is not required to reduce ad valorem taxes or non-ad valorem assessments. Surtax proceeds must be collected beginning on January 1 of the year following a successful

referendum, and any county containing a portion of the Reedy Creek Improvement District may not levy the discretionary surtax within the boundaries of the district.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 110-8

CS/SB 1580 — Ad Valorem Taxation

by Finance and Tax Committee and Senators Ring and Bennett

This bill creates an unnumbered section of Florida Statutes to authorize a tax collector to accept one or more partial payment of any amount per parcel for payment of current property taxes and assessments. The partial payment must be made before the date of delinquency and the remaining amount must be paid in full by the delinquency date. A $10 processing fee is deducted from each partial payment and paid to the tax collector, who must send at least one notice of the balance due to the taxpayer. Any remaining balance that is not timely paid becomes delinquent and is handled like any other delinquent tax payment, but the tax collector has the discretion to deem an underpayment of less than $10 a payment in full. A partial payment is distributed in equal proportions among all applicable taxing districts and levying authorities. The bill amends s. 197.343, F.S., to clarify that the additional tax notice shall be mailed by April 30 to each taxpayer whose payment has not been received. The notice will state that if the taxes on the property are not paid in full, a tax certificate will be sold for the delinquent taxes. The bill also provides that the amendment to s. 196.192, F.S., made by s. 2 of ch. 2008-193, L.O.F., shall operate retroactively to January 1, 2005.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 113-1

CS/HB 135 — Public Records/Insured Dependents/Agency Group Plan

by Insurance, Business, and Financial Affairs Policy Committee and Rep. McKeel and others (CS/SB 270 by Community Affairs Committee and Senators Dockery, Storms, Justice, Gaetz, and Lynn)

The bill creates a public records exemption for personal information that identifies a dependent child of a current or former officer or employee of an agency if the minor dependent is insured under an agency group insurance plan. Personal identifying information of such a child is exempt from the public records requirements of s. 119.07(1)(a), F.S., and s. 24(a), Art. I of the State Constitution. The exemption is remedial in nature and applies to personal identifying information held by an agency before, on or after July 1, 2009. The exemption is subject to legislative review and repeal under the provisions of the Open Government Sunset Review Act established in s. 119.15, F.S., and will stand repealed on October 1, 2014, unless reviewed and reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/CS/HB 179 — Property Appraisers/Assessments/Homestead Exemption

by Finance and Tax Council; Military and Local Affairs Policy Committee; and Rep. Nelson and others (CS/SB 800 by Finance and Tax Committee and Senator Baker)

The bill authorizes a property appraiser, at the appraiser's discretion, to use image technology in lieu of physical inspection when assessing the value of real property to ensure that the tax roll meets all of the requirements of law. The Department of Revenue must establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.

The bill provides that when an applicant for a homestead exemption misses the March 1 filing deadline, he or she must file an application with the property appraiser not later than 25 days following the property appraiser's mailing of the "Truth in Millage" notice required under s. 194.011(1), F.S. The property appraiser may grant the exemption if he or she determines that sufficient evidence exists to demonstrate that the applicant was unable to meet the filing deadline. In cases where the property appraiser denies the application, the applicant may file a petition with the value adjustment board not later than 25 days following the property appraiser's mailing of the "Truth in Millage Notice."

The bill establishes the following new relevant factors to be considered by a property appraiser when establishing permanent residency for purposes of a homestead exemption:

- An applicant's formal declaration of domicile must be recorded in the public records of the county in which the exemption is being sought.
- Evidence of the location where the applicant's dependent children are registered for school.
- Proof of voter registration in this state with the voter information card address of the applicant, or other official correspondence from the supervisor of elections providing proof of voter registration, matching the address of the physical location where the homestead exemption is being sought.
- A valid Florida driver's license issued under s. 322.18, F.S., or a valid Florida identification card issued under s. 322.051, F.S., and evidence of relinquishment of a driver's license from any other state.
- The location where the applicant's bank statement and checking accounts are registered.
- Proof of payment for utilities at the property for which permanent residency is being claimed.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/CS/HB 227 — Impact Fees/Challenges

by Economic Development and Community Affairs Policy Council; Military and Local Affairs Policy Committee; and Rep. Aubuchon and others (CS/SB 580 by Judiciary Committee and Senators Haridopolos, Gaetz, Altman, Lynn, and Baker)

This bill amends s. 163.31801, F.S., dealing with impact fees. This bill creates a "preponderance of the evidence" standard of review for challenges to impact fees. The language places the burden on the government to prove by a preponderance of the evidence that the imposition or amount of the impact fee meets the requirements of state legal precedent or the statute governing impact fees. In addition, the bill precludes the court from using a deferential standard.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 26-11; House 107-10

CS/CS/HB 339 — Secondhand Dealers and Secondary Metals Recyclers

by Economic Development and Community Affairs Policy Council; Agriculture and Natural Resources Policy Committee; and Rep. Patterson and others (CS/CS/CS/SB 478 by Criminal Justice Committee; Commerce Committee; Community Affairs Committee; and Senators Baker and Lynn)

This bill excludes cardio and strength training or conditioning equipment designed for indoor use from the definition of "secondhand goods," preempts local government ordinances related to hold notices, and creates part III of ch. 538 , F.S., to define, require registration, and provide regulation of "mail-in secondhand precious metals dealers."

The bill amends s. 538.21, F.S., which currently requires secondary metals recyclers to hold the regulated metals for 15 days after receiving notice from law enforcement. The bill provides a statement that the hold notice provisions of s. 538.21, F.S., preempt local government ordinances.

This bill proposes regulatory requirements of mail-in secondhand precious metals dealers that are similar to those regulatory requirements of precious metals secondhand dealers currently provided for in ch. 538, part I, F.S., except the proposed part III does not require the physical verification of the identity of the seller and the submission of a thumbprint by the seller at the time of the transaction.

However, the bill does require the seller to provide his or her name, address, telephone number, e-mail address, if available, and driver's license number and issuing state or other government-issued identification number. If the seller fails to provide this information the buyer must verify the identity and information through a national provider of personal identification services, or request the information from the seller. A seller who has not provided sufficient information to the mail-in secondhand precious metals dealer may request that the property be returned. If the seller does not provide the required information or request that the property be returned, the seller's property is deemed to be abandoned and is relinquished to the Bureau of Unclaimed Property.

The bill provides a process by which, if there is probable cause that the goods are stolen, a law enforcement agency can take possession of the goods for the purpose of a legal proceeding to determine ownership, whether a crime has been committed, or to safeguard the property.

The bill also provides for certain penalties for violations of the requirements provided for in the bill.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 111-2

CS/CS/HB 479 — Retirement

by Economic Development and Community Affairs Policy Council; Governmental Affairs Policy Committee; and Rep. Schenck and others (CS/CS/CS/SB 1182 by Governmental Oversight and Accountability Committee; Ethics and Elections Committee; Community Affairs Committee; and Senators Fasano, Gaetz, and Dockery)

This bill revises the definition of "termination" for purposes of the Florida Retirement System (FRS) to provide that for retirements effective prior to July 1, 2010, termination does not occur if a member is reemployed by an employer within the system within the next calendar month after ceasing employment. For retirements effective on or after July 1, 2010, termination does not occur if a member is reemployed within the next 6 calendar months after ceasing employment. Similar revisions are made to conform termination of employment after completion of the Deferred Retirement Option Program (DROP).

With respect to the Elected Officers' Class in the FRS, on or after July 1, 2010, an elected officer of a city or special district shall be a member of the Elected Officers' Class only if the city or special district governing body, at the time it joins the FRS, elects by a majority vote to include all its elected positions in the Elected Officers' Class. The bill provides that cities and special districts not currently in the state system may make an irrevocable decision to join between July 1, 2009 and December 31, 2009. On or after January 1, 2010, no city or special district may opt to join the FRS.

On or after July 1, 2010, a retiree of a state-administered system who is elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not reenroll in the FRS. Further, an elected officer who is elected or appointed to an elective office and who is participating in the DROP is subject to the revised termination provisions upon completion of the DROP.

A retiree who is initially reemployed as an elected officer on or after July 1, 2010, as an elected official eligible for membership in the Elected Officers' Class, may not renew membership in the Senior Management Services Class or in the Senior Management Optional Annuity Program, and may not withdraw from the FRS as a renewed member in lieu of membership in the Senior Management Service Class as provided in current law. With respect to the Senior Management

Service Optional Annuity Program, a retiree who is initially reemployed on or after July 1, 2010, may not renew membership in the Senior Management Service Optional Annuity Program.

With respect to current reemployment limitations on persons whose retirement is effective prior to July 1, 2010, and which require a 1-month termination and a restriction on receiving salary and retirements benefits for 12 months from the date of retirement, the limitation on the number of hours a retiree reemployed by the Florida School for the Deaf and Blind may work as a substitute teacher, a substitute residential instructor, or a substitute nurse is repealed. Developmental research schools and charter schools are provided with the authority to reemploy such a retiree as a substitute or hourly teacher on a noncontractual basis after the retiree has been retired for 1 month. Such employees are restricted from receiving salary and benefits for 12 months from the date of retirement. The authority for an employing agency to reemploy a retired firefighter or paramedic after such member has been retired for 1 month is repealed effective July 1, 2009.

The bill provides that any person whose retirement is effective on or after July 1, 2010, or whose participation in the DROP program terminates on or after July 1, 2010, may be reemployed by an FRS employer. The retiree must meet the definition of termination prior to reemployment and for 6 months after meeting that definition, the person may not receive both a salary and retirement benefits. A reemployed retiree may not renew membership in the FRS and the employer of such a person must pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to other contributions for social security and the retiree health insurance subsidy. Persons who are initially reemployed in violation of the restriction, and the employer that employs such a person are jointly and severally liable for reimbursement of any retirement benefits paid.

The bill provides that certain instructional personnel employed by a developmental research school and authorized by the school's director, or if the school has no director, the school's principal to participate in an extended DROP may participate for up to 36 calendar months beyond the 60-month DROP period. For all DROP participants, an election to participate is final and may not be canceled after the first payment is credited during the DROP participation period.

The Division of Retirement in the Department of Management Services is authorized to issue retirement benefits payable for division of marital assets under a qualified domestic relations order directly to the alternate payee to meet Internal Revenue Code requirements, regardless of any court order to the contrary.

Conforming revisions are made to provisions governing the State Community College System Optional Retirement Program, the Public Employees Optional Retirement Program, the Senior Management Optional Annuity Program, the Optional Retirement Program for the State University System, and renewed membership in the FRS. For purposes of a de minimis distribution under the Senior Management Optional Annuity Program and the Optional Retirement Program for the State University System, a participant who receives a mandatory distribution of a de minimis account (earnings of not more than $5,000) authorized by the Department of Management Services is not considered a retiree and may be reemployed and

renew membership in the FRS. Any retiree of a state-administered system who is initially reemployed on or after July 1, 2010, may not renew membership in the FRS.

Finally, the bill provides that the revisions to s. 121.091, F.S., relating to benefits payable under the FRS, fulfill an important state interest. However, the bill does not provide for a special actuarial study to determine the impact of the proposed revisions on the FRS.

If approved by the Governor, unless otherwise specified, these provisions take effect July 1, 2009.
Vote: Senate 27-11; House 93-23

CS/HB 515 — Oil and Gas Production Taxes

by General Government Policy Council and Rep. Evers and others (CS/SB 978 by Finance and Tax Committee and Senator Pruitt)

The bill replaces the 5 percent excise tax on tertiary oil with a tiered rate tax structure. The tax is imposed at the rate of 1 percent of the gross value of oil on the first $60 of value; 7 percent of the gross value of oil above $60 and below $80, and 9 percent of the gross value of oil valued at $80 and above. The bill revises the definition of "tertiary oil" to mean the excess barrels of oil produced, or estimated to be produced, as a result of the actual use of a tertiary recovery method in a qualified enhanced oil recovery project, and corrects a reference to federal law so that such projects may qualify for the federal enhanced oil recovery tax credit.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-1; House 116-1

CS/CS/HB 521 — Ad Valorem Tax Assessment Challenges

by Economic Development and Community Affairs Policy Council; Military and Local Affairs Policy Committee; and Rep. Lopez-Cantera and others (CS/SB 1006 by Finance and Tax Committee and Senators Fasano, Lynn, Altman, and Gaetz)

This bill revises current law relating to the presumption of correctness in administrative or judicial actions when a taxpayer challenges an ad valorem tax assessment of value by providing that the property appraiser's assessment is presumed correct if the appraiser can prove by a preponderance of the evidence that the assessment was arrived at by complying with the just valuation requirements of s. 193.011, F.S., with any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. However, a taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or a court as to the appropriateness of the appraisal methodology used by the property appraiser in arriving at the assessment. The value of the property must be determined by an appraisal methodology that complies with the criteria of s. 193.011, F.S., and professionally accepted appraisal practices. These provisions preempt any prior inconsistent case law.

In an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge. If the challenge is to assessed value, the initiating party must prove by a preponderance of the evidence that the assessed value:

- Does not represent the just value of the property after taking into account applicable limits on annual increases in property value;
- Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on character or use; or
- Is arbitrarily based on appraisal practices that are different from appraisal practices generally applied by the property appraiser to comparable property within the same county.

If the burden of proof is met, the property appraiser's presumption of correctness is overcome and the value adjustment board or the court must establish the assessment if there is competent, substantial evidence available which cumulatively meets the criteria of s. 193.011, F.S., and professionally accepted appraisal standards. If the record lacks such evidence, the value adjustment board or the court must remand the matter to the property appraiser with appropriate directions with which the property appraiser must comply. With respect to challenges following remand, the burden of proof is on the challenger initiating the proceeding.

In a challenge as to the classification of use of the status of an exemption, no presumption of correctness exists and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exemption granted is incorrect.

The bill expresses the Legislature's intent that a taxpayer never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. The bill provides that all cases establishing the reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of ch. 1997-85, L.O.F, creating the current presumption of correctness standard for ad valorem tax assessment challenges; and further expresses the Legislature's intent that any cases published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretive of legislative intent. These expressions of legislative intent and rejection are intended to clarify existing case law and apply retroactively.

If approved by the Governor, these provisions take effect upon becoming law and shall first apply to assessments in 2009.
Vote: Senate 37-1; House 109-4

CS/CS/HB 611 — Public Construction Projects

by Economic Development and Community Affairs Policy Council; Roads, Bridges, and Ports Policy Committee; and Rep. Hukill and others (CS/SB 616 by Community Affairs Committee and Senator Haridopolos)

The bill amends s. 255.20, F.S., to increase the cost that triggers the statutory requirement to competitively bid a project from $200,000 to $300,000. For electrical work, the cost that triggers the competitive bidding process is increased from $50,000 to $75,000.

The bill states that any contractor may be considered ineligible to bid if the contractor has been found guilty of violating certain laws within the past 5 years.

The bill defines "repair" as corrective action to restore an existing public facility to a safe and functional condition. The bill defines "maintenance" to mean preventative or corrective action for the purpose of maintaining an existing public facility in an operational state or preserving the facility from failure or decline, but does not include:

- The construction of any new building, structure, or other public construction works; or
- Any substantial addition, extension, or upgrade to an existing public facility, for which the cost is more than 20 percent of the total cost of the repair or maintenance project.

The bill increases the public notice time for the public meeting wherein the local government will decide whether or not to bid a project or use its own staff from 14 to 21 days. The bill specifies that the notice must include information about the scope of the work and all costs associated with the work, including: employee compensation and benefits, equipment cost and maintenance, insurance costs, and materials. The bill requires the local government to make available to the public a detailed itemization of each component of the estimated cost of the project. Contractors or vendors may present evidence to the governing board regarding the project and the accuracy of the estimated cost of the project.

The bill increases the cost that triggers the statutory requirement to competitively bid a project for projects such as roads and bridges under ch. 336, F.S, from $200,000 to $300,000. For electrical work, the cost that triggers the competitive bidding process is increased from $50,000 to $75,000.

The bill exempts airports, ports, and public transit systems from competitive bidding requirements when performing repairs or maintenance.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 107-10

HB 701 — Proposed Property Tax Notice

by Rep. Hudson and others (CS/CS/SB 752 by General Government Appropriations Committee; Finance and Tax Committee; and Senators Richter and Fasano)

This bill amends s. 200.069, F.S., to implement recommendations found in the Department of Revenue's Report on The Effect of Recent Changes in Law on the Notice of Proposed Property Taxes. It expands the TRIM notice to two additional columns of information to the first page, which is titled "Notice of Proposed Property Taxes," and it changes the order in which the columns are arranged. The new columns to be included are as follows:

- Last year's adjusted tax rate – The millage rate for ad valorem taxes that will provide the same tax revenue for each taxing authority as was levied during the prior year, also known as the "rolled-back rate." If the parcel did not exist in the previous year, this column must be blank (new Column 3).
- Tax Rate This Year IF PROPOSED Budget is Adopted – The proposed millage rate for ad valorem taxes to be levied against the parcel in the current year (new Column 5).

These changes result in the following format, which will provide taxpayers additional information on the TRIM notice that is used in property tax calculations:

Taxing Authority	Your Property Taxes Last Year	**Last Year's Adjusted Tax Rate (Millage)**	Your Taxes This Year IF NO Budget Change is Adopted	**Tax Rate This Year IF PROPOSED Budget Change is Adopted (Millage)**	Your Taxes This Year IF PROPOSED Budget Change is Adopted	A Public Hearing on the Proposed Taxes and Budget Will Be Held:

The bill also incorporates other proposals from the department report concerning the TRIM notice. It expands the notice to include a full-page presentation of Valuations and Exemptions that will show the assessed value, exemptions, and taxable value for each taxing authority. It also shows the specific assessment reductions and exemptions that have been applied to the property.

If approved by the Governor, these provisions take effect January 1, 2010.
Vote: Senate 40-0; House 117-0

CS/CS/HB 821 — Community Development Districts

by Economic Development and Community Affairs Policy Council; Military and Local Affairs Policy Committee; and Rep. O'Toole (CS/CS/SB 1602 by Judiciary Committee; Community Affairs Committee; and Senator Baker)

The bill amends s. 190.003, F.S., which prescribes definitions applicable to the Uniform Community Development District Act. The bill adds a definition for the term "compact, urban, mixed-use district," and it defines that term to mean "a district located within a municipality and

within a community redevelopment area created pursuant to s. 163.356, F.S., that consists of a maximum of 75 acres, and has development entitlements of at least 400,000 square feet of retail development and 500 residential units."

The bill further amends s. 190.006, F.S., relating to the powers of the governing board of a community development district. Six years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district, elected by the qualified electors of the district. There is an exception for a district exceeding 5,000 acres, in which case the new election process does not have to occur for 10 years.[2] The bill includes the newly defined "compact, urban, mixed-use district" within this exception. Therefore, such a mixed-use district would not have to hold the statutorily required election by the electors of the district for 10 years after the district was initially created.

Also under current law, if, when the time for election by qualified electors arises, there are not at least 250 electors in the district, members of the board continue to be elected by the landowners. There is an exception in current law for a district exceeding 5,000 acres, in which case the landowners continue to elect the board until there are at least 500 qualified electors. This bill includes the newly defined mixed-use district within this exception. Therefore, under the bill, if 10 years after initial appointment for this newly defined mixed-use district, there are not at least 500 electors, members of the initial board continue to be elected by the landowners. Thus if a project meeting the bill's definition of mixed-use district does not have enough electors available at the expiration of six years, it would receive, under the bill, authority to delay such change in the election process until 10 years after the district was initially created, creating additional time to secure electors within the district. The provisions of the bill relating to the board members are to be applied retroactively.

The bill revises deed restriction enforcement rulemaking authority of boards of directors of CDDs under s. 190.012, F.S., in a manner that expands their powers, and the powers of homeowner's associations (HOAs), over real property whether within or outside the CDD's geographic limits, subject to an interlocal agreement with another district, or the consent of the county or municipality in the area that enforcement is to occur.

The expansion of CDD rulemaking and enforcement authority extends to include residents who live outside of the geographic boundaries of the CDD. The bill provides for the election of an advisor to the district to represent properties located outside of the CDD. However, the advisor may only review enforcement actions proposed by the district against properties located outside the district and make recommendations relating to those proposed actions.

Specifically, the CDD may adopt by rule all or certain portions of deed restrictions that:

- Relate to limitations or prohibitions, compliance mechanisms, or enforcement remedies that apply to external appearances or uses and are deemed by the CDD to be generally

[2] *See* s. 190.005(3)(a)2.a., F.S.

beneficial for the CDD's landowners and for which enforcement by the CDD is appropriate, as determined by the CDD's board of supervisors; or

- Are consistent with the requirements of a development order or regulatory agency permit.

The board may vote to adopt rules only when all of the following conditions exist:

- The CDD was in existence on June 23, 2004, or is located within a development that consists of multiple developments of regional impact and a Florida Quality Development.
- For residential districts, the majority of the CDD board has been elected by qualified electors pursuant to the provisions of s. 190.006, F.S.
- The declarant (HOA, CDD, or any special district) in any applicable declarations of covenants and restrictions has provided the board with a written agreement that such rules may be adopted. A memorandum of the agreement shall be recorded in the public records.
- For residential districts, where less than 25 percent of residential units are in a homeowners' association.

The bill deletes the restriction that the CDD board may only vote to adopt rules relevant to the provisions above if the CDD's geographic area contains no HOAs as defined in s. 720.301(9), F.S.

The bill also expands the definition of "deed restrictions" to include compliance mechanisms and enforcement remedies contained in any applicable declaration of covenants and restrictions, including those of an HOA whose board is under member control, which govern the use and operation of real property. The scope of the deed restrictions is further expanded because they would not be limited to restrictions within the district.

The terms "compliance mechanisms" and "enforcement remedies" are often applied by HOAs and CDDs in the form of penalties or special assessments. A parcel owner's failure to comply can result in a lien being placed against the parcel.

The bill provides that whenever an interlocal agreement is entered into, a district board advisor seat is created for one elected landowner whose property is within the jurisdiction of the governmental entity entering into the interlocal agreement but not within the boundaries of the district. The district board advisor shall be elected for a two-year term by landowners whose land is subject to enforcement by the district but whose land is not within the boundaries of the district.

The bill requires that the elections occur at a meeting that is properly noticed and gives each landowner one vote per acre of land owned by him or her and located within the district for each person to be elected. Votes may be made in person or by proxy in writing. Landowners with less than an acre of land are entitled to one vote.

The bill provides that if a vacancy occurs in the district advisor seat, a special landowner election shall be held within 60 days after the vacancy using the notice, proxy, and acreage voting provisions.

The bill amends s. 190.046, F.S., to allow a landowner to petition to contract or expand the boundaries of a CDD. The bill specifies that the petition filing fee is paid to:

- The county if the CDD or land to be added or deleted from the district is located within an unincorporated area, or
- The municipality if the district or the land to be added or deleted is located within an incorporated area.

The filing fee must also be paid to each municipality contiguous with or containing all or a portion of land within, added to, or deleted from the external boundaries of the district. A copy of the petition shall be submitted to each of the entities entitled to receive the filing fee.

The bill deletes the provision in existing law that requires a rule amending the district boundary to have written consent of all the landowners whose land is to be added to or deleted from the district.

The bill adds the language "net" cumulative basis to add clarity to how district boundaries shall be assessed.

The bill states that petitions to amend the boundary of a CDD shall include only:

- A description of the external boundaries;
- A map of the proposed district showing water, sewer, and outfall;
- Proposed time-table and costs for district services;
- Designation of the future land uses;
- A statement of estimated regulatory costs; and
- Consent of the landowners as demonstrated by the filing of the petition by the district board of supervisors but written consent must be obtained from any landowner whose land is to be added or deleted from the district.

The bill requires that when CDDs petition to merge with each other their petitions must include the elements required to create a CDD and be evaluated using the criteria used when establishing a CDD. The filing fee would be the same. The petition must state whether a new district will be established or one district will be the surviving district. The amendment deletes language that would require CDDs that merge to hold a public hearing. The amendment specifies that the remaining CDD is still obligated to creditors. Any existing claim, pending action, or proceeding by or against a CDD can continue as if the merger had not occurred.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 36-2; House 116-0

CS/HJR 833 — Homestead Ad Valorem Tax Credit/Deployed Military

by Finance and Tax Council; and Rep. Horner and others (CS/CS/SJR 1302 by Policy and Steering Committee on Ways and Means; Finance and Tax Committee; and Senators Gardiner, Deutch, Baker, and Gaetz)

This joint resolution proposes an amendment to s. 3, Art. VII of the State Constitution to provide an additional homestead exemption for a person who receives a homestead exemption and was a member of the United States Military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard. The person must have been deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The additional exemption, which is to be provided by general law, is equal to a percentage of the taxable value of the deployed person's homestead property, and the percentage must be calculated based on the number of days the person was deployed on active duty outside the continental United States, Alaska, or Hawaii, divided by the number of days in the year.

Section 31 is added to Art. XII of the State Constitution to provide that if adopted by voters, the additional homestead exemption shall take effect January 1, 2011.

If approved by 60 percent of persons voting in the November 2010 General Election, these provisions take effect January 1, 2011.
Vote: Senate 40-0; House 115-0

HB 7013 — Open Government Sunset Review/Business Information/Government Condemning Authority

by Governmental Affairs Policy Committee and Rep. K. Roberson (CS/SB 1826 by Governmental Oversight and Accountability Committee and Community Affairs Committee)

This bill reenacts an existing public records exemption relating to business damages. Section 73.0155, F.S., provides that any information submitted with an eminent domain business-damage offer, is exempt from the public records provisions of s. 119.07(1), F.S., and s. 24(a), Art. I, of the State Constitution. This exemption allows business owners to more freely provide condemning authorities with confidential business information in presuit negotiations of business damage claims, saving the condemning authorities in both litigation and court cost fees. The bill also reorganizes the exemption, makes clarifying changes, and removes superfluous language.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 112-0

CS/HB 7019 — Open Government Sunset Review/Government-Sponsored Recreation Programs

by Economic Development and Community Affairs Policy Council; Governmental Affairs Policy Committee; and Rep. Braynon (CS/SB 1824 by Governmental Oversight and Accountability Committee and Community Affairs Committee)

The bill reenacts a public records exemption for any information that identifies or helps to locate a child participating in a government-sponsored recreation program or camp, or information that identifies or helps to locate the parents or guardians of such a child. This information is exempt from the public record provisions of s. 119.07(1)(a), F.S., and s. 24(a), Art. I of the State Constitution. In addition to the reenactment, the bill clarifies certain definitions, and makes organizational and editorial changes, but does not expand the scope of the existing exemption. The reenactment of the existing exemption means that further review of the exemption is not required under the Open Government Sunset Review Act established in s. 119.15, F.S.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 112-0

HB 7157 — Real Property Used for Conservation Purposes

by Finance and Tax Council and Rep. Bogdanoff (CS/CS/CS/SB 2244 by Policy and Steering Committee on Ways and Means; Finance and Tax Committee; Environmental Preservation and Conservation Committee; and Senators Altman, Lynn, and Haridopolos)

This bill implements s. 3(f), Art. VII of the State Constitution, by creating s. 196.26, F.S., to provide for a full ad valorem property tax exemption for real property dedicated in perpetuity and used only for conservation purposes. The perpetual dedication for use as conservation land does not preclude the receipt of income from activities that are consistent with a management plan when the income is used to implement, maintain, and manage the management plan. A partial ad valorem exemption of 50 percent is provided for real property dedicated in perpetuity for conservation purposes but for which commercial uses are authorized.

For purposes of the exemption, "dedicated in perpetuity" means land that is encumbered by an irrevocable and perpetual conservation easement; and "allowed commercial uses" are those commercial uses allowed under the conservation easement encumbering the real property. The bill provides that "conservation purposes" means:

- Serving a conservation purpose defined in 26 U.S.C. s. 170(h)(4)(A)(i)-(iii) – the Internal Revenue Code – for land which serves as the basis of a qualified conservation contribution for federal tax purposes; or
- Retention of the substantial natural value of the land, including woodlands, wetlands, water courses, ponds, streams, and natural open spaces;
- Retention of such lands as suitable habitat for fish, plants, or wildlife; or
- Retention of the natural value of such lands for water quality enhancement or water recharge.

For land that is less than 40 contiguous acres in size, no exemption is authorized unless the Acquisition and Restoration Council, which approves Florida Forever projects, determines that such property fulfills a clearly delineated state conservation policy, yields a significant public benefit, and meets the other requirements of the act. Land approved by the Council as eligible for the exemption must have a management plan and a designated manager who is responsible for implementing the management plan. In making the determination, the Council must consider if the land:

- Contains a natural sinkhole or natural spring that serves a water recharge or production function;
- Contains a unique geological feature;
- Provides habitat for endangered or threatened species;
- Provides nursery habitat for marine and estuarine species;
- Provides protection or restoration of vulnerable coastal areas;
- Preserves natural shoreline habitat; or
- Provides retention of natural open space in otherwise densely built-up areas.

The conservation easements that serve as the basis for the ad valorem tax exemptions must include baseline documentation as to the natural values to be protected on the land and may include a management plan that details the management efforts to conserve the natural resources on the land.

Buildings, structures, and other improvements located on land receiving the ad valorem tax exemption and the land area immediately surrounding such buildings, structures, or improvements must be assessed separately as provided in ch. 193, F.S., except that structures and improvements auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land. Also, land qualifying for the exemption but for which authorized commercial uses include agriculture and silviculture must comply with the most recent best management practices if such practices are adopted by rule of the Department of Agriculture and Consumer Services.

The bill provides water management districts with jurisdiction over lands receiving the exemption with a third-party right of enforcement to enforce the terms of an applicable conservation easement that is not enforceable by a federal or state agency, a county, city, or a water management district when the easement holder is unable or unwilling to enforce the terms of the easement. The Acquisition and Restoration Council is directed to maintain a list of nonprofit entities that are qualified to enforce the provisions of a conservation easement.

Section 193.501, F.S., is amended to provide a process for eligible persons and organizations to file an application for assessment of lands subject to a conservation easement, environmentally endangered lands, or lands used for outdoor recreational or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted. On or before March 1 of each year, the eligible person or organization must apply for assessment with the county property appraiser and the application must identify the property for which the assessment is claimed. The initial application must include a copy of the instrument which

conveys the development right or which establishes a covenant providing the conservation purposes for which the property may be used. A county may, at the request of the property appraiser and upon a majority vote of its governing body, waive the requirement for an annual application.

The person or entity that owns land receiving the conservation classified use must notify the property appraiser any time the land becomes ineligible for such assessment. If the property owner fails to notify the property appraiser of an improper assessment and the appraiser determines that for any year within the preceding 10 years the land was not eligible for a classified use assessment, the owner is liable for taxes avoided as a result of such failure, plus 15 percent interest per year, and a penalty of 50 percent of the taxes avoided. A notice of tax lien will be recorded against any property owned by the person or entity within the county, or against property owned by the person or entity in any other county of the state if the person or entity no longer owns property in the county where the classification was improperly received.

For purposes of receiving a tax exemption, once an original application has been granted, in each succeeding year, on or before February 1, the property appraiser must mail an exemption renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property complies with the requirements and restrictions of the conservation easement, and the application must be returned to the property appraiser. Failure to return the application may result in loss of the exemption.

The property owner must notify the property appraiser any time the use of the property no longer complies with the requirements or restrictions of the conservation easement. If the property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the owner was not entitled to receive the exemption, the property owner is subject to taxes exempted as a result of the failure to notify, plus 18 percent interest per year, and a penalty of 100 percent of the taxes exempted.

Section 704.06, F.S., is amended to provide that any owner of property encumbered by a conservation easement must abide by the requirements of ch. 712, F.S., the Florida Marketable Record Title Act, or any similar law or rule to preserve the conservation easement in perpetuity.

Beginning in FY 2010-2011, the Legislature must appropriate funds to fiscally constrained counties to offset reductions in ad valorem tax revenues which occur as a result of the implementation of the revisions to s. (3)(f) and (4)(b), Art. VII of the State Constitution, as approved by voters in the 2008 General Election. For purposes of the appropriation, fiscally constrained counties are those counties within a rural area of critical economic concern as designated by the Governor, or those counties for which the value of one mill will raise no more than $5 million in revenue based on the taxable value for school purposes certified to the Commissioner of Education by the Department of Revenue. The moneys appropriated must be distributed in January of each fiscal year among the fiscally constrained counties based on each county's proportion of the total ad valorem tax reduction resulting from the exemptions and use classifications applied for conservation purposes. An application process is provided.

Finally, the Department of Revenue is provided with emergency rulemaking authority and such emergency rules will remain in effect for 6 months after adoption. The emergency rules may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

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

CS/SB 1718 — State Judicial System

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill:

- Amends s. 26.57, F.S., to allow the courts to pay a county judge at the circuit judge salary for that time the county judge presides over circuit court. This provision is subject to the availability of funds.
- Amends s. 27.511, F.S., to remove the expiration of the authorization for part-time assistant regional conflict counsel to have a private criminal law practice. Such assistant regional conflict counsel may not take cases where there is a legal or ethical conflict. Assistant regional conflict counsel continues to be prohibited from taking private court appointed counsel cases paid by the state under s. 27.5304, F.S.
- Amends s. 27.562, F.S., to direct all funds collected on behalf of the public defender for the cost of defense as well as the indigent application fee to be deposited in the Indigent Criminal Defense Trust Fund.
- Effective June 1, 2009, amends s. 28.2401, F.S., to rename certain probate service charges as filing fees and increases such fees by $115. The additional amount of the fee is deposited in the State Courts Revenue Trust Fund for appropriations to the state court system.
- Effective June 1, 2009, amends s. 28.241 relating to circuit civil filing fees. Except for family law cases in chs. 39, 61, 741, 742, 747, 752, or 753, F.S., the circuit civil filing fee is increased from $295 to $395. The increase is to be deposited in the State Courts Revenue Trust Fund for appropriations to the state court system. In addition, the bill redirects $80 of the circuit civil filing fee from the clerk of the courts to the State Courts Revenue Trust Fund.
- Effective June 1, 2009, creates a graduated filing fee for real property or mortgage foreclosure cases. The filing fee is $395 where the amount in controversy is $50,000 or less, $900 where the amount in controversy is more than $50,000 but less than $250,000, and $1,900 where the amount in controversy is $250,000 or more. The value of the case with respect to a mortgage foreclosure action includes the principal due, interest owed, and any advances by the lender such as for property taxes or insurance. The increase in the filing fees over the current amount of $295 is to be deposited in the State Courts Revenue Trust Fund for appropriations to the state court system. The party must estimate the amount in controversy in filing the action. If the amount is different in the final disposition, the clerk shall adjust the filing fee accordingly.
- Effective June 1, 2009, clarifies that counter petitions, along with cross-claims, counterclaims, and third party complaints, must pay increased filing fee of $395, except in the case of family law cases where the fee remains $295.

- Effective June 1, 2009, increases the filing fee for cross-claims, counter petitions, counterclaims, and third party complaints from $295 to $395. These filing fees are deposited in the General Revenue Fund.
- Effective June 1, 2009, requires that parties that file cross-claims, counter petitions, counterclaims, or third party complaints related to real property or mortgage foreclosure cases would pay the $900 where the amount in controversy is more than $50,000 but less than $250,000 and $1,900 where the amount in controversy is $250,000 or more.
- Amends s. 28.33, F.S., to specify that interest earned on county funds invested by the clerk shall be deemed income of the county and may be appropriated by the Board of County Commissioners pursuant to ch. 129, F.S.
- Amends s. 34.041, F.S., to create a reduced filing fee of $125 (rather than $170) for county court claims not exceeding $1,000 where there is also a simultaneous filing for replevin of property that is the subject of the claim.
- Further amends s. 34.041, F.S., to reduce the county court filing fee for a removal of tenant action from $265 to $180. Reduces the amount of such fees going to the Mediation and Arbitration Trust Fund from $15 to $10 from such fees. Eliminates language requiring 1/3rd of all filing fees to be deposited in the Department of Revenue Clerk of Court Trust Fund.
- Further amends s. 34.041, F.S., to clarify that counter petitions in county court are also subject to the cross-claim, counterclaim and third-party complaint filing fees.
- Amends s. 57.081, F.S., to relieve indigent persons from paying civil filing fees. The bill makes conforming changes to s. 57.082, F.S., requiring payment plans for amounts due from indigent persons.
- Makes conforming changes to s. 318.121, F.S., for the new $12.50 administrative fee from the 2008 session and the $10 Article V fee from 2009 special session A.
- Amends s. 318.15, F.S., to assess an $18 processing fee when a person elects to take a driver improvement course but fails to complete the course. The fee would be retained by the clerk of court.
- Amends s. 318.18, F.S. to provide that the new $12.50 administrative fee from the 2008 session and the $10 Article V fee from 2009 special session A is to be paid for violations of chs. 320 and 322, F.S., relating to motor vehicle licenses and driver's licenses.
- Reenacts s. 318.21(18) and (19), F.S., relating to new $12.50 administrative fee from the 2008 session and the $10 Article V fee from 2009 special session A to incorporate amendments made by the bill.
- Amends s. 939.185, F.S., to provide that an order imposing a local cost upon conviction of certain criminal offenses or criminal traffic offenses constitutes a lien. The lien attaches to real property of the person in the county where the order is recorded and attaches to personal property owned by the person in the state upon filing a judgment lien certificate with the Department of State. This provision supersedes a similar provision passed in SB 412.

- Requires the Clerks of Court Operations Corporation to identify funds in excess of what is needed in the Clerk of Courts Trust Fund to fund the approved clerk budgets to the General Appropriations Act by June 20th each year and requires the Justice Administrative Commission to make a transfer of this amount to the General Revenue Fund by June 25th of each year.
- Requires the clerks of court to implement an electronic filing process by March 1, 2010, to reduce judicial costs in the office of the clerk and the judiciary, improve the timeliness of case processing, and provide the judiciary with case-related information. The Supreme Court is requested to set statewide standards for electronic filing by July 1, 2009, and the clerks are to begin implementation by October 1, 2009. The Clerks of Court Operations Corporation must report to the legislature by March 1, 2010, the progress of electronic filing. Revenues authorized for court system information technology in s. 28.24, F.S., may be used to implement electronic filing.
- Specifies the Legislature's intent for the 1st District Court of Appeal to implement electronic filing for workers' compensation appeals. Requires the 1st District Court of Appeal to report to the Legislature nine months after implementation.
- Provides that, notwithstanding s. 28.36, F.S., relating to how budgets are approved for clerks of court, the statewide amount for all clerk budgets shall be set at $451 million for the state FY 2009-2010. This section is contingent upon SB 2108 not becoming a law.
- Requires by January 15, 2010, a report by the Legislature's Office of Program Policy Analysis and Government Accountability on how to improve the efficiency of the operations of the clerks of court and the state court system. This section supersedes similar provisions in SB 2108.
- Requires the Legislature's Technology Review Workgroup to develop a plan for options to implement an integrated computer system for the state court system. This section supersedes similar provisions in SB 2108.
- Requires the Clerks of Court Operations Corporation to report all information technology purchases by clerks of more than $25,000 to the Legislature. This section supersedes similar provisions in SB 2108.
- Directs the Legislature's Division of Statutory Revision to read SB 2108 and SB 1718 together if both become law and make amendments accordingly.
- Provides that the effective date for SB 2108, relating to budgeting for the clerks of court, shall be July 1, 2009, rather than upon becoming a law.

If approved by the Governor, these provisions take effect on June 1, 2009, for some sections and July 1, 2009, for others.
Vote: Senate 38-0; House 90-28

SB 1720 — Capital Collateral Regional Counsel Trust Fund

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill:

- Creates the Capital Collateral Regional Counsel Trust Fund. The trust fund is created within the Justice Administrative Commission. Moneys in the trust fund are for the purpose of funding the activities of the capital collateral regional counsels.
- Amends s. 27.702, F.S., to require reimbursements from the federal government for legal representation provided to death row inmates in federal court by the capital collateral regional counsels to be deposited in the Capital Collateral Regional Counsel Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 1722 — Department of Corrections

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill makes a number of changes relating to the Department of Corrections:

- Requires the court to sentence certain non-violent, low-scoring offenders to a non-state prison sanction unless the court finds that such a sentence could endanger the public.
- Creates a state-funded diversion program operated by the Department of Corrections to allow the court to divert certain non-violent offenders from prison.
- Authorizes the State Board of Administration, Division of Bond Finance to negotiate the sale of correctional facility bonds for FY 2009-2010.
- Authorizes the Department of Corrections to contract with county and municipal facilities in Florida and out-of-state public and private facilities. Exempts these contracts from applicability of ch. 957, F.S., relating to Department of Management Services' contracts with private prisons.
- Increases the inmate copayment for non-emergency health care from $4 to $5.
- Establishes timeframes for medical providers of inmate health services to submit requests for payment of medical claims. Establishes timeframes for the Department of Corrections to submit overpayment claims to medical service providers.
- Provides that if no contract for the provision of inmate medical services or emergency medical transportation services exists between the Department of Corrections or a private correctional facility and a health care provider, compensation for such services may not exceed 110 percent of the Medicare allowable rate. Provides exceptions for hospitals with negative operating margins.
- Requires all offenders who are subject to electronic monitoring to pay the department for the monitoring service. Provides that the department may exempt a person from paying all or a part of the costs of supervision in certain instances.

- Requires courts to use order of supervision forms provided by the department when placing an offender on community supervision.
- Permits the Department of Corrections to submit the required report of a youthful offender's performance in a basic training program to the court within 30 days prior to the scheduled completion of the program.
- Provides that a sentencing court must retain continuing jurisdiction over the convicted offender for the sole purpose of entering civil restitution lien orders until the later of the duration of the sentence, or up to 5 years after the offender is released from incarceration or supervision.
- Specifies that civil actions to recover costs of incarceration for the state, in a separate civil action or as counterclaim in any civil action, may be commenced any time during the offender's incarceration and up to five years after the date of the offender's release from incarceration or supervision, whichever occurs later.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 108-10

CS/SB 1726 — Postadjudicatory and Pretrial Drug Court Programs

by Criminal and Civil Justice Appropriations Committee and Senator Crist

This bill:

- Amends s. 397.334, F.S., to expand the use of post adjudication drug court as part of a sentence which includes community supervision for defendants with the recommendation of the state attorney and the victim, if any. Defendants must agree to enter the program and be otherwise qualified under this section and other sections of the Florida Statutes amended by the bill.
- Requires each judicial circuit to report client-level data to the Office of State Courts Administrator to allow for an evaluation of the program.
- Amends s. 921.0026, F.S., to set the maximum criminal history score sheet points at 52 for defendants to enter post adjudication drug court, but continues to exclude violent felons.
- Amends s. 948.01, F.S., to provide that postadjudicatory drug court may be part of a community supervision sentence under circumstances where the defendant meets the criteria set forth in the bill.
- Amends s. 948.06, F.S., to allow offenders who violate community control or probation due solely to failed substance abuse tests to participate in drug court under the limited circumstances where he or she qualifies for the program.
- Amends s. 948.08, F.S., relating to pre-trial intervention programs to modify pre-trial drug court to admit a larger pool of defendants who are charged with nonviolent felony offenses.

- Amends s. 948.16, F.S., relating to misdemeanor pretrial substance abuse intervention programs to make conforming changes.
- Amends s. 948.20, F.S., relating to drug offender probation to make conforming changes.
- Amends s. 985.345, F.S., relating to delinquency pretrial intervention programs to make conforming changes.
- Requires a study by the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) to determine the effectiveness of the changes to drug court. A report is due by October 1, 2010.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

HB 7063 — Administrative Trust Fund/DOC

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1108 by Senator Crist)

This bill (Chapter 2009-25, L.O.F.) re-creates the Administrative Trust Fund within the Department of Corrections without modification and repeals provisions relating to termination of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 119-0

HB 7065 — Administrative Trust Fund/FDLE

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1110 by Senator Crist)

This bill (Chapter 2009-26, L.O.F.) re-creates Administrative Trust Fund within the Department of Law Enforcement without modification and repeals provisions relating to termination of trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

HB 7067 — Federal Grants Trust Fund/Parole Commission

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1092 by Senator Crist)

This bill (Chapter 2009-27, L.O.F.) re-creates the Federal Grants Trust Fund within the Florida Parole Commission without modification and abrogates provisions relating to the termination of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 114-1

HB 7069 — Federal Grants Trust Fund/State Courts System

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1086 by Senator Crist)

This bill (Chapter 2009-28, L.O.F.) re-creates the Federal Grants Trust Fund within the state courts system without modification and repeals provisions relating to termination of trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

HB 7071 — Federal Grants Trust Fund/DOC

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1090 by Senator Crist)

This bill (Chapter 2009-29, L.O.F.) re-creates the Federal Grants Trust Fund within the Department of Corrections without modification and repeals provisions relating to termination of trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

HB 7073 — Federal Grants Trust Fund/FDLE

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1084 by Senator Crist)

This bill (Chapter 2009-30, L.O.F.) re-creates the Federal Grants Trust Fund within the Department of Law Enforcement without modification and repeals provisions relating to termination of trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

HB 7075 — Operating Trust Fund/State Courts System

by Criminal and Civil Justice Appropriations Committee and Rep. Adams (SB 1106 by Senator Crist)

This bill (Chapter 2009-31, L.O.F.) re-creates the Operating Trust Fund within the state courts system without modification and repeals provisions relating to termination of trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

CRIMINAL OFFENSES AND PENALTIES

CS/CS/CS/HB 29 — Unlawful Use of Utility Services

by Criminal and Civil Justice Policy Council; Energy and Utilities Policy Committee; Public Safety and Domestic Security Policy Committee; and Rep. Grimsley and others (CS/CS/CS/SB 236 by Criminal and Civil Justice Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Dean, Aronberg, Baker, and Crist)

The bill amends s. 812.14, F.S., relating to trespass and larceny with relation to utility fixtures, to create a new first degree misdemeanor offense. Specifically, it is a first degree misdemeanor for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected by willfully tampering with a meter, receiving electricity without payment, or other unlawful acts in relation to utility fixtures specified in s. 812.14, F.S. Prosecution of this first degree misdemeanor does not preclude prosecution for theft of utility services (as provided in the bill) or prosecution of theft under s. 812.014, F.S. (the general theft statute).

The bill also creates a first degree misdemeanor theft offense. Specifically, it is a first degree misdemeanor to commit theft of utility services for the purpose of facilitating the manufacture of a controlled substance.

The bill specifies what evidence constitutes prima facie evidence of intent to commit these first degree misdemeanors.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 37-0; House 114-0

CS/CS/HB 57 — Law Enforcement Explorers

by Criminal and Civil Justice Policy Council; Public Safety and Domestic Security Policy Committee; and Rep. Reed and others (CS/SB 508 by Criminal Justice Committee and Senators Hill and Crist)

The bill amends s. 784.07, F.S., which reclassifies the felony or misdemeanor degree of assault and battery offenses, as applicable, knowingly committed against a law enforcement officer, firefighter, or other person specified in the statute. The bill adds "law enforcement explorer" to the list of specified persons in the statute, so that assault and battery offenses committed against a law enforcement explorer engaged in the lawful performance of his or her duties are classified the same as assault and battery offenses against other persons specified in the statute. The change also means that a reclassified battery of a law enforcement explorer will be subject to an 8-year mandatory minimum term of imprisonment, if the person committing the battery possessed a firearm or destructive device during the commission of the battery.

The bill defines a "law enforcement explorer" as "any person who is a current member of a law enforcement agency's explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents."

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 117-0

CS/HB 123 — Human Smuggling

by Full Appropriations Council on General Government and Health Care and Rep. Snyder and others (CS/SB 502 by Criminal and Civil Justice Appropriations Committee and Senators Dockery, Crist, and Aronberg)

The bill provides that a person who transports into this state an individual who the person knows, or should know, is illegally entering the United States from another country commits a first degree misdemeanor. A person commits a separate offense for each individual he or she transports into this state in violation of this new section.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 37-0; House 111-0

CS/CS/SB 526 — Court Costs

by Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee; and Senators Lynn and Crist

The bill amends s. 938.10, F.S., increasing the court cost which must be imposed in specified cases involving minors, from $101 to $151.

In addition, the bill expands the list of offenses against minors to which the court cost applies to include the following:

- Section 796.035, F.S., relating to selling or buying of minors into sex trafficking or prostitution;
- Section 847.012, F.S., relating to sale of harmful materials to minors or use of minors in production of harmful materials;
- Section 847.0133, F.S., relating to the prohibition of certain acts in connection with obscenity;
- Section 847.0138, F.S., relating to transmission of material harmful to minors to a minor by electronic device or equipment; and

- Section 893.147(3), F.S., relating to use, possession, manufacture, delivery, transportation, or advertisement of drug paraphernalia.

The court cost must also be imposed for any violation of the following sections:

- Section 775.21, F.S., relating to the Florida Sexual Predators Act;
- Section 823.07, F.S., relating to abandonment of iceboxes, refrigerators, deep-freeze lockers, clothes washers, clothes dryers, or airtight units;
- Section 847.0125, F.S., relating to the retail display of materials harmful to minors;
- Section 847.0134, F.S., relating to the prohibition of an adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school; and
- Section 943.0435, F.S., relating to registration of sexual offenders.

The bill provides that the additional $50 court cost is to be disbursed to the Office of the Statewide Guardian Ad Litem.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 119-0

LAW ENFORCEMENT

CS/HB 177 — Firearms Transactions

by Policy Council and Rep. Adams and others (CS/SB 1340 by Criminal Justice Committee and Senator Crist)

The bill provides that secondhand dealers and pawnbrokers who elect to electronically submit firearms transaction records to law enforcement agencies must submit the name of the manufacturer and caliber information of each firearm in Florida Crime Information Center coding. They must also submit the model and serial number, although Florida Crime Information Center coding for those identifiers does not currently exist.

The bill also clarifies that the law prohibiting the keeping of records of firearms transactions, unless there is a statutory exception, applies to entities as well as individuals.

This bill substantially amends s. 790.335, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/CS/HB 271 — Confidential Informants

by Criminal and Civil Justice Policy Council; Public Safety and Domestic Security Policy Committee; and Rep. Nehr and others (CS/CS/SB 604 by Judiciary Committee; Criminal Justice Committee; and Senators Fasano and Joyner)

The bill (Chapter 2009-33, L.O.F.) creates a new and currently unnumbered section of the Florida Statutes that addresses the use of confidential informants by state and local law enforcement agencies. Specifically, the bill:

- Provides a short title: "Rachel's Law."
- Defines "confidential informant" and other key terms.
- Requires a state or local law enforcement agency that uses confidential informants to:
  - Inform a person who is requested to serve as a confidential informant that the agency cannot promise inducements and that the value and any effect that assistance may have on pending criminal matters can be determined only by the appropriate legal authority;
  - Provide this person with an opportunity to consult with legal counsel upon request before the person agrees to perform any informant activities, but the opportunity to consult with counsel does not create a right to publicly funded legal counsel;
  - Ensure that all personnel who are involved in the use or recruitment of confidential informants are trained in the agency's policies and procedures; and
  - Adopt policies and procedures that assign the highest priority in operational decisions and actions to the preservation of the safety of confidential informants and others.
- Requires the agency to establish policies and procedures that address the recruitment, control, and use of confidential informants, including:
  - Information that the agency shall maintain concerning each confidential informant;
  - General guidelines for handling confidential informants;
  - A process to advise a confidential informant of conditions, restrictions, and procedures associated with the agency's investigative or intelligence-gathering activities;
  - Designated supervisory or command-level review and oversight in the use of a confidential informant;
  - Limits or restrictions on off-duty association or social relationships by agency personnel involved in investigative or intelligence gathering with confidential informants;
  - Guidelines to deactivate confidential informants; and
  - The level of supervisory approval required before a juvenile is used as a confidential informant.
- Requires the agency to establish policies and procedures to assess the suitability of using a person as a confidential informant by considering, at a minimum, factors specified in the bill, such as the age and maturity of the person.

- Requires the agency to establish written security procedures that, at a minimum, address secured retention, restricted access, and lawful destruction of records relating to confidential informants.
- Requires that the agency perform a periodic review of actual agency confidential informant practices to ensure conformity with the agency's policies and procedures and the requirements of the bill.
- Provides that the provisions of the bill and policies and procedures adopted pursuant to those provisions do not grant any right or entitlement to a confidential informant or a person requested to be a confidential informant, and any failure to abide by those provisions may not be relied upon to create any additional procedural or substantive right enforceable at law by a defendant in a criminal proceeding.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

PUBLIC SAFETY

CS/HB 115 — Sexual Offenders and Predators

by Public Safety and Domestic Security Policy Committee and Rep. Kiar and others (CS/CS/SB 340 by Judiciary Committee; Criminal Justice Committee; and Senators Ring and Crist)

The bill encourages all public libraries to adopt an Internet safety education program, including the implementation of a computer-based education program, which has been endorsed by a government-sanctioned law enforcement agency or other reputable public safety advocacy organization and is designed for children and adults. The purpose of the Internet safety education program is to promote the use of prudent online deportment and broaden awareness of online predators. The program must be interactive and age-appropriate.

While the bill only encourages public libraries to adopt the program, the bill requires annual reporting by public libraries to the Division of Library and Information Services (division) on the number of program participants who complete the program. The annual report must also include information on program participants completing the program as a result of strategic partnerships or collaboration between the library and other entities. The bill also requires the division to adopt rules by April 1, 2010, that reward those libraries in the program grant application process which have had 1 percent or more of their annual number of program participants, based on the total number of registered borrowers from the preceding year, complete the program. The division must adopt rules to allocate 10 percent of the total points available in the library services and technology grant application evaluation process to public libraries that are in compliance with the 1-percent target, beginning with the grant application cycle for FY 2011-2012.

The bill also requires sexual predators and sexual offenders required by law to register or re-register specified information to also provide their home telephone number and any cellular

telephone number they may have as part of the registration or re-registration process. Violation of this requirement is punishable as a third degree felony under existing penalty provisions relating to failure to provide required information.

The bill also adds s. 847.0135(4), F.S., relating to traveling to meet a minor for the purpose of engaging in unlawful sexual activity, to the list of offenses that may require a person, if convicted of the offense, to register as a sexual predator or sexual offender.

The bill also modifies a state criminal jurisdiction provision in s. 847.0135, F.S., the Computer Pornography and Child Exploitation Act, and provisions of s. 847.0138, F.S., relating to transmission of harmful material to a minor by electronic device or equipment. These amendments, when read together with ch. 910, F.S., relating to jurisdiction and venue, allow for prosecutions of unlawful transmissions that originate from outside of Florida to minors residing in Florida and unlawful transmission that originate within Florida to minors residing outside of Florida.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

HB 1003 — Sale and Delivery of Firearms

by Rep. Drake and others (SB 658 by Senator Baker)

The Firearm Purchase Program (FPP) performs criminal record checks on potential firearm purchasers who are making the purchase from licensed firearm dealers in Florida. The background check is required by both federal and Florida law and the purchaser currently pays $5 for the service. The Florida Department of Law Enforcement administers the FPP. The FPP provides federally licensed Florida firearm dealers a state-based option to the federal National Instant Criminal Background Check System (NICS). The program has been reviewed four times for continuation since its creation in 1989.

This bill essentially eliminates the periodic sunset review of the Firearm Purchase Program by deleting the October 1, 2009, repeal date and making the next review contingent upon any consumer fee increase for the service over the current statutory limit of $8.

This bill substantially amends s. 790.065, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 115-0

CS/CS/SB 2276 — DNA Database

by Judiciary Committee; Governmental Oversight and Accountability Committee; and Senators Oelrich and Lynn

This bill requires that persons who are arrested for or charged with any felony offense submit a DNA sample at the time they are booked into a jail, correctional facility, or juvenile facility. This requirement will occur, as funding is provided, over the next 10 years. The first phase will begin on January 1, 2011, and will require the DNA sample from persons arrested for felony crimes set forth in chs. 782 (murder), 784 (assault and battery), 794 (sexual battery), and 800 (lewd or lascivious acts), F.S.

The bill is also a reorganization of s. 943.325, F.S., commonly known as the DNA Database statute. This has required a substantial rewording of the section; however, current law is mostly clarified or simplified.

The notable changes and additions to the section include:

- New requirement that both adult and juvenile sex offenders and sexual predators provide DNA samples, if they have not already done so upon conviction in Florida;
- Definitions of certain terms as used in the statutory reorganization are created;
- A reporting requirement that the Florida Department of Law Enforcement (FDLE) must fulfill in even-numbered years;
- New FDLE administrative duties;
- A delineation of the types of samples that may be kept in the database;
- More specificity with regard to who may take a DNA sample;
- Requirements for obtaining DNA samples from juveniles, who otherwise qualify, transferred to Florida through the Interstate Compact on Juveniles, and adults, who otherwise qualify, transferred through the Interstate Corrections Compact;
- Requirements regarding the information collecting agencies must submit to FDLE with a sample;
- Restrictions on the use of DNA samples; and
- Legislative findings.

The section reorganization also includes the creation of two new crimes related to the misuse of DNA records or samples, and refusal to provide a DNA sample.

The bill adds language in paragraphs (12)(d) and (e) of s. 943.325, F.S., that is not contained in current law which provides that:

- The detention, arrest, or conviction of a person based upon a database match or database information will not be invalidated if it is later determined that the sample was obtained or placed in the database by mistake.

- All DNA samples submitted to the FDLE for any reason shall be retained in the statewide database and may be used for all lawful purposes as provided in the section.

In subsection (16), the bill provides that unless FDLE determines that a person is otherwise required by law to submit a DNA sample for inclusion in the statewide database, FDLE must, upon proper verification of the information submitted by a person requesting removal of the DNA information, promptly remove DNA analysis and any biological samples from the statewide DNA database.

This bill substantially amends s. 943.325, F.S., and amends ss. 760.40 and 948.014, F.S., for the purpose of conforming those sections to the provisions of the bill.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-1

VICTIM PROTECTION

CS/CS/SB 168 — Florida Statewide Task Force on Human Trafficking

by Higher Education Committee; Criminal Justice Committee; and Senators Joyner, Rich, Wilson, and Crist

The bill creates a new and currently unnumbered section of the Florida Statutes that creates the Florida Statewide Task Force on Human Trafficking within the Department of Children and Family Services. The task force is abolished on July 1, 2011. The purpose of the task force is to examine the problem of human trafficking and recommend strategies and actions for reducing or eliminating the unlawful trafficking of men, women, and children into Florida.

The task force consists of the following governmental members, or a designee:

- The executive director of the Department of Law Enforcement, who serves as co-chair;
- The Secretary of Children and Family Services, who serves as co-chair;
- The Chief Financial Officer;
- The Commissioner of Agriculture;
- The Attorney General;
- The State Surgeon General;
- The statewide prosecutor;
- The executive director of the Florida Commission on Human Relations;
- The Secretary of Business and Professional Regulation;
- A sheriff; and
- A police chief.

The task force consists of the following nongovernmental members or a designee:

- The executive director of the Florida State University Center for the Advancement of Human Rights;
- The executive director of the Florida Immigrant Advocacy Center;
- The secretary of the Coalition of Immokolee Workers;
- The executive director of the Florida Coalition Against Human Trafficking;
- The executive director of the Florida Freedom Partnership;
- The executive director of Gulf Coast Legal Services;
- The executive director of the Florida Council Against Sexual Violence; and
- The executive director of the Florida Coalition Against Domestic Violence.

The Governor is required to appoint a sheriff and a police chief to the task force by July 1, 2009, and may appoint ex officio members at any time. Members of the task force serve without compensation or reimbursement for per diem or travel expenses.

The bill requires the task force to receive the Statewide Strategic Plan currently being formulated by the Florida State University Center for the Advancement of Human Rights. This plan must be presented at the first meeting of the task force no later than November 1, 2009. The work of the task force is to receive, revise, and propose a plan of implementation of the strategic plan no later than October 1, 2010.

The bill requires the Florida State University Center for the Advancement of Human Rights to carry out numerous activities, including, but not limited to, collecting and organizing data concerning the nature and extent of trafficking of persons in Florida and measuring and evaluating the progress in Florida in preventing trafficking, protecting and providing assistance to victims of trafficking, and prosecuting persons engaged in trafficking activities.

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

CS/SB 1312 — Sexual Battery

by Criminal Justice Committee and Senators Fasano and Joyner

The bill creates a new section, s. 794.052, F.S., that will be similar to the current statute requiring domestic violence victims to be advised about services available to them through the domestic violence centers. The bill requires the investigating law enforcement officer to immediately notify sexual battery victims of their legal rights and remedies; assist them in obtaining any necessary medical treatment resulting from the alleged incident, a forensic examination, and crisis-intervention services from a certified rape crisis center; and advise sexual battery victims that they can contact a certified rape crisis center about services.

Additionally, the Florida Council Against Sexual Violence, in conjunction with the FDLE, must develop a standardized notice of available rights and remedies that will be distributed statewide to all law enforcement agencies to be used for sexual battery victims. The notice must include

the resource listing and telephone number for the local certified rape crisis centers as designated by the Florida Council Against Sexual Violence.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 114-0

EDUCATION ACCOUNTABILITY

CS/CS/HB 991 — School Improvement for Accountability

by Full Appropriations Council on Education and Economic Development; PreK-12 Policy Committee; and Rep. Grady and others (CS/SB 1682 by Education Pre-K–12 Appropriations Committee and Senators Wise and Lynn)

Compliance with the Federal Elementary and Secondary Education Act

The bill creates Florida's Equal Opportunity in Education Act and requires the State Board of Education (SBE) to comply with the federal Elementary and Secondary Education Act (ESEA) and its implementing regulations, if the SBE determines that the act and its regulations are consistent with the purposes in the ESEA.

Differentiated Accountability Program

For purposes of determining whether a school needs action to achieve a sufficient level of school improvement, the bill requires the Department of Education to categorize public schools based on the school's grade and the level and rate of change in student performance in reading and mathematics, disaggregated into student subgroups. Schools are subject to intervention strategies addressing student performance, including, but not limited to:

- Improvement planning;
- Leadership quality;
- Educator quality;
- Professional development;
- Curriculum alignment and pacing;
- Continuous improvement; and
- Monitoring plans and processes.

The bill requires the Department of Education to provide the most intensive intervention strategies to the lowest performing schools, which are defined as schools that:

- Have received a grade of "F" in the most recent school year and in four of the last six years; or
- Are currently graded "D" or "F" and meet at least three of the following four criteria:
  - When compared to measurements taken five years previously, the percentage of students who are not proficient in reading has increased.
  - When compared to measurements taken five years previously, the percentage of students who are not proficient in mathematics has increased.
  - At least 65 percent of the school's students are not proficient in reading.
  - At least 65 percent of the school's students are not proficient in mathematics.

School districts and schools would administer intervention and support strategies for all but the lowest category of schools and those designated as "F" schools in the second lowest category. For the lowest category schools and "F" schools, the Commissioner of Education must assign a community assessment team to each school district or governing board.

Restructuring the Lowest Performing Schools

A school district must submit a plan, subject to SBE approval, to implement one of the following options by the beginning of the next school year for the lowest performing schools:

- Convert the school to a district-managed turnaround school;
- Reassign students to another school and monitor the progress of the reassigned students;
- Close the school and reopen it as a charter school or multiple charter schools whose governing board has a demonstrated record of effectiveness; or
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school.

A school that fails to improve during the first year must implement another option based on a plan approved by the SBE. However, the SBE may permit the school to continue implementing the first option if the board determines that the school would likely improve given additional time to use the existing intervention and support strategies. A school must make significant progress by improving its school grade and by increasing student performance in mathematics and reading, in order to be designated as a higher performing school. Student performance must be evaluated for each subgroup. Subgroups include: economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency.

The bill requires the Department of Education to implement school improvement immediately and the State Board of Education to adopt rules to implement the provisions of this bill by July 1, 2010.

Assignment of Teachers

School districts may not assign a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools designated as one of the lowest three performing categories under s. 1008.33(3)(b), F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 77-39

CS/CS/SB 278 — Charter Schools

by Education Pre-K–12 Appropriations Committee; Education Pre-K–12 Committee; and Senator Gaetz

This bill is a comprehensive charter school accountability act with emphasis on improving financial management, establishing standards of conduct, and providing more disclosure on school performance.

Financial Management

Application Process and Review

Prior to filing a charter application, applicants for charter schools and charter technical career centers, including management companies, nonprofits organizations, principals, and chief financial officers or their equivalents, must participate in the training provided by the Department of Education (DOE). Specifically, the training involves financial planning, including developing business plans, estimating costs and income, projecting enrollment, and identifying state and federal funding sources. A sponsor may require an applicant to attend a sponsor's training if it meets or exceeds the DOE's training standards. Documentation of the training must be included in the application. Sponsors must use the standard evaluation form developed by the DOE. These provisions are intended to offer a greater degree of assistance to applicants and more uniformity among sponsors during the review process.

Indicators of Deteriorating Financial Conditions and Emergencies

Currently, there is no systematic process for detecting charter schools and charter technical career centers that are experiencing financial difficulties other than an end of the year audit. The bill establishes indicators of risk for financial difficulty, such as failure to provide for an audit, failure to comply with reporting requirements, and a deteriorating financial condition. When one of these conditions occurs, a charter school and a charter technical career center are subject to an expedited review by the sponsor, which includes a corrective action plan.

If the sponsor and board are unable to agree on the components or necessity of the plan, the Commissioner of Education determines the plan. The governing board must monitor corrective action plans and annually report to the sponsor the status of the corrective actions specified in the plan. The State Board of Education (SBE) must adopt rules to establish procedures for determining a deteriorating financial condition.

The SBE must prescribe the steps required for compliance when a governing board fails to implement the plan within one year. The chair of the governing board must appear before the SBE to report on the status of the plan and its effect on resolving the financial difficulties. The DOE would provide technical assistance to charter schools and centers and their governing boards and sponsors for corrective action and financial recovery plans.

The bill requires the Commissioner of Education to determine if a charter school or a charter technical career center needs a financial recovery plan to resolve a financial condition specified in s. 218.503, F.S. If the Commissioner determines that a plan is needed, the charter school or charter technical career center is considered to be in a state of financial emergency.

Charter Technical Career Centers
Under the bill, charter technical career centers are subject to the Financial Emergencies Act, which currently only applies to local governments, district school boards, and charter schools.

Causes for Nonrenewal or Termination of Charter
The bill provides additional grounds for not renewing or terminating a charter to include when a charter school or center fails to correct the deficiencies in a corrective action plan within one year or exhibits one or more financial emergency conditions for two consecutive years. The bill permits a charter to be immediately terminated or not renewed without a hearing under the Administrative Procedures Act when there is good cause shown or the health, safety, and welfare of a student is threatened.

Standards of Conduct

Nepotism
As a condition of receiving a charter, applicants must disclose the names of relatives who will be employed by the charter school or center. This requirement for full disclosure is also a part of the charter.

Personnel in charter schools or charter technical career centers that are operated by a private entity may not employ or promote a relative if he or she exercises jurisdiction or control over the individual. Additionally, the prohibition applies to governing board members and their relatives. Similarly, the bill prohibits a relative from accepting employment or a promotion if the decision is made or advocated by his or her relative. These provisions do not apply when an action is limited to the approval of a budget.

The nepotism requirements in s. 112.3135, F.S., apply to charter school personnel in schools operated by municipalities or other public entities. A violation of s. 112.3135, F.S., subjects these personnel to the penalties in s. 112.317, F.S.

Conflict of Interest and Governing Board Members
Members of the governing board of a charter school or charter technical career center, including those operated by private entities, are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, and conflicting employment or contractual relationships. The bill also subjects board members to the voting conflict requirements. Board members of charter schools or centers operated by public entities are explicitly subject to the requirements for public disclosure of financial interests in s. 112.3144, F.S. A violation of any of these provisions subjects governing board members to the penalties in s. 112.317, F.S.

School Grades and School Improvement Ratings

The bill expands performance reporting requirements for each charter school that does not receive a school grade or a school improvement rating, to the extent that the information does not compromise a student's privacy.

The DOE must provide charter schools that do not receive a school grade or a school improvement rating and serve at least 10 students who participate in the statewide assessment with student performance data, including learning gains, which is used to determine a school grade or a school improvement rating.

Charter schools must report to the parents of a student at the charter school, and to others, student performance comparisons by grade groupings for the following:

- Charter schools without school grades or school improvement ratings compared to traditional public schools in the district in which the charter school is located and to other charter schools in the state; and
- Charter alternative schools compared to all alternative schools in the state.

The bill requires charter schools to post this information on their website and provide for other notice to the public, as provided for in SBE rule.

Eligible Students

The bill permits an eligible student to transfer to a neighboring school district if he or she is within the geographic proximity of a charter school in that district.

Funding

The bill requires the DOE and district school boards to include charter schools in requests for federal stimulus funds, including funds provided through the federal Individuals with Disabilities Education Act (IDEA) and Title I of the federal Elementary and Secondary Education Act. Under the bill, charter schools may receive these funds and may participate in eligible federal stimulus competitive grants. For charter schools that participate in the National School Lunch Program, the bill requires charter schools to be paid at the same time and in the same manner as other public schools served by the sponsor or school district.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

CS/CS/SB 2538 — Supplemental Educational Services

by Education Pre-K–12 Appropriations Committee; Education Pre-K–12 Committee; and Senators Detert and Lynn

The bill requires the Department of Education (DOE) to assign a service designation of excellent, satisfactory, or unsatisfactory to state-approved supplemental educational services (SES) providers. A provider's service designation would be based primarily on student learning gains, but also on student attendance and completion rates and the results of principal, parent, and school district satisfaction surveys. The designation would not apply if the SES provider serves a student population that is too small for statistical reliability or if the designation would release personally identifiable student information.

The State Board of Education must adopt rules establishing the criteria for assigning the service designations and to report by July 1 of each year, the service designations to SES providers, school districts, parents, and the public.

The Department of Education is required to approve acceptable methods of measuring student learning gains by the SES providers and local school districts that serve as SES providers by September 1, 2009. Approval of providers would be contingent upon their use of one of the approved methods.

Under the bill, school districts would be authorized to use Title I, Part A funds, as provided in the Elementary and Secondary Education Act, to meet any requirements outlined in the bill.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

HB 7089 — Exceptional Students

by PreK–12 Policy Committee and Rep. Legg and others (CS/SB 2038 by Governmental Oversight and Accountability Committee and Senator Detert)

The bill requires the State Board of Education to comply with the federal Individuals with Disabilities Education Act (IDEA) after evaluating and determining that the act is consistent with specific principles.

The bill also makes the following changes to conform to IDEA's requirements:

- Revises the appellate review options of adversely affected parties;
- Codifies federal law for the removal and placement of a student with a disability who violates a school district's code of conduct; and
- Defines the terms "weapon" and "controlled substance" for purposes of disciplining a student with a disability.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 116-0

SB 1248 — Public K-12 Education

by Senator Wise

Instructional Materials

The bill authorizes district school boards to recover from a student or his or her parents 100 percent of the replacement costs of instructional materials lost or damaged by the student or parents. School board policies may continue to include alternate reimbursement provisions such as community or school volunteer work for students who are financially unable to pay for lost and damaged instructional materials.

Service Learning

The bill requires the Department of Education to encourage school districts to initiate, adopt, expand, and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12 and to provide assistance in locating available financial resources. The department is also required to develop and adopt elective service-learning courses for inclusion in middle and high school course code directories.

Under the bill, hours that high school students devote to course-based service-learning activities may count toward high school graduation community service requirements and the community service requirements of the Florida Bright Futures Scholarship Program.

School Grades

The bill provides that the governing body of a charter school that meets the definition of an alternative school pursuant to State Board of Education rule may elect to receive a school grade or school improvement rating. Current law provides authority for traditional schools and charter schools to choose this option.

Regional Professional Development Academies

The bill revises provisions in law relating to regional professional development academies to require greater specificity and accountability in contracts between district school boards and a regional academy, including provisions dealing with intellectual property generated by school district personnel at a regional academy, responsibility for the prudent and lawful use of public and private funds, documentation evidencing that services to district school boards are commensurate with funds paid to an academy, and annual audits with records available for inspection by the Auditor General.

The bill repeals provisions relating to the authorization of startup funding for a regional academy and the requirement that a regional academy be self-supporting after the first year of operation.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 112-0

PUBLIC RECORDS

HB 7117 — Public Records/Education Records

by Education Policy Council and Rep. Culp (CS/SB 2426 by Education Pre-K – 12 Committee and Senators Detert and Lynn)

The bill requires the State Board of Education (SBE) and public postsecondary institutions to comply with the federal Family Educational Rights and Privacy Act (FERPA) and federal implementing regulations. The SBE must evaluate and determine if the act is consistent with specific principles that include the rights of students and their parents. The SBE is also tasked with adopting rules, monitoring FERPA, notifying the Legislature of any significant change to the federal requirements, and advising the Legislature of any change in FERPA which may create a need for an exemption to the public records requirements.

The bill conforms current law with FERPA with respect to the parties who may access otherwise confidential and exempt personally identifiable records about a student without parental and student consent and the manner in which student and parental rights are implemented.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

HB 7119 — Public Records/Education Records

by Education Policy Council and Rep. Culp (CS/SB 2374 by Education Pre-K – 12 Committee and Senators Detert and Aronberg)

The bill reenacts and expands a public records exemption for student education records to comply with the federal Family Educational Rights and Privacy Act (FERPA) and the federal implementing regulations for K-12 students and public postsecondary students. The bill also protects from public disclosure the applicant records of a student who applies to a public postsecondary educational institution. These records are confidential and exempt. The exemption is subject to review under s. 119.15, F.S., the Open Government Sunset Review Act, and would sunset on October 2, 2014, unless saved from repeal through reenactment by the Legislature.

The bill prohibits agencies, public schools, centers, institutions or other entities that are part of Florida's education system from releasing information without the written consent of the student, except in the circumstances permitted by FERPA. Education records released by agencies, public schools, centers, and public postsecondary institutions to the Office of Program Policy Analysis and Government Accountability or the Auditor General that are used to perform their official duties and responsibilities must be used and maintained in accordance with FERPA.

If approved by the Governor, these provisions take effect on the same date that HB 7117 or similar legislation takes effect, if such legislation is adopted in the same legislative session, or an extension thereof, and becomes law.
Vote: Senate 39-0; House 115-0

CS/HB 895 — Public Records/Investigation of Testing Impropriety

by PreK-12 Policy Committee and Rep. K. Roberson (CS/SB 1912 by Education Pre-K-12 Committee and Senator Detert)

The bill creates a public records exemption for information obtained as a part of the Department of Education's investigation of a testing impropriety. This includes:

- The identity of the school or postsecondary institution;
- The personally identifiable information of personnel in the school district or postsecondary institution; and
- Specific allegations of misconduct obtained or reported during the investigation.

This information is confidential and exempt until the conclusion of the investigation or until it is no longer active.

This bill affects investigations related to tests administered by the state to students and teachers, including postsecondary placement tests and teacher certification exams, and tests administered by school districts.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

SCHOOL AND PROGRAM CHOICE

CS/CS/HB 453 — Tax Credits for Contributions to Nonprofit Scholarship Funding Organizations

by Finance and Tax Council; PreK-12 Policy Committee; and Rep. Weatherford and others (CS/CS/SB 1310 by Finance and Tax Committee; Education Pre-K–12 Committee; and Senators Gardiner, Fasano, Oelrich, Altman, Bennett, Haridopolos, Wise, King, Storms, Dean, Siplin, Baker, and Lawson)

Insurance Premium Tax Credit

The bill expands the revenue sources that can be claimed as tax credits for donations to a nonprofit scholarship funding organization (SFO) under the Corporate Income Tax Credit Scholarship Program (CTC) to fund scholarships for economically disadvantaged students. The additional revenue source is the premium tax under s. 624.509, F.S., which is imposed on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR). The bill allows insurance companies to receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax due for a taxable year under the provisions of the insurance premium tax. However, the credit may not exceed 75 percent of the tax due. An insurer claiming a credit against premium tax liability is not required to pay any additional retaliatory tax levied under s. 624.5091, F.S., as a result of claiming the credit.

Credit Limits

The maximum amount of tax credits that may be granted each state fiscal year under the CTC program remains at $118 million. The bill provides that the $118 million cap applies to all tax credits (the corporate income tax and the insurance premium tax combined). Insurers receiving an insurance premium tax credit under this program are not able to receive a similar corporate income tax credit under the program. The bill renames the CTC program as the Florida Tax Credit (FTC) Scholarship Program and provides that a taxpayer's use of the credit granted under the new program does not reduce the amount of the alternative minimum tax credits available under s. 220.186, F.S.

Provision for Certain Contributions Made by Insurers from 2006 through 2008

An insurance company that made eligible contributions under the CTC program for tax years beginning in 2006, 2007, or 2008, but did not receive a dollar-for-dollar benefit because of the interaction between the corporate income tax and the insurance premium tax, may apply to DOR by July 31, 2009, to take a credit against its 2009 corporate tax liability. Credits taken pursuant to this provision would be counted toward the $118 million cap in FY 2009-2010. These credits would be treated as corporate taxes paid for purposes of computing the corporate tax credit against the insurance premium tax.

Eligible Students

Students who are on a direct certification list are eligible to receive a scholarship. The bill defines the list to mean children who qualify for the Food Stamp Program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations. This list is provided to the Department of Education by the Department of Children and Family Services pursuant to a memorandum of understanding.

At the request of an eligible scholarship-funding organization, school districts must inform all households participating in the National School Lunch Program that they are eligible to apply for a tax credit scholarship. School districts must include the information in any normal correspondence with an eligible household. Once a year an SFO may request a special communication from the district to each household and the SFO must reimburse the district for postal expenses.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 26-11; House 94-23

CS/CS/SB 1616 — Career and Adult Education

by Education Pre-K–12 Appropriations Committee; Education Pre-K–12 Committee; and Senators Oelrich and Lynn

Career and Adult Education

The bill renames the Division of Workforce Education within the Department of Education as the Division of Career and Adult Education.

In addition, the bill aligns career education certification to the needs of business and industry through industry certifications approved by Workforce Florida, Inc., by repealing the career education certification under s. 1003.431, F.S. Industry certifications attained by a student would be designated on the student's standard high school diploma.

The eligibility for bonus weight funding for career and professional academy industry certifications through the Florida Education Finance Program is clarified to apply only to those certifications identified annually in the Industry Certification Funding List pursuant to rules of the State Board of Education.

The requirement for adult high school students to complete a credit in fine or performing arts for graduation purposes is repealed.

The bill revises the membership and makes other conforming changes to the State Apprenticeship Advisory Council in order to comply with federal regulations. Council members may not receive per diem and travel expenses; rather, council meetings may be conducted by electronic means.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review of student outcomes in workforce education degree and certificate programs offered by community colleges, independent institutions, and school districts, which are not included on locally targeted occupations lists through Workforce Florida, Inc., or on the statewide occupational forecasting list developed by the Workforce Estimating Conference. The review must also examine the cost to students and the cost-effectiveness of state funding for school district and community college workforce programs, successful program completion and employment placement rates, and include a survey of former students to determine employment and compensation information.

Seaport Security Training

The bill also provides for the Commissioner of Education or his or her designee to serve as a member of the Seaport Security Officer Qualification, Training, and Standards Coordinating Council.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

STUDENT SAFETY AND SUPPORT

CS/CS/CS/CS/SB 1540 — Zero-tolerance Policies/Schools

by Education Pre-K–12 Appropriations Committee; Judiciary Committee; Criminal Justice Committee; Education Pre-K–12 Committee; and Senators Wise, Sobel, and Bullard

The bill requires district school boards to revise their zero-tolerance policies to:

- Define petty misconduct and offenses that pose a serious threat to school safety;
- Clarify that zero-tolerance policies do not require the reporting of petty misconduct and certain misdemeanors to a law enforcement agency;
- Provide for a review of the disciplinary action taken against a student pursuant to s. 1006.07, F.S.; and
- Consider the particular circumstances surrounding the student's misbehavior in any disciplinary or prosecutorial action.

The bill requires cooperative agreements to specify guidelines for reporting and enforcing no contact orders and protecting the victim.

Finally, the bill requires a district school board having a policy authorizing corporal punishment to review the policy every three years during a public school board meeting. If the meeting does not occur, the corporal punishment policy expires.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 119-0

CS/CS/CS/SB 1128 — Education/Children in Shelter Care or Foster Care

by Judiciary Committee; Children, Families, and Elder Affairs Committee; Education Pre-K–12 Committee; and Senators Rich, Dean, Wilson, Bullard, Lynn, and Joyner

The bill makes changes that affect dependent children, children in shelter care, and exceptional students with disabilities in private residential care facilities.

Dependent and Sheltered Children

The bill defines a surrogate parent, for purposes of ch. 39, F.S., to mean an individual appointed to act in the place of a parent in making educational decisions and safeguarding the child's rights under the federal Individuals with Disabilities Education Act (IDEA).

The bill requires that a surrogate parent be appointed by the district school superintendent or the dependency court, for any dependent child or child in shelter care who has or is suspected of having a disability, if no parent can be located or the court determines that no one with authority is willing or able to make educational decisions for the child.

The bill specifies the qualifications, responsibilities, rights, and liabilities of a surrogate parent. A surrogate parent must successfully complete training to ensure that he or she adequately represents the interests of the child.

The bill specifies that a surrogate parent may not be:

- An employee of the Department of Education (DOE), the local school district, a community-based care provider, the Department of Children and Family Services (DCF), or any other public or private agency involved in the education or care of the child; or
- Group home staff or therapeutic foster home parents.

A surrogate parent may, however, be:

- A person who acts in a parental role to a child, such as a foster parent or relative caregiver;
- A court-appointed guardian ad litem;
- A relative or other adult involved in the child's life, regardless of whether he or she has physical custody of the child.

If a guardian ad litem has been appointed, the bill requires the district school superintendent to first consider him or her as the surrogate parent. The bill requires the court to provide timely notice of an appointment of a surrogate parent to the child's school and requires the district school superintendent to accept the appointment of a surrogate parent by a dependency court if he or she has not previously made an appointment. The bill requires the court to likewise recognize a previously made appointment by a superintendent. The bill also requires subsequent schools or school districts to accept the court or district appointment, regardless of where the child actually receives residential care.

The bill provides that the appointment or termination of a surrogate parent must be entered by an order of a court, with a copy of the order provided to the child's school.

The bill allows access to confidential reports and records of child abuse by a local school district employee who is designated to act as a liaison between the school district, the DCF, and the principal of the child's school.

The bill requires that, if a child is placed in shelter care pursuant to court order following a shelter hearing, the court must request that the child's parents consent to allow the court, the DCF or its contract providers, and the child's guardian ad litem or attorney to have access to the child's medical and education records. If a parent is unavailable or withholds consent, and the court determines that access is necessary, the court shall enter an order granting access to the records. The court may also order the parents to provide medical information.

The bill provides that judicial and citizen panel reviews of dependency cases must include consideration of testimony from a surrogate parent. In reviewing a case, the court and the panel must determine who has the right to make educational decisions for a child if the child has or is

suspected of being an exceptional student with a disability. In these reviews, consideration must be given to evidence from the community-based provider related to the appropriateness of the educational setting and coordination with the school district.

The bill also provides a temporary (30-day) exemption for dependent children and children in foster care from providing proof of age and school entry health examinations and immunizations prior to attending school.

As a part of the agreement between the DCF and the DOE for dependent children and children in shelter care, the bill requires the DOE to access the Florida Safe Families Network to obtain information concerning the children. Similarly, the bill requires school districts to access the information in the network.

Placement of Exceptional Students with Disabilities in Private Residential Care Facilities

The bill revises the requirements relating to the delivery of educational instruction and student funding when an exceptional student with disabilities is placed in a private residential care facility in another district. In particular, the bill:

- Requires timely notification by DCF, the Agency for Health Care Administration, the Agency for Persons with Disabilities, or a licensed private residential care facility when an exceptional student is placed in a private residential care facility for the primary purpose of meeting a student's residential or other non-educational needs and the placement crosses school district lines;
- Specifies that notification must be provided to the school district where the student is currently counted for funding purposes under s. 1011.62, F.S., and to the school district where the residential facility is located;
- Requires the student to be enrolled in school while payment is pending;
- Requires the receiving school district to review the student's individual educational plan (IEP), provide or contract for educational instruction to the student, or decline to do so;
- Provides that, if the receiving school district declines to contract or provide instruction, the school district in which the student legally resides is responsible for providing or contracting for instruction;
- Specifies that the school district which provides or contracts to provide instruction reports the student for funding;
- Requires the DOE to develop procedures for notifying school districts when an exceptional student is placed in a residential care facility; and
- Provides that school districts with inter-district agreements for providing and paying for educational services are not subject to the provisions of the bill relating to placement in private residential facilities, with the exception of timely reviewing a student's IEP.

The bill requires the DOE to implement an interagency cooperative agreement regarding the placement of exceptional students in residential facilities, consistent with federal law and

regulations, on or before January 1, 2010. The agreement must identify the responsibilities of each party; ensure that students receive special education and related services necessary to receive a free appropriate public education; and establish procedures for resolving interagency disputes, ensuring the provision of services during the pendency of a dispute, and ensuring continued Medicaid eligibility as deemed appropriate.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 39-0; House 119-0

CS/CS/HB 1539 — Certification of Public School Athletic Coaches

by Policy Council; PreK-12 Policy Committee; and Rep. Fresen and others (CS/CS/SB 2066 by Education Pre-K–12 Appropriations Committee; Education Pre-K–12 Committee; and Senator Haridopolos)

Under the bill, completion of a sports safety course counts for six hours (six in-service points) of required district in-service instruction for athletic coaching certification, if the course is approved by the Florida High School Athletic Association Board of Directors and meets the following requirements:

- Consists of at least eight modules;
- Immediately provides an individual with a merit certificate at the time of successful completion;
- Is delivered through hands-on and online teaching methods, with hands-on course material that is less than 120 pages;
- Is taught by a licensed athletic trainer who holds a current certificate from the Board of Certification or a member of the American Academy of Orthopaedic Surgeons;
- Specifically covers sports safety, excluding coaching principles and procedures for cardiopulmonary resuscitation;
- Is authored or approved by at least 10 health care professionals;
- Is subject to revision and reviewed at least once every 30 months; and
- Is available to the general public for under $50.

Each course examination must be taken online and an individual must score eighty percent or better for successful completion.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 113-0

VETERANS

SB 316 — High School Diplomas for Vietnam Veterans

by Senators Constantine, Bennett, Richter, Baker, King, Dean, Aronberg, Altman, and Crist

The bill authorizes the Commissioner of Education to award a standard high school diploma to honorably discharged veterans who were inducted into the United States Armed Forces during the Vietnam Era before completing their high school graduation requirements. This bill would afford Vietnam Era servicemembers the same opportunity for a high school diploma as their brethren who served in World War II and the Korean War.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

CS/CS/SB 1676 — Pre-K–12 Education Funding

by Policy and Steering Committee on Ways and Means; Education Pre-K–12 Appropriations Committee; and Senator Wise

This bill revises school funding statutes to conform them to the General Appropriations Act (GAA). The bill:

- Establishes the Florida Qualified School Construction Bond Act for school districts in Florida to participate in federal bond programs under the American Recovery and Reinvestment Act.
- Adds an additional duty to the Office of Technology and Information Services in the Office of the Commissioner of Education to assist school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund.
- Authorizes the Commissioner, upon requisition by a school district and other eligible users of the Florida Information Resource Network (FIRN), to purchase the non-discounted portion of Internet access services and to identify the source of funds from which the commissioner is to make payment.
- Clarifies the distance learning duties of the Department of Education (DOE) to include coordinating FIRN.
- Requires that, for FY 2009-2010, school board member salaries shall be the lesser of the amount calculated pursuant to statute or the salary of beginning teachers in the district.
- Clarifies that earned leave and benefits for contract employees, including superintendents, are not to be counted in the one-year salary limitation from state funds for contract settlements.
- Requires funds provided in the GAA for Regional Education Consortia to be prorated among eligible consortia for 2009-2010.
- Provides that elected school district superintendents may reduce their salaries voluntarily and requires that elected superintendent salaries shall be reduced by 2 percent for FY 2009-2010.
- Prohibits school districts from entering into contracts for a school district superintendent salary paid from state funds that is in excess of $225,000 and encourages school districts with appointed superintendents to negotiate a 5 percent reduction to the superintendent's salary for 2009-2010.
- Clarifies that the Florida Virtual School (FLVS) shall not receive funding through the Florida Education Finance Program (FEFP) for class size reduction and provides that the FLVS 0.114 bonus FTE is to be calculated for public school students only.

- Modifies the school district virtual instruction program by:
  - Defining virtual instruction to be that which is provided in an interactive environment created by using technology where the student and teacher are separated by space or time or both.
  - Requiring direct instruction by a certified teacher for 80 percent of instruction in grades 6-12 and 50 percent for grades K-5.
  - Allowing districts to establish virtual programs by contracting with the Florida Virtual School, establishing a Florida Virtual School franchise, contracting with other DOE approved providers, or creating an agreement with another district. In addition, multidistrict contractual agreements may be executed by regional consortia. Neither the multidistrict contract nor agreements between districts have to take place between contiguous districts.
  - Allowing full-time virtual instruction for K-12 through a school district virtual instruction program with approved providers; also allowing 9-12 part-time or full-time through a school district virtual instruction program with approved providers for at-risk students only.
  - Modifying the accountability requirements for K-8 virtual instruction programs to:
    - Remove the grading requirement for a school district aggregate virtual school program.
    - Require DOE to aggregate the student performance data for all students served by a particular provider to provide each K-8 program provider with a statewide grade.
    - Apply sanctions or corrective actions for failure to the provider rather than to the school district program.
  - Modifying contract provider qualifications to require Florida-certified teachers, background screenings and renewal of DOE approval every 3 years.
  - Clarifying the accreditation requirements for virtual instruction programs.
  - Clarifying eligibility for funding of virtual instruction programs to allow funding based on course completion for grades 6-8.
- Clarifies when a student in a Voluntary Prekindergarten Program (VPK) can withdraw and re-enroll.
- Provides that student attendance in VPK may be reported on a prorata basis as a fraction of a full-time equivalent student.
- Clarifies the number of allowable paid absences in VPK programs.
- Clarifies that a VPK provider may not receive payment for absences that occur before a student's first or after a student's last day of attendance.
- Continues class size compliance at the school level for 2009-2010 and delays implementation at the classroom level until the 2010-2011 school year; revises the compliance calculation beginning in 2010-2011 to be a reduction in the noncompliant district's class size operating categorical for each student that is over the maximum allowed; and requires that the revised compliance calculation be simulated in 2009-2010.

- Revises the establishment of the regional autism center at Florida State University within the College of Medicine.
- Requires that school districts include state allocations for school breakfast programs in the annual breakfast meal rates in order to offset the costs of school breakfast programs. Requires universal breakfast to be provided only in schools in which 80 percent or more of students qualify for free or reduced-price meals instead of in all schools.
- Requires contiguous districts to have reciprocal agreements for school bus transportation services, inspections and screening requirements for public schools.
- Prohibits state funds appropriated to the Division of Public Schools within the DOE to be used to pay indirect costs to universities, community colleges, school districts or any other entity.
- Defines instructional materials to include electronic media and software and allows flexible use of instructional materials funds after March 1st, 2010.
- Requires districts to purchase literature and language arts materials for schools in the two lowest categories of performance, unless waived by the Commissioner because the district is using intervention and support strategies to address the schools' deficiencies.
- Repeals CLAST and the examination fee and authorizes alternative testing and remediation requirements to be established by the State Board of Education in conjunction with the Board of Governors. Continues special examination process for students with disabilities.
- Authorizes the Commissioner of Education to employ FIRN to perform certain functions relating to workforce education.
- Restricts school districts from using public funds for out-of-state travel, cell phones or other electronic communication devices without the specific approval of the school board, and provides that art, music, and similar programs for students have a higher funding priority than payment for employee travel and communication devices.
- Authorizes "payments" through appropriate types of electronic transactions and provides documentation requirements for electronic payments.
- Provides flexibility for the number of days or the hourly equivalent of school operations for participation in the FEFP.
- Clarifies definitions for full-time equivalent membership reporting for the FEFP.
- Provides that students enrolled in study hall shall not be reported for funding in the FEFP calculation; provides flexible use of categorical funds; and includes FEFP categorical funds in total funds for operations.
- Provides for restoration of revenue from prior year unrealized local effort by requiring a prior period funding millage adjustment to be certified at the time of the second calculation of the FEFP.

- Requires class size reduction funds to be included in the 80 percent calculation of funds provided to schools within a district.
- Reduces the authorized capital improvement millage levy from 1.75 to 1.5 mills.
- Waives the three-fourths limit on use of proceeds from the capital improvement millage levy for lease-purchase agreements entered into before June 30, 2009 for FY 2009-2010.
- Removes the June 30, 2010 time limit in which school districts may pay property and casualty insurance premiums and purchase or lease driver's education and maintenance vehicles from the revenue generated by the discretionary capital improvement millage; retains the $100 cap on expenditures for property and casualty insurance premiums and motor vehicles.
- Authorizes the Commissioner of Education to waive penalties associated with the audit citations for districts using capital funds for purchases of software in FY 2007-2008.
- Provides school districts with flexibility to levy 0.25 mills for capital improvement needs instead of for operations as provided in the General Appropriations Act.
- Authorizes district school boards, by a super majority vote, to levy an optional 0.25 mill for critical capital outlay needs or for critical operating needs. If used for operations, districts in which 0.25 mills generate less than the state average are to be provided the difference in state funds allocated through the FEFP. In order to continue this levy it must be approved by the voters of the district in the next general election.
- Allows districts to establish the total annual number of required days of service for employees.
- Provides that employment contracts for principals, other school site administrators, and instructional personnel may not require more than 10 calendar months of service unless specifically approved by the district school board.
- Provides that non-recurring federal stabilization funds should not be used for new teacher professional service contracts.
- Removes the requirement that for purposes of pay, districts must recognize out-of-state years of service and provides that an employee may voluntarily waive this requirement for in-state service.
- Removes the $100 cap on teacher certification exam fees, which will allow the State Board of Education to establish the fees at a level sufficient to offset the cost of test development and administration.
- Authorizes the DOE to establish a pilot program to manage the Florida Teachers Lead Program through a centralized electronic system.
- Changes eligibility criteria for charter schools to receive PECO for capital outlay when under a governing board that has been established in the state for 3 or more years and also allows charter schools to use PECO funds to purchase software and motor vehicles and to pay for property and casualty insurance premiums.

- Modifies the capital millage levy requirements for school districts currently participating in the Special Facility Construction Account.
- Adopts a building code revision for 2009-2010 to waive the "green" requirements for school facility construction for one year and clarifies that districts are only required to build to current state and education building codes.
- Incorporates the FEFP by reference.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 75-43

CS/CS/CS/SB 494 — Water Conservation and Urban Fertilizer Use

by General Government Appropriations Committee; Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senators Bennett and Baker

This bill amends s. 373.62, F.S., to revise the requirements for automatic landscape irrigation systems to include technology that will interrupt or inhibit the system during periods of sufficient moisture. It requires that licensed contractors inspect these systems to ensure that they are in compliance before completing additional work on the systems. It also directs the Department of Environmental Preservation (DEP) to create a model ordinance by January 15, 2010, with minimum requirements regarding landscape irrigation systems and enforcement, for adoption by local governments no later than October 1, 2010. It provides that funds raised through penalties assessed against licensed contractors or homeowners for violations of the model ordinance be dispersed for water-conservation activities and for administration and enforcement activities.

The bill provides legislative findings regarding the beneficial effect of the use of smart irrigation systems and establishes guidelines for a variance from local day or days-of-the-week water restriction ordinances for users of "smart irrigation control systems."

The bill creates the "Protection of Urban and Residential Environments and Water Act" in ss. 403.9335-403.9338, F.S., providing:

- Legislative findings regarding the beneficial effects of implementing the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes (2008).
- Encouragement for all local governments to adopt the model ordinance or more stringent measures.
- Required adoption by local governments of the model ordinance or more stringent measures if within the watershed of a water body impaired by nutrients.
- Development of training and testing programs by the DEP and the Institute of Food and Agricultural Sciences in urban landscape best-management practices.
- Review and approval of equivalent or more comprehensive programs offered by other entities.
- Certification of persons successfully completing one of these programs.

The bill creates s. 482.1562, F.S., to establish procedures for the issuance of a limited certification for urban landscape commercial fertilizer application licenses. It provides for fees and continuing education requirements for recertification. It creates an exemption for yard workers using the equipment of the homeowner or resident. It authorizes the Department of Agriculture and Consumer Services to adopt rules to administer this program. Lastly, the bill provides for new definitions in s. 482.021, F.S., to conform to the provisions created in s. 482.1562, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 112-6

CS/CS/SB 1078 — Water Management Districts/Limitation of Liability

by General Government Appropriations Committee; Judiciary Committee; and Senator Baker

This bill amends s. 373.1395, F.S., to expand the limitation of liability of the water management districts (WMD), with respect to areas made available to the public for recreational purposes without charge, to include district lands and water areas. The bill provides that a WMD retains the limitation of liability for certain temporary commercial activities.

The bill adds a definition for "park area, district or other lands, or water areas." It provides that the limitation of liability of a WMD applies regardless of whether the person accessing the park area, district or other lands, or water areas is an invitee, licensee, or trespasser, and regardless of whether the person was engaged in a recreational activity at the time of an accident. The limitation of liability also applies to park areas, district or other lands, and water areas used by the public for recreational activities irrespective of whether that area was actually made available to the public at the time of the accident.

Finally, the bill specifies that a private landowner, who provides an easement to a WMD to provide access through private land to lands or water areas that a WMD has made available for recreational purposes, is covered by this liability protection.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-1; House 119-0

SB 2080 — Water Resources

by Senator Alexander

The bill creates s. 373.0363, F.S., which would establish the West-Central Florida Water Restoration Action Plan. Specific provisions provide definitions and legislative findings, and identify the following initiatives:

- The Central West Coast Surface Water Enhancement Initiative the purpose of which is to make additional surface waters available for public supply through restoration efforts. It is designed to allow limits on ground water withdrawals in order to slow the rate of saltwater intrusion. It will be an on-going program in cooperation with the Peace River-Manasota Regional Water Supply Authority.
- The Facilitating Agricultural Resource Management Systems Initiative (FARMS) the purpose of which is to expedite the implementation of production scale, best-management practices in the agricultural sector.
- The Ridge Lakes Restoration Initiative the purpose of which is to protect, restore, and enhance natural systems and flood protection by improving and protecting the water quality of approximately 130 lakes along the Lake Wales Ridge.

- The Upper Peace River Watershed Restoration Initiative the purpose of which is to improve the quality of waters and ecosystems in the watershed of the Upper Peace River.
- The Central Florida Water Resource Development Initiative the purpose of which is to create and implement a long-term plan that takes a comprehensive approach to limit ground water withdrawals in the Southern Water Use Caution Area and to identify and develop alternative water supplies for Polk County.

The bill repeals s. 23, (ch. 2008-150, L.O.F.) which prohibited the Department of Environmental Protection from issuing a permit for the operation of a Class I landfill within the Southern Water Use Caution Area given certain conditions.

The bill contains a number of provisions dealing with the operations of the state's water management districts, these include:

- Reenactment of s. 373.069, F.S., which establishes the districts.
- Limiting, to 180 days, the amount of time a basin member may serve once their term of office has expired if the vacancy has not been filled.
- Decreasing from 6 to 4 the membership of the Manasota Basin Board.
- Providing that Governing Board members may serve as full voting members on basin boards.
- Repealing the Oklawaha River Basin Advisory Council and the Lake Panasoffkee Restoration Council.
- Providing additional guidance for the development of rules related to water well contractor licensing.
- Amending a provision to provide that the chairs of the substantive legislative committees may review and comment on water management districts budgets.
- Allowing water management district governing boards to conduct meetings using means of communications media technology.
- Requiring the Governing Boards to delegate their authority for the issuance of Consumptive Use Permits (CUPs) and Environmental Resource Permits (ERPs) to the Executive Directors of the districts except in cases of denial.
- Prohibiting governing board members from interfering with the processing of CUPs and ERPs.
- Providing for the issuance of 25 or 50 year CUPs for specific renewable energy projects or alternative water supply projects.
- Removing the 10-year limitation for payment in lieu of taxes.
- Directing that no water management district may issue bonds if the debt service for such bonds exceeds 20 percent of their annual ad valorem revenue.

The bill also makes a number of changes concerning landscape practices utilized in the state. Specifically it removes the term "xeriscape" from Florida Statutes, and replaces the term with "Florida-friendly landscaping." It also amends a number of statutory sections to incorporate additional principles into the definition of Florida-friendly landscaping. These principles include:

- Planting the right plants in the right place.
- Efficient watering.
- Appropriate fertilization.
- Mulching.
- Attraction of wildlife.
- Responsible management of yard pests.
- Recycling yard waste.
- Reduction of stormwater runoff.
- Waterfront protection.

The bill requires each water management district to assist local governments by developing or providing a Florida-friendly landscape model ordinance. The bill also identifies the various public and private entities the districts are to cooperate with in developing the ordinance. In addition the districts are to work with the department, county extension agents or offices, nursery and landscape industry groups, and other interested stakeholders to promote the use of Florida-friendly landscaping practices through educational programs and publications.

The bill also provides that a deed restriction, covenant, or local government ordinance may not be enforced to prohibit any property owner from implementing Florida-friendly landscaping. It also prohibits all deed restrictions, covenants, or local government ordinances from restricting the use of Florida-friendly landscaping.

The bill directs that the districts take into consideration whether the applicable local government has adopted ordinances for landscaping or irrigation systems when evaluating water use applications from public water suppliers.

The bill also requires all state agencies and water management districts to use Florida-friendly landscaping on all public property associated with a building, facility or road constructed after June 30, 2009. It also directs that they create a 5-year phased plan for those buildings, facilities or roads constructed before June 30, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

CS/CS/SB 2150 — Fish and Wildlife Conservation Commission Guide Dog Check-Off

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senator Bennett

This bill creates an unnumbered section of Florida law and directs the Fish and Wildlife Conservation Commission to create a voluntary $2 contribution check-off option on all recreational activity licenses issued under ch. 379, part VI, F.S., for the purpose of providing funds to Southeastern Guide Dogs, Inc. This entity is a non-profit organization located in Palmetto, Florida, and the contributions will be used for the "Paws for Patriots" program to breed, raise, and train guide dogs for the blind.

Applicants for recreational licenses will have an option to donate $2 by selecting a check-off on the form. The Fish and Wildlife Conservation Commission is directed to retain 90 cents from each $2 contribution to cover vendor fees and administrative costs. The remaining amount is distributed on a quarterly basis to the Southeastern Guide Dogs, Inc.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

HB 73 — Permit Process for Economic Development

by Rep. Schenck and others (CS/SB 852 by Commerce Committee and Senators Fasano, Gaetz, and Crist)

This bill creates s. 380.0657, F.S., the "Mike McHugh Act," an expedited permitting process for economic development projects. It requires the Department of Environmental Protection or the appropriate water management district to adopt programs to expedite the processing of environmental resource permits and wetland resource permits. This streamlining process is specifically targeted for economic development projects that have been identified by a municipality or county as meeting the definition of "target industry business." It provides for a mandatory pre-application review process and it specifies the time period in which permits must be issued.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 118-0

CS/CS/HB 1423— Fish and Wildlife Conservation Commission

by Finance and Tax Council; General Government Policy Council; and Rep. Troutman and others (CS/CS/SB 2536 by Judiciary Committee; Environmental Preservation and Conservation Committee; and Senator Constantine)

This bill is the comprehensive agency package for the Florida Fish and Wildlife Conservation Commission (FWC). The bill amends invasive plant control provisions ss. 206.606, 253.002, 369.20, 369.22, and 369.25, F.S., to complete the transfer of this function to the FWC. It creates

ss. 379.501, 379.502, 379.503, and 379.504, F.S., and amends s. 403.088, F.S., establishing penalties and conditions related to water pollution to allow the FWC to utilize judicial and administrative remedies, instead of criminal penalties, to resolve aquatic plant management permitting violations.

The bill amends s. 327.73, F.S., related to penalties for vessels scarring seagrasses. Persons damaging seagrasses in an aquatic preserve, due to the careless operation of a boat, could be charged with a non-criminal infraction. The bill creates s. 403.9335, F.S., the Florida Coral Reef Protection Act which consolidates Department of Environmental Protection (DEP) statutory authorities and improves responses to coral reef injuries and their restoration. The bill amends s. 403.1651 to enable the state to recover damages from those responsible for coral reef injuries.

The bill revises several fees and amends outdated fishing regulations. The bill amends s. 320.08056, F.S., to increase the fees for the Conserve Wildlife and Save the Manatee specialty license plates. It also amends s. 319.32, F.S., to increase the out-of state vehicle title fee. The bill amends ss. 379.354, and 379.3671, F.S., to increase specific hunting and fishing permit fees, wildlife management area permit fees, and to create a deer permit. Further, effective July 1, 2009, subsection (7) of s. 379.366, F.S., which sunsets several provisions in statute relating to blue crab regulation, is repealed. The bill amends s. 379.3671, F.S., to reduce the time period from 3 to 2 years when commercial lobster trap certificates will be considered abandoned and will revert to the FWC.

The bill amends ss. 379.304 and 379.338, F.S., and creates s. 379.3381, F.S., providing for the disposition and photographing of evidence. The bill allows recreationally harvested saltwater fish to be disposed of in the same manner as freshwater fish and game. It would allow the officer to photograph the evidence and keep the seized fish or wildlife on ice and dispose of it when convenient to their patrol activities.

The bill makes substantial changes to boating laws and covers a myriad of issues effecting boaters. The bill amends s. 327.395, F.S., to require that any person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless they have been issued a valid boating safety identification card or are exempted by rule. Further, the bill amends ss. 327.35 and 327.36, F.S., concerning Boating Under the Influence (BUI); making the threshold for BUI the same as Driving under the Influence. It lowers the threshold for enhanced penalties when charged with a BUI, from a Blood Alcohol Level (BAL) of 0.20 or more to 0.15 or more. Additionally, the BAL of 0.20 or more is lowered to 0.15 or more, making it more stringent for the purposes of mandatory adjudication.

The bill amends s. 327.46, F.S., clarifying the criteria needed to establish boating-restricted areas for both the commission and local governments and revises provisions for the placement of navigation, safety, and information markers and provides exemptions for certain uniform waterway markers and certain permit requirements. The bill amends ss. 327.40, 327.41, and 327.42, F.S., to assist permit applicants (local governments) with the what, where, who, and how regarding uniform waterway markers.

It revises provisions prohibiting mooring to or damaging markers or buoys. The bill directs the FWC, in consultation with the Department of Environmental Protection, to establish a pilot program to explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields. It limits regulations by a county or municipality of the operation, equipment, and other matters relating to vessels operated upon the waters of this state. The bill amends ss. 328.03, 328.07, 328.46, 328.48, 328.56, 328.58, 328.60, 328.65, 328.66, and 328.72, F.S., to include the phrase "operate, use, or store" when referring to the certificate of title for a vessel and provides exemptions. By including this phrase consistently in statute it provides law enforcement the ability to better track owners of vessels that are operated or stored on the waters of the state.

It amends ss. 327.66 F.S., and 327.73, F.S., which deal with the transportation of fuel in unapproved containers. It prohibits the possession or operation of a vessel equipped with unapproved fuel containers and the transportation of fuel in a vessel except when in compliance with federal regulations. Persons found in violation of these provisions are guilty of a third degree felony, punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

The bill repeals s. 327.22, F.S., relating to regulation of vessels by municipalities and counties. The bill amends s. 327.02, F.S., the definition of "live aboard" vessel. It clarifies that the vessel is not used in navigation and includes in its meaning any vessel for which a declaration of domicile has been filed.

The bill amends ss. 379.3751, 379.3761, 379.3762, 379.401, and 379.4015, F.S., related to alligator trapping and farming agents licenses and specific penalties. The bill eliminates the requirement that all farming and trapping agent licenses be issued under a specific alligator farming or alligator trapping license holder. It allows alligator farming and alligator trapping agents to possess, process, and sell alligator hides and meat. However, it prohibits the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.

Further it eliminates the prohibition on issuing alligator farming, alligator farming agent, alligator trapping, alligator trapping agent, and alligator processor licenses to persons who have been convicted of any violation of ss. 379.3015 or 379.409, F.S., or FWC rules related to the illegal taking of crocodilian species. It includes clarifying language that allows alligator farmers to possess and process alligator hides and meat for sale.

If approved by the Governor, these provisions shall take effect July 1, 2009, except as otherwise expressly provided in this act.
Vote: Senate 39-0; House 113-2

HB 7035 — Open Government Sunset Review/Written Valuations of State-Owned Surplus Lands

by Governmental Affairs Policy Committee and Rep. Mayfield (CS/SB 1268 by Governmental Oversight and Accountability Committee and Environmental Preservation and Conservation Committee)

The bill amends s. 253.034, F.S., to remove a repeal date, thereby reenacting the public record exemption for a written valuation of surplus land and relating documents used to form the valuation or that would pertain to the valuation. It also reorganizes the exemption and makes clarifying changes.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 115-0

SB 216 — Campaign Financing/Local Government Expenditures

by Senators Justice, Gaetz, Fasano, Baker, and Richter

The bill prohibits a local government or person acting on its behalf from spending or authorizing, and prohibits a person or group from accepting, public funds for a political advertisement or electioneering communication that involves an issue, referendum, or amendment that the public will vote on at an election. The bill exempts electioneering communications that are limited to factual information. The bill further clarifies that a local government elected official is not prohibited from expressing an opinion on any issue at any time as long as it does not violate the aforementioned prohibition.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 94-22

SB 252 — Local Government/Code of Ethics

by Senators Constantine and Rich

The bill applies the conduct, financial disclosure, gift, and honoraria provisions of the Code of Ethics for Public Officers and Employees, ch. 112, part III, F.S., to the employees, directors, and officers of private entities that perform the functions of a political subdivision's chief administrative officer or employee. The bill creates a new penalty provision applicable to persons who are subject to the Code of Ethics but are not considered public officers or employees. The bill also makes the Governor the disciplinary official for these persons.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 117-0

HJR 81 — Public Campaign Financing

by Rep. Hays and others (SB 566 by Senators Haridopolos, Oelrich, Gaetz, and Dean)

This joint resolution proposes to repeal the constitutional requirement that the Legislature maintain a public campaign financing program for statewide candidate races at or above the funding levels provided for by law on January 1, 1998 (s. 7, Art. VI, State Constitution).

The joint resolution does not, however, repeal the public financing program for statewide elections; the current statutory program, the Florida Election Campaign Financing Act (ss. 106.30-106.36, F.S.), will continue in effect for the 2010 election cycle and thereafter, unless amended by the Legislature (or some subsequent constitutional amendment).

If approved by at least 60 percent of the electors voting on the question at the 2010 general election, these provisions take effect January 4, 2011.
Vote: Senate 29-11; House 80-34

HB 7015 — Public Records Exemption/Open Government Sunset Review/Campaign Finance Reports

by Governmental Affairs Policy Committee and Rep. Eisnaugle (CS/SB 1348 Governmental Oversight and Accountability Committee and Ethics and Elections Committee)

The bill saves from repeal the public records exemptions for electronically filing campaign finance reports. The bill keeps user identifications and passwords held by the Department of State for the purpose of filing campaign finance reports in accordance with s. 106.0705, F.S., confidential and exempt from s. 119.07(1) and s. 24(a), Art. I, State Constitution. The bill also keeps information entered into the electronic filing system for the purpose of generating a report pursuant to s. 106.0705, F.S., exempt from s. 119.07(1) and s. 24(a), Art. I, State Constitution until the report is filed with the Division of Elections.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 114-0

CIGARETTE SURCHARGE

CS/CS/SB 1840 — Protecting Health/Surcharge on Tobacco Products

by Policy and Steering Committee on Ways and Means; Finance and Tax Committee; and Senators Deutch and Rich

The bill levies a $1 per pack surcharge on cigarettes. Revenue from the surcharge will be deposited in the Health Care Trust Fund in the Agency for Health Care Administration. On a recurring basis, the surcharge on cigarettes is expected to raise $942 million each year. It is also expected to reduce cigarette consumption by 9 percent, and the reduction is expected to grow over time to more than 10 percent by FY 2012-2013.

Tobacco products other than cigarettes and cigars are subject to a surcharge equal to 60 percent of the wholesale sales price. (This is the price that the distributor pays the manufacturer.) This is in addition to the current tax of 25 percent of the wholesale sales price. The surcharge on other tobacco products is expected to raise $48 million each year.

The surcharge is levied on cigarettes and other tobacco products in inventory in the state on July 1, 2009. To compensate for costs of taking this inventory, retailers, distributors, wholesalers, and manufacturers will get a 5 percent collection allowance for the surcharge on inventory.

The bill provides for regulation of internet and mail-order sales of cigarettes and other tobacco products to ensure that these products are not available to minors. It increases the penalties related to untaxed cigarettes, and creates a toll-free number for cigarette tax and surcharge violations to be reported. An informer may receive a reward for a report that leads to a fine being levied and paid. The bill also restricts the amount of tax-free cigarettes available to the recognized Indian tribes. Members of the tribes will be able to buy and consume cigarettes tax free on the reservations, but will not be able to sell untaxed cigarettes to non-Indians. It provides for the option of entering into an agreement with the state to share cigarette tax revenue for cigarettes sold on reservations, but the state must, at a minimum, receive all revenue from the surcharge created in this bill.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 85-30

CORPORATE INCOME TAX

SB 1112 — Corporate Income Tax

by Senators Altman and Lynn

This bill (Chapter 2009-18, L.O.F.) replaces provisions of the 2008 "piggy-back" bill – ch. 2008-206, L.O.F. Each year Florida adopts changes to the Federal Internal Revenue Code as it exists on January 1 of that year. This maintains the relationship between Florida and federal taxable income. The replacement bill provides a new method to exclude the temporary federal deductions from Florida income tax calculations that largely eliminates the unintended negative impact of ch. 2008-206, L.O.F., on the depreciation and additional expensing deductions available to Florida taxpayers. Specifically, the bill provides for a Florida subtraction for the bonus depreciation or additional expensing deduction claimed by a taxpayer on their federal return. The bill requires a taxpayer claiming bonus depreciation or additional expensing on its federal return to add 80 percent of the amount so claimed to its 2008 Florida taxable income. The taxpayer can then subtract 25 percent of the amount by which taxable income was increased in each of the 4 subsequent tax years.

These provisions became law upon approval by the Governor on March 17, 2009.
Vote: Senate 39-1; House 116-0

CS/SB 2504 — Corporate Income Tax

by Finance and Tax Committee and Senator Altman

Each year Florida adopts changes to the Federal Internal Revenue Code as it exists on January 1 of that year. This maintains the relationship between Florida and federal taxable income. Congress approved the American Recovery and Reinvestment Act of 2009 (ARRTA) that made changes to the federal tax code which, if adopted by Florida, would likely have reduced corporate tax receipts over the next several fiscal years. As a result, Florida did not adopt provisions related to bonus depreciation and additional expensing, and extended the special provisions for dealing with bonus depreciation and additional expensing adopted in SB 1112 (Chapter 2009-18, L.O.F) for another year. It also requires taxpayers taking advantage of the ARRTA provisions allowing them to defer the recognition of income on the cancellation of debt to add back the deferred income for Florida tax purposes. The general effect of the bill is to place the taxpayer in the same position for Florida tax purposes as they would have been had they not taken advantage of these federal provisions.

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

CS/SB 1740 — Water Protection and Sustainability Program Trust Fund/DEP

by General Government Appropriations Committee and Senator Baker

This bill (Chapter 2009-23, L.O.F.) re-creates the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection without modification. Re-creation is effective July 1, 2009, which is the current termination date of the fund. The changes extend the life of the trust fund.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/SB 1742 — Fish and Wildlife Conservation Commission

by General Government Appropriations Committee and Senator Baker

This bill completes the transfer of the Invasive Plant Management Program from the Department of Environmental Protection to the Fish and Wildlife Conservation Commission. This transfer was authorized by the 2008 Legislature (ch. 2008-150, L.O.F).

In addition, the bill allows Florida anglers who fish in federal waters or who fish for migratory species to be exempt from the federal saltwater fishing registration requirement by repealing the shoreline exemption for Florida residents. Those Florida residents eligible for the food stamp, temporary cash assistance, or Medicaid programs retain the exemption, as well as those individuals fishing with poles or lines not equipped with a fishing line retrieval mechanism. The license fee is $7.50 for those Florida residents not exempt.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise expressly provided in this act.
Vote: Senate 35-2; House 117-1

CS/SB 1744 — Department of Agriculture and Consumer Services

by General Government Appropriations Committee and Senator Baker

The bill transfers the licensure and regulation of professional surveyors and mappers from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services, effective October 1, 2009.

The bill provides fee adjustments to regulatory programs within the Department of Agriculture and Consumer Services. These include:

- Weights and measures permit fee for commercially operated weights and measure instruments.
- Pesticide brand registration fee.
- Fertilizer brand registration fee.
- Seed dealer registration fee.

The bill expands the expenditure of revenues collected from administrative fines related to pest control violations to include program operational costs.

The bill amends the distribution of the gross receipts from transactions relating to state forests. Fifteen percent of the receipts will be distributed to fiscally constrained counties only, to be used for school purposes.

If approved by the Governor, these provisions take effect July 1, 2009, except that sections 1 through 30 of this act shall take effect October 1, 2009.
Vote: Senate 39-0; House 115-3

CS/SB 1748 — Department of Revenue

by General Government Appropriations Committee and Senator Baker

The bill authorizes an administrative collection processing fee of 10 percent of the amount of taxes due or $10, whichever is greater, for each tax filing that remains unpaid after 90 days from initial notification.

The bill eliminates the requirement that the Department of Revenue furnish ad valorem tax forms to local entities.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-2

CS/SB 1750 — Department of Environmental Protection

by General Government Appropriations Committee and Senator Baker

The bill prioritizes the payment of debt service on the Preservation 2000, Florida Forever, and Everglades bonds by pledging all documentary stamp revenues be available to pay debt service in the event of a shortfall.

The bill redirects to the General Revenue Fund:

- The two-tenths of 1 percent of sales tax revenues currently distributed to the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection (department).

- Revenues collected from the excise tax on documents that are currently distributed to the Water Protection and Sustainability Program Trust Fund within the department and the Marine Resources Conservation Trust Fund within the Fish and Wildlife Conservation Commission.

The bill terminates the Lake Okeechobee Preservation Trust Fund within the Department of Environmental Protection. The fund has no recurring revenue source and has not been used since FY 2004-2005.

The bill repeals s. 23 of ch. 2008-15, L.O.F., as it relates to a landfill permit.

The bill provides for the financing of the petroleum underground storage tanks cleanup program by authorizing up to $104 million in bonds to provide $90 million to continue the cleanup efforts.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 81-36

CS/SB 1754 — Department of Business and Professional Regulation

by General Government Appropriations Committee and Senator Baker

The bill eliminates the requirement that licensed certified public accountants pass a law and rules examination as a condition of licensure renewal. This examination is duplicative of other content examinations required by law. The bill repeals the requirement that racing animal drug penalty revenues be used specifically for animal research. The bill eliminates a specific pari-mutuel wagering agreement (Pharmacokinetic and Clearance Study Agreement) with the University of Florida's College of Veterinary Medicine. This provision can be implemented by rule.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 1758 — Department of Financial Services

by General Government Appropriations Committee and Senator Baker

The bill increases the maximum percentage of funds that can be invested in securities under the authority of the Chief Financial Officer (CFO) from 3 percent to 5 percent of the Treasury investment pool. The provision remains in effect for one year.

The bill creates a Treasury Investment Committee to administer the Treasury's Investment Program, and to make investment policy recommendations to the CFO.

The bill authorizes the Florida Commission on Hurricane Loss Projection Methodology to adopt revisions to the Florida Public Hurricane Loss Model every odd year rather than annually.

The bill reduces the cost of copies for documents on file with the Department of Financial Services and requires prior notification to the requester when additional charges are to be assessed for preparation of redacted records.

The bill redirects to the General Revenue Fund revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups. These revenues are currently distributed to the Insurance Regulatory Trust Fund within the Office of Insurance Regulation. This provision expires on July 1, 2014.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 1804 — State-owned Real Property

by Policy and Steering Committee on Ways and Means and Senator Alexander

The bill requires the state to offer to state agencies and universities the opportunity to lease state-owned buildings or parcels of land before it offers to sell or lease to others. The bill directs the Department of Management Services to create a database of all state-owned real property and to immediately begin the disposition of surplus buildings.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

HB 5129 — Child Support

by Government Operations Appropriations Committee and Rep. Hays

The bill updates Florida law to bring the Department of Revenue's Child Support Enforcement Program in compliance with new federal regulations for establishing, modifying, and enforcing health insurance obligations in Title IV-D child support enforcement cases.

Compliance with the new regulation is a condition of the state receiving federal funding. Noncompliance could result in disapproval of Florida's Title IV-D state plan and the loss of approximately $248.1 million in federal funding which is appropriated in the budget.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

HB 7025 — Open Government Sunset Review/Archival Materials

by Governmental Affairs Policy Committee (CS/SB 1834 by Governmental Oversight and Accountability Committee)

The bill saves from repeal under the Open Government Sunset Review Act a public records exemption for a manuscript or other archival material that is donated to an official archive of a municipality or county contingent upon special terms and conditions that limit the right to inspect or copy such manuscript or other material.

The bill also creates a definition for "nonpublic manuscript or other archival material" and co-locates with the public records exemption under review a similar public records exemption for archival materials held by the Florida State Archives.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 38-0; House 115-0

CS/HB 7051 — Open Government Sunset Review/Social Security Numbers

by Economic Development and Community Affairs Policy Council ; Governmental Affairs Policy Committee; and Rep. Ford (CS/SB 2188 by Governmental Oversight and Accountability Committee and Senator Joyner)

The bill amends the public records exemption for social security numbers contained in agency employment records of current or former agency employees to raise the standard of protection from exempt to confidential and exempt. The bill removes the process by which a current or former agency employee may notify a non-employing agency that the employee's social security number is exempt from public records requirements.

The bill also amends the general public records exemption for social security numbers held by agencies. The bill modifies notice requirements to prohibit an agency from collecting social security numbers unless the agency identifies in writing the specific federal or state law governing the collection, use, or release of the social security number for each purpose for which that agency collects the number. The notice provided by the agency must state whether collection of the social security number is mandatory or authorized under federal or state law. The bill amends the definition of "commercial activity" to include permissible uses established under federal law and to clarify that a commercial activity is for the verification of the accuracy of personal information received by a commercial entity. The bill modifies the exceptions to the exemption to allow disclosure of social security numbers held by agencies for the following reasons:

- The disclosure of the social security number is expressly required by federal or state law or a court order.

- The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.
- The individual expressly consents in writing to the disclosure of his or her social security number.
- The disclosure of the social security number is made in order to comply with the USA Patriot Act of 2001 or Presidential Executive Order 13224.
- The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the Driver's Privacy Protection Act, Fair Credit Reporting Act, or Financial Services Modernization Act of 1999 or for verification of personal information received by a commercial entity in the normal course of its business.
- The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or the dependents of that employee.
- The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, a deferred compensation plan, or a defined contribution plan.
- The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 38-0; House 110-0

CS/SB 2188 — Administrative Procedures

by Governmental Oversight and Accountability Committee and Senator Joyner

This bill makes adjustments to the Administrative Procedure Act, by amending the definition of "agency" to codify existing case law, and requiring that agencies:

- Give notice of meetings, hearings, and workshops on the agency's website;
- Post meeting agendas and materials on the agency's website;
- Make staff available to explain agency rule proposals at public hearings;
- Consider information submitted within certain timeframes in rulemaking;
- Specify the effective date of a rule in the notice of rulemaking; and
- Post their statements of agency organization on their websites.

The bill also deletes an outdated agency rule exception.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

CS/SB 2666 — Public Procurement of Services

by General Government Appropriations Committee and Senators Haridopolos and Baker

This bill allows the Department of Management Services to procure and use the services of construction management entities.

The bill also raises the per project cap for use of continuing contracts from $1 million to $2 million, and specifies that continuing contracts include contracts in which each individual project does not exceed $2 million.

The bill amends the definition of the artistic services competitive procurement exemption in s. 287.057(5)(f), F.S., to specify that artistic services do not include advertising.

The bill amends s. 1013.45, F.S., to allow the use of construction management entities for remodeling, renovation, maintenance, or repairs.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

HB 319 — Recertification of Minority Business Enterprises

by Rep. Carroll and others (SB 1480 by Senators Lawson, Joyner, and Siplin)

The bill changes the DMS Office of Supplier Diversity minority business enterprise recertification process from requiring vendor recertification every year to requiring recertification every 2 years.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 119-0

CS/SB 414 — Conveyance of Plastinated Bodies

by Health Regulation Committee and Senator Crist

This bill permits certain accredited entities to convey plastinated bodies into or out of the state for exhibition and educational purposes without the consent of the anatomical board at the University of Florida Health Science Center, if the museum:

- Notifies that board regarding the duration and location of the exhibition at least 30 days before the intended conveyance;
- Submits to the board a description of the bodies or parts of bodies and the name and address of the company providing the bodies or parts of bodies;
- Submits to the board documentation that each body was donated by the decedent or the decedent's next of kin for purposes of plastination and public exhibition, or an affidavit stating that each body was donated directly for such purposes to the company providing the body and that such company has a donation form on file for the body.

In lieu of the last provision, for plastinated bodies exhibited before July 1, 2009 by an accredited entity, the entity may submit an affidavit to the board stating that the body was legally acquired and that the company providing the body has acquisition documentation on file for the body.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 116-0

CS/SB 2574 — Information Technology

by Governmental Oversight and Accountability Committee and Senator Haridopolos

This bill revises the duties of the Agency for Enterprise Information Technology (AEIT), by creating within it the Office of Information Security, specifying its duties, and clarifying duties related to state data center consolidation. The bill also provides further duties relating to the process by which the AEIT and agencies must move forward with data center consolidation and information technology security planning, and establishes a state e-mail system. The bill also reassigns duties formerly assigned to the now-defunct State Technology Office, repeals an obsolete provision relating to the duties of the Legislative Budget Commission, and corrects cross references.

This bill was included in the budget conference process.

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

CS/CS/SB 2694 — State Financial Matters

by Policy and Steering Committee on Ways and Means; Governmental Oversight and Accountability Committee; and Senator Alexander

This bill, relating to state contracting, limits the authority of state agencies to enter certain types of contracts unless the Legislature grants specific authority to an agency. The restricted contracts include:

- Contracts that require the state to pay liquidated damages or early termination fees based on a breach of the contract due to an act of the legislature to provide less than full funding of the contract;
- Contracts that require the state to pay interest, other than interest imposed under the prompt pay law, because the agency has insufficient budget authority to pay the underlying obligation;
- Contracts that require the state to make payments in future years to offset payments not made in the current year;
- Contracts that permit the nonstate party to collect and retain fees and other revenues which would otherwise be deposited into the State Treasury;

- Leases and lease-purchase agreements for tangible personal property which requires the state to pay more than $500,000 over the term of the lease.

The bill requires a state agency to notify the Governor and Legislature prior to executing the following types of contracts:

- Any contract or series of contracts with a single vendor in excess of $10 million during one calendar or fiscal year;
- Any contract that requires minimal or no payments by the state or authorizes the other party to make expenditures in anticipation of revenues;
- Any contract that requires initial expenditures by the vendor with no payment contemplated by the state within 180 days.

The bill requires that certain provisions be included in every contract, including:

- The specific appropriations from which the contract will be funded for the first year;
- The current notice that the contract is contingent upon an annual appropriation by the legislature;
- Notice that the contract may be terminated if a budget deficit is certified and the funding is eliminated either in a deficit reduction plan or by an act of the legislature.

The bill requires certain actions by the agency, including:

- The agency head or a senior management employee signing each contract over $25,000;
- The agency head certifying in writing that the contract complies with the law, if the contract exceeds 12 months in duration;
- Written acceptance or rejection of deliverables for contracts in excess of $250,000.

The bill requires deferred payment commodity contracts and consolidated financing agreements in excess of $500,000 to be expressly authorized by the Legislature.

This bill was included in the budget conference process.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 117-0

CS/SB 1802 — Florida Retirement System Contribution Rates

by Policy and Steering Committee on Ways and Means and Senator Alexander

This bill sets the payroll contribution rates to be charged by the some 1000 participating public employers in the Florida Retirement System for FY 2009-2010. The recent custom of the Florida Legislature has been to set the rates annually following receipt of the annual plan valuation by the consulting actuary to the Department of Management Services. The bill also sets the default

rates for the succeeding fiscal year in the event there is no comparable legislation setting those rates during the 2010 Regular Session. The FY 2009-2010 rates are unchanged from current law, and are as follows:

Current and Proposed FRS Payroll Contribution Rates
(Percent of Gross Compensation)

Retirement Class	FY 2009-2010 Rates	FY 2010-2011 Rates
Regular	8.69	9.63
Special Risk	19.76	22.11
Special Risk, Administrative	11.39	12.10
Elected Officers – State	13.32	15.20
Elected Officers – County	18.40	20.65
Elected Officers – Judicial	15.37	17.50
Senior Management	11.96	13.43
DROP	9.80	10.96

The bill directs the commissioning of a special actuarial study on the recalculation of the payroll contribution rates for the Deferred Retirement Option Program (DROP). The study will analyze the effect of recognizing the current uniform composite rate as well as treating DROP participants as active or retired members with respective rates set in their membership classes or with no rate set at all.

Included in the bill is a statement of important state interest to effect compliance with s. 18, Art. VII, and s. 14, Art. X, State Constitution, and ch. 112, part VII, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 1658 — Health Care

by Health and Human Services Appropriations Committee and Senator Peaden

The bill provides statutory changes to conform to the FY 2009-2010 General Appropriations Act. Specifically, the bill:

- Amends s. 395.7017, F.S., to authorize the Agency for Health Care Administration (AHCA) to promulgate rules relating to assessments on inpatient and outpatient services and health care entities as authorized in ch. 395, part IV, F.S.
- Amends s. 409.815, F.S., to provide for mental health parity, dental services, and the reimbursement of federally qualified health centers and rural health clinics in the Florida Healthy Kids program as required by federal law, effective October 1, 2009.
- Amends s. 409.818, F.S., to require the AHCA to monitor the compliance with quality assurance and access standards of the Florida Healthy Kids plan in accordance with state and federal law.
- Amends s. 409.904, F.S., to provide that the Meds-AD and Medically Needy program will expire December 31, 2010.
- Amends s. 409.905, F.S., relating to home health services in the Medicaid program, to require home health agencies that exceed the statewide home health services utilization rate by 50 percent, to undergo prior authorization for Medicaid home health service visits not associated with a skilled nursing visit. The bill specifies that prior authorization includes the submission of a Medicaid recipient's plan of care and documentation that supports the recipient's diagnosis to the AHCA. The bill requires that Medicaid home health services must be ordered by a physician and meet certain requirements.
- Creates undesignated sections of law that require the AHCA to implement two home pilot projects.
- Amends s. 409.906, F.S., to provide limitations on vision services for adult Medicaid beneficiaries.
- Amends s. 409.9082, F.S., to modify circumstances requiring the discontinuance of the quality assessment for nursing home providers; to provide an additional provision to exempt or apply a lower quality assessment rate; and to authorize the use of quality assessments to restore Fiscal Year 2009-2010 rate reductions.
- Amends s. 409.9083, F.S., to provide definitions; to provide for a quality assessment to be imposed upon privately operated intermediate care facilities for the developmentally disabled; to require the AHCA to calculate the quality assessment rate annually, to provide requirements for reporting and collecting the assessment; to specify the purposes of the assessment and an order of priority; to require the agency to seek federal authorization to implement the act; to specify circumstances requiring the discontinuance of the quality assessment; to authorize the imposition of certain penalties against

providers that fail to pay the assessment; to require the adoption of rules; and to authorize the use of quality assessments to restore Fiscal Year 2008-2009 and 2009-2010 rate reductions.

- Amends s. 409.911, F.S., to update the years of audited data used in determining Medicaid and charity care days for each hospital in the Disproportionate Share program from 2002, 2003, and 2004 to 2003, 2004, and 2005; to change the fiscal year that the audited data is used to distribute funding through the Disproportionate Share program from Fiscal Year 2008-2009 to Fiscal Year 2009-2010; and to provide the formula for the distribution of disproportionate share dollars to provider service network hospitals.
- Amends s. 409.9112, F.S., to continue the prohibition of the distribution of funds through the Regional Perinatal Intensive Care Disproportionate Share program in Fiscal Year 2009-2010.
- Amends s. 409.9113, F.S., to allow for disproportionate share payments to statutorily defined teaching hospitals and family practice teaching hospitals in Fiscal Year 2009-2010; and allows the distribution of funds for statutorily defined teaching hospitals to be distributed as provided in the General Appropriations Act.
- Amends s. 409.9117, F.S., to continue the prohibition of the distribution of funds through the Primary Care Disproportionate Share program in Fiscal Year 2009-2010.
- Amends s. 409.9119, F.S., to allow for disproportionate share payments to specialty hospitals for children as provided in the General Appropriations Act.
- Amends s. 409.912, F.S., relating to an integrated fixed-payment delivery program (Florida Senior Care) to provide that implementation of the program is subject to a specific appropriation.
- Amends s. 409.912, F.S., to provide that an exclusive provider organization under contract with the AHCA to provide services in a rural area with no Medicaid health maintenance organization shall be paid in accordance with the appropriate fee schedule for services to eligible Medicaid recipients for a period of no longer than 24 months.
- Amends s. 409.91211, F.S., to revise the date from 3 to 5 years that provider service networks, including the Children's Medical Services Network, convert from a fee-for-service model to a capitation model in the Medicaid reform pilot areas.
- Amends s. 409.9122, F.S., to remove language that required recipients in the MediPass program in counties with two or more managed care plans, to be assigned to a managed care plan if they failed to make a choice during the annual choice period.
- Creates s. 409.916(4) to provide that quality assessment fees received from Medicaid providers are to be deposited into the Grants and Donations Trust Fund within the AHCA and are to be used for the purposes established by law and the General Appropriations Act.
- Amends s. 430.04, F.S., to require the Department of Elder Affairs to administer the Medicaid waiver programs relating to elders and their appropriations.

- Amends s. 430.707, F.S., to require the AHCA, in consultation with the Department of Elder Affairs, to accept and forward to the Centers for Medicare and Medicaid Services a Program of All-inclusive Care for the Elderly (PACE) application for expansion of a pilot project from an entity that provides certain PACE benefits. In addition, the bill directs the AHCA to seek federal approval for an application to be a PACE site and upon approval, to contract with a hospice organization in Hillsborough County to serve up to 100 elderly individuals.

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

CS/SB 1660 — Agency for Persons with Disabilities

by Health and Human Services Appropriations Committee and Senator Peaden

The bill requires that the Agency for Persons with Disabilities assign and provide priority to clients waiting for waiver services, beginning July 1, 2010. The bill assigns categories from one through seven based on priority and authorizes the agency to adopt rules.

The bill amends the home and community-based delivery system as follows:

- Removes a provision permitting all services covered under the waiver to be available to all clients in all tiers;
- Removes a provision that limited an increase in services prior to a certain date;
- Directs the agency to eliminate medication review as a waiver service;
- Directs the agency to develop a plan to eliminate redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating them;
- Directs the agency to develop a plan to reduce the intensity and frequency of supported employment services to clients in stable employment situations with a history of at least three years of employment with the same company or within the same industry;
- Removes a provision that would have reduced the geographic differential for residential habilitation services for Miami-Dade, Broward, Palm Beach, and Monroe Counties, effective July 1, 2009; and
- Continues a provision relating to the calculation of the amount of waiver cost plan adjustment by removing the expiration date of that provision and limiting cost plan utilization growth to no more than 5 percent.

The bill revises the way money in trust accounts in developmental disability centers may be spent.

The bill also establishes a study group to determine the feasibility of creating a prepaid service plan for children with disabilities modeled after the Florida prepaid college plan. The bill directs

the study group to provide recommendations regarding services for which a voucher could be used, financial requirements, qualifications of service providers, and steps necessary to qualify this plan for a federal waiver program that would allow for federal financial participation. The report is due by January 29, 2010. The bill provides for travel and per diem expenses for study group members. The group is abolished and is repealed upon submission of the group's final report.

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

CS/SB 1662 — Department of Health

by Health and Human Services Appropriations Committee and Senator Peaden

The bill requires the Department of Health to expend funds from the County Health Department Trust Fund in accordance with budget and plans agreed upon by the county authorities of each county and the Department of Health. The bill removes the requirement to increase the emergency reserve of the County Health Department Trust Fund by the increase in the Consumer Price Index.

The bill repeals the provision related to the exemption for appropriation of positions in the Department of Health funded by the County Health Department Trust Fund and the United States Trust Fund.

The bill requires the department to establish and maintain laboratories for microbiological and chemical analysis, to establish and maintain a pharmacy services program, and to establish an Office of Vital Statistics.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 78-40

CS/SB 1664 — Health Care

by Health and Human Services Appropriations Committee and Senator Peaden

The bill extends the distribution of funds related to the tax on cigarettes to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute from June 30, 2016 to June 30, 2020.

The bill deletes the general revenue appropriation to the Biomedical Research Trust Fund within the Department of Health for the James and Esther King Biomedical Research Program and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.

The bill requires, beginning in FY 2009-2010 and thereafter, 5 percent of the revenue from the tobacco surcharge deposited into the Health Care Trust Fund in the Agency for Health Care Administration be reserved for research of tobacco-related or cancer related illnesses, not to exceed $50 million in any fiscal year.

The bill requires that 2.5 percent of the revenue deposited into the Health Care Trust Fund, not to exceed $25 million in FY 2009-2010, be transferred to the Biomedical Research Trust Fund in the Department of Health for the James and Esther King Biomedical Research Program.

The bill requires that 2.5 percent of the revenue deposited into the Health Care Trust Fund, not to exceed $25 million in FY 2009-2010, be transferred to the Biomedical Research Trust Fund in the Department of Health for the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.

The bill awards a $10 million grant or contract to the Area Health Education Center (AHEC) Network to expand the smoking cessation initiative statewide in FY 2009-2010 and authorizes the AHEC network to apply for a competitive contract or grant after FY 2009-2010.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 86-32

HB 7077 — Lawton Chiles Endowment and Grants and Donations Trust Fund/AHCA

by Health Care Appropriations Committee and Rep. Ambler (CS/SB 1346 by Health and Human Services Appropriations Committee and Senator Peaden)

The bill revises multiple sections of law that relate to various trust funds within the Agency for Health Care Administration (AHCA) and the Department of Children and Family (DCF) Services by:

- Requiring that nursing home facility quality assessments will be deposited into the Grants and Donations Trust Fund administered by the AHCA;
- Modifying the date for the reversion of encumbered balances remaining in the Tobacco Settlement Trust Fund from December 31, to September 30;
- Requiring that funds received from state, counties, local governments, public entities and taxing districts will be deposited into the Grants and Donations Trust Fund administered by the AHCA; and
- Specifying that assessments for assistance grants for alcohol and other drug abuse programs will be deposited into the Grants and Donations Trust Fund administered by the DCF, to reflect current practice.

The bill also removes obsolete references to the Department of Children and Family Services Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

HEALTH CARE PRACTITIONERS

HB 109 — Clinical, Counseling, and Psychotherapy Services

by Rep. Bembry and others (SB 498 by Senator Baker)

The bill provides that there is no liability and no cause of action against a licensed clinical social worker, marriage and family therapist, or mental health counselor (collectively known as psychotherapists) when the psychotherapist makes a disclosure of otherwise confidential communications regarding a patient or client to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

In order to obtain the waiver of liability, the licensed psychotherapist must make a clinical judgment that there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society, and the licensed psychotherapist may only communicate the information to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 114-0

CS/HB 185 — Access to Health Care

by Health Care Regulation Policy Committee and Rep. Hudson and others (CS/SB 702 by Banking and Insurance Committee and Senator Gaetz)

The bill adds a representative from the dental community to the Florida Healthy Kids Corporation board of directors. The member will be appointed by the Governor from three candidates who are nominated by the Florida Dental Association.

The bill creates two new provider contract prohibitions for prepaid limited health service organization (PLHSO) contracts entered into on or after July 1, 2009. Contracts between a PLHSO and a provider of limited health services may not contain provisions that prohibit or restrict the provider from contracting with other PLHSOs. The bill also prohibits PLHSOs from requiring providers to accept the terms of other health care practitioner contracts with the PLHSO, as a condition of contract continuation or renewal.

The bill authorizes health care practitioners to meet their service obligations over the biennial licensure period, rather than annually, in order to be eligible for the benefits available to health care providers who volunteer their services under the Access to Health Care Act. Practitioners who volunteer 160 hours of service over two years and provide the necessary documentation to the Department of Health are eligible for a waiver of their biennial licensure renewal fee and credit for up to 25 percent of their continuing education credits. Retired health care practitioners must volunteer 800 hours over the biennium.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 114-0

HB 387 — Medical Faculty Certificates

by Rep. Rivera (SB 1136 by Senator Gelber)

The bill increases the maximum number, from 15 to 30, of medical faculty certificates that may be issued to the faculty at each of the following institutions: the University of Florida, University of Miami, University of South Florida, Florida State University, Florida International University, University of Central Florida, and the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida. The bill increases the maximum number, from 5 to 10, of medical faculty certificates that may be issued to the faculty at the Mayo Medical School at the Mayo Clinic in Jacksonville, Florida.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/SB 720 — Physician Practice

by Health Regulation Committee and Senators Peaden, Oelrich, and Sobel

The bill prohibits a medical physician from holding himself or herself out as a board-certified specialist in dermatology unless the agency that recognizes the specialty is reviewed and reauthorized by the Board of Medicine every three years.

The bill provides that a supervising medical or osteopathic physician may not be required to review and cosign charts or medical records of a physician assistant under the physician's supervision. The bill also deletes the requirement for a supervising medical or osteopathic physician to review and sign prescription and dispensing records created by a physician assistant that the physician supervises.

The bill clarifies an exemption to physician supervision requirements in offices where hair removal is being performed by an advanced registered nurse practitioner or a physician assistant. The bill exempts offices at which the exclusive service being performed is laser hair removal by an advanced registered nurse practitioner or physician assistant from the physician supervision requirements under s. 458.348(3) and (4), F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/SB 948 — Emergency Medical Services

by Health Regulation Committee and Senator Jones

The bill authorizes the Department of Health to determine, by rule, what portion of the paramedic field internship may be satisfied aboard an advanced life supported vehicle other than an ambulance. The bill revises the minimum requirements for drivers of basic life support vehicles, advanced life support vehicles, and air ambulances. The bill eliminates the ineligibility of a person who has been convicted of reckless driving within the past three years. Additionally, the 3-year period of ineligibility for a person to become an ambulance driver is limited to when the person was initially designated as a driver.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/HB 1139 — Florida Center for Nursing

by Health Care Regulation Policy Committee and Rep. Y. Roberson and others (CS/SB 2030 by Health Regulation Committee and Senator Rich)

The bill requires the Board of Nursing to provide specified information regarding the Florida Center for Nursing to nurses at the time of licensure renewal. The Board of Nursing must provide the nurse with a summary of the center's work, a link to the center's Internet website, and the following statement: "The Florida Center for Nursing's operating revenues are derived in part from your donation. In order for the Florida Center for Nursing to continue its work on behalf of nurses, please donate."

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 115-0

CS/CS/HB 1209 — Nursing Programs

by Government Accountability Act Council; State and Community Colleges and Workforce Policy Committee; and Rep. Grimsley (CS/CS/SB 2284 by Health and Human Services Appropriations Committee; Higher Education Committee; and Senator Haridopolos)

The bill streamlines the application process for new programs for the prelicensure education of professional or practical nurses. The bill repeals the Board of Nursing's (BON's) authority to adopt rules for the approval of nursing programs and instead codifies the program standards in law. The BON must approve or deny a program within 90 days if the application documents compliance with: program standards set by the bill for faculty qualifications; clinical training and clinical simulation requirements; faculty-to-student supervision ratios; and curriculum and instruction requirements.

The BON's rulemaking authority is limited to rules that prescribe the format for nursing programs to submit program applications and summary descriptions of program compliance. The BON is prohibited from imposing any condition or requirement on a nursing program submitting

an application, an approved program, or a program on probationary status except as authorized under the bill. The BON is directed to repeal all rules in existence on July 1, 2009, that are inconsistent with the bill.

The bill requires the Florida Center for Nursing and the Office of Program Policy Analysis and Government Accountability to monitor the administration of these new requirements and report their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually through January 30, 2015.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 111-0

CS/CS/SB 1868 — Practice of Pharmacy

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peaden

The bill amends the law relating to health insurance coverage for use of drugs in the treatment of cancer to update the definition of "standard reference compendium" to mean an authoritative compendium identified by the Secretary of the United States Department of Health and Human Services and recognized by the federal Centers for Medicare and Medicaid Services.

The bill revises requirements for written prescriptions for medicinal drugs to delete a requirement that the quantity of the drug prescribed be in both textual and numerical formats and that the prescription be dated with the month written out in textual letters. The bill requires a written prescription for a controlled substance to have the quantity of the drug prescribed in both textual and numerical formats and be dated with the abbreviated month written on the face of the prescription.

If the prescriber of a controlled substance is unavailable to verify a prescription, the pharmacist may dispense the drug under specified circumstances. The pharmacist may dispense a controlled substance but may require the person to whom it is dispensed to provide valid photographic identification. The bill authorizes the pharmacist to dispense a controlled substance for a prescription that does not include the quantity or date written out in textual format without verification of the quantity or date written on the prescription. The pharmacist may do so only if the pharmacy previously dispensed another prescription for the person to whom the prescription was written.

The bill transfers a provision that exempts pharmacists from ch. 468, part XIV, F.S., relating to orthotics, prosthetics, and pedorthics, to ch. 465, F.S., the Florida Pharmacy Act.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

HEALTH CARE FACILITIES AND SERVICES

CS/CS/SB 162 — Electronic Health Records

by Governmental Oversight and Accountability Committee; Health Regulation Committee; and Senator Ring

This bill creates the "Florida Electronic Health Records Exchange Act" and defines terms related to electronic health records and the exchange thereof.

The Agency for Health Care Administration (Agency) is required to develop a universal patient authorization form to document patient authorization for the use or release of an identifiable health record. A health care provider must accept this authorization form, but is not required to use this authorization form. The bill provides for immunity from civil liability for accessing or releasing an identifiable health record in response to the universal patient authorization form and establishes liability for compensatory damages for an unauthorized release, plus attorney's fees and costs, for a person who fraudulently uses an authorization form or fraudulently obtains an identifiable health record of another person.

The bill provides for the emergency release of an identifiable health record without the patient's consent for use in the treatment of the patient for an emergency medical condition when the health care provider is unable to obtain the patient's consent or the consent of the patient's representative. A health care provider is immune from civil liability when the provider, in good faith, releases or accesses an identifiable health record of a patient in accordance with this emergency authorization.

Licensed hospitals, ambulatory surgical centers, and mobile surgical facilities are authorized to release patient records without the consent of the patient or his or her legal representative to health care practitioners and providers currently involved in the care or treatment of the patient for use only in connection with the treatment of the patient. In addition, clinical laboratories are authorized to disclose a patient's test results, without the patient's consent, to a health care practitioner or provider who did not request that the test be performed but who is involved in the care or treatment of the patient.

The bill authorizes the Agency to establish a certified electronic health record technology adoption loan program from any donations from public or private entities and federal funding from the American Recovery and Reinvestment Act of 2009, subject to a specific appropriation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

CS/SB 408 — Clinical Laboratories/Drug Tests/Human Specimens

by Judiciary Committee and Senators Fasano and Lynn

This bill eliminates the statutory requirement that initial drug tests performed in compliance with a drug-free workplace program be conducted by a licensed or certified laboratory. Confirmation

tests would still be required to be conducted by a licensed or certified laboratory. The bill also requires clinical laboratories to accept human specimens submitted for examination by Florida-licensed advanced registered nurse practitioners.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/SB 620 — Health Facilities

by Health Regulation Committee and Senator Oelrich

This bill expands the definition of a health facility for purposes of eligibility to access financing through debt issued by a health facilities authority. The additional facilities include any private corporation organized as a not-for-profit and authorized by law to provide assisted living services, hospice services, or independent living facilities and services as part of a retirement community that provides nursing home care services or assisted living services on the same campus.

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

CS/CS/HB 873 — Inactive Licenses and Certificates of Need for Health Care Providers

by Health and Family Services Policy Council; Health Care Regulation Policy Committee; and Rep. A. Williams and others (CS/SB 1926 by Health Regulation Committee and Senator Lawson)

The bill extends the period in which a certificate of need is valid from 18 months to 3 years if an applicant has not commenced construction, if the project provides for construction, or incurred an enforceable capital expenditure commitment for a project, if the project does not provide for construction. CS/CS/CS/SB 1986, which passed after this bill, modifies this extension to apply only to a certificate of need that was issued prior to April 1, 2009.

The bill also authorizes a second renewal of an inactive license for a statutory rural hospital if the licensee has plans approved by the agency and construction has commenced, if construction or renovation is required; or the licensee has made an enforceable capital expenditure greater than 25 percent of the total costs associated with the hiring of staff and the purchase of equipment and supplies needed to operate the facility upon opening, if construction or renovation is not required. The maximum period for an inactive license of a statutory rural hospital is extended from 24 months to 36 months.

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

CS/CS/CS/SB 1986 — Health Care (Licensure-related sections)

by Health and Human Services Appropriations Committee; Criminal Justice Committee; Health Regulation Committee; and Senators Gaetz, Peaden, and Lynn

This bill addresses Medicaid fraud and abuse and streamlines health facility regulation through the Agency for Health Care Administration (Agency). The sections of the bill related to licensure reduce duplicative and unnecessary regulation by:

- Eliminating duplicative reporting, certain annual reports, an outdated pilot project, a multi-agency workgroup, registration of utilization review agents, quality-of-care monitors, provisions related to dining assistance which are addressed in federal law, and the requirement for a certificate of exemption for a clinical laboratory that performs only waived tests;
- Revising conditions which qualify as an adverse event that must be reported by nursing homes and assisted living facilities. Abuse, neglect, or exploitation is no longer classified as an adverse incident and is required to be reported immediately to the central abuse hotline and within 5 days to the Agency;
- Eliminating the requirement for a nursing home to post the facility's policy and procedures regarding a resident's personal property and instead requiring the facility to provide a copy to employees and residents at admission and when revised;
- Revising provisions related to licensure and accreditation of clinics engaged in magnetic resonance imaging services;
- Modifying uniform provisions for facilities licensed by the Agency, including:
  - Revising the definition of a "change of ownership" for facility licensure and for purposes of Medicaid enrollment;
  - Eliminating the requirement for submission of a statement regarding a voluntary board member's status;
  - Requiring submission of information regarding a facility's administrator and financial officer;
  - Submission timeframes for licensure renewal applications and other applications and requests;
  - Authorizing the Agency to send documents electronically and to issue provisional licenses;
  - Providing for the Agency's communication of deficiencies, submission of corrective action plans by licensed facilities, and the classification of violations; and
  - Providing for emergency management planning and operations, including the designation of a safety liaison to serve as the primary contact for emergency operations, and inactive licenses;
- Designating additional disqualifying offenses for persons who work with facilities licensed by the Agency; and
- Deleting the requirement for the Agency to publish certain information about nursing homes in printed form and to post information about nursing home deficiencies on the

Internet since this information duplicates data available through a website maintained at the federal level.

The bill also removes the Agency from participating in the certification and regulation of 211 Network providers, prohibits any provider licensed by the Agency from knowingly discharging a patient or client to an unlicensed facility, and eliminates the requirement for the Agency to require a medical assessment of a resident in an adult living facility if it appears that the resident needs care beyond the licensed capabilities of the facility.

A specialty-licensed children's hospital is authorized to provide certain cardiovascular services as a continuum-of-care for adults with congenital heart disease without obtaining additional licensure as a provider of adult cardiovascular services.

The bill modifies the definitions of "standard reference compendium" pertaining to coverage for the use of drugs in treatment of cancer in insurance contracts to reflect the current authoritative compendia and "rural hospital" to extend the current designation as a rural hospital for certain hospitals until 2015. Finally, the bill modifies a provision passed in CS/CS/HB 873, to specify that the extension of a certificate of need only applies to certificates of need issued prior to April 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

CS/CS/SB 2658 — Fraud and Abuse in State-funded Programs

by Criminal Justice Committee; Health Regulation Committee; and Senator Baker

The bill increases the requirements for applicants for licensure as home health agencies, home medical equipment providers, and health care clinics to include: additional financial documentation and a $500,000 surety bond for non-immigrant aliens. The bill creates a moratorium on new and change of ownership home health agency licenses in counties that meet certain criteria until July 1, 2010. The bill also creates new third-degree felony offenses for certain violations relating to home health agencies, home medical equipment providers, and health care clinics.

The bill amends the Florida False Claims Act to make it more difficult to award attorney's fees to a False Claims Act defendant by specifying that if the defendant is the prevailing party in a False Claims Act case, the court *may* award attorney's fees if the court finds that the action was clearly frivolous, clearly vexatious, or brought primarily for the purposes of harassment. The bill specifies that the amendment to the Florida False Claims Act applies to any pending or future action on or after July 1, 2009.

The bill also designates Miami-Dade County as a health care fraud crisis area.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 116-0

MEDICAID/KIDCARE

CS/HB 285 — Medicaid Low-Income Pool Council

by Health Care Regulation Policy Committee and Rep. Patronis and others (CS/CS/SB 556 by Policy and Steering Committee on Ways and Means; Health Regulation Committee; and Senators Gaetz, Bennett, Detert, Dean, Wise, Smith, Fasano, Altman, Siplin, Pruitt, Lawson, Haridopolos, Lynn, and Baker)

The bill increases the membership of the Low-Income Pool (LIP) Council from 17 members to 24 members. The LIP Council advises the Agency for Health Care Administration (AHCA) on Medicaid supplemental financing, The seven additional members include:

- Two members appointed by the Speaker of the House of Representatives;
- Two members appointed by the President of the Senate;
- One member representing federally qualified health centers;
- One member representing the Department of Health; and
- One nonvoting member from the AHCA to serve as chair of the LIP Council.

The bill requires that only one of the members appointed by the Speaker of the House of Representatives must be a physician, and that only one of the members appointed by the President of the Senate must be a physician. These appointed physicians must routinely take calls in a trauma center or hospital emergency department.

The bill prohibits individuals who are registered lobbyists under s. 11.045, F.S., or s. 112.3215, F.S., from serving as members of the LIP Council, with the exception of a full-time employee of a public entity.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-0; House 117-0

HB 807 — Florida Kidcare Program Outreach Study

by Rep. Clarke-Reed and others (SB 338 by Senator Wilson)

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study the effectiveness of the Florida KidCare outreach program and submit a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010. The OPPAGA is directed to work with KidCare stakeholders and examine certain KidCare administrative procedures specified in the bill. If the OPPAGA finds shortcomings in the KidCare outreach efforts, the report must include options for improvement.

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

CS/CS/SB 918 — Florida KidCare Program Administration

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senators Rich, Lynn, Bennett, Aronberg, Sobel, Gaetz, Smith, Lawson, and Joyner

The bill makes several changes to the Florida KidCare program. The bill streamlines the KidCare application process by requiring the family income of applicants to be verified electronically. The bill removes administrative barriers to the KidCare program by:

- Decreasing the period of time that a child is disenrolled from the KidCare program for nonpayment of premiums from 60 to 30 days;
- Reducing the waiting period from 6 months to 60 days for KidCare eligibility for families that have voluntarily cancelled their employer-sponsored or private health insurance coverage; and
- Increasing the number of "good cause" reasons that families can use to voluntarily cancel their health insurance coverage and be immediately eligible for KidCare coverage without a waiting period.

The bill also adds a representative of the Department of Children and Family Services to the board of directors of the Florida Healthy Kids Corporation.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 116-0

CS/CS/CS/SB 1986 — Health Care (Fraud-related sections)

by Health and Human Services Appropriations Committee; Criminal Justice Committee; Health Regulation Committee; and Senators Gaetz, Peaden, and Lynn

The bill addresses systemic health care fraud. The bill increases the Medicaid program's authority to address fraud, particularly as it relates to home health services by:

- Requiring that home health services for Medicaid recipients be medically-necessary and ordered by a physician via a written prescription that meets the specified requirements in law.
- Requiring all Medicaid recipients to receive information once a year on how to report criminal Medicaid fraud, the Medicaid Fraud Control Unit's toll-free hotline number, and the reward program created in the bill.
- Requiring the Agency for Health Care Administration (AHCA) to post a list of all Medicaid providers that have been sanctioned or terminated for cause from the Medicaid program on its website.
- Requiring the AHCA to use technology to address health care fraud.
- Requiring the AHCA to track Medicaid provider prescription and billing patterns and evaluate them against Medicaid medical-necessity criteria and coverage limitation

guidelines adopted by rule and include this information in the Medicaid Program Integrity and Medicaid Fraud Control Unit's joint annual report.

- Requiring the Medicaid Program Integrity Unit to take action against a provider that violates s. 409.913, F.S. Previously this authority was permissive.
- Authorizing the AHCA to enroll a Medicaid provider located outside of Florida if the provider's location is no more than 50 miles from the Florida state line or the AHCA determines a need for that provider type.
- Requiring all health care facilities licensed by the AHCA to provide their clients an AHCA-written description of Medicaid fraud and the statewide toll-free telephone number for the central Medicaid fraud hotline.

The bill designates Miami-Dade County as a health care fraud crisis area and directs the AHCA to implement two pilot projects in Miami-Dade County to prevent the overutilization of home health services and control, verify, and monitor the delivery of home health services in the Medicaid program.

The bill increases health care facility and health care practitioner licensing standards to keep fraudulent actors from obtaining a health care license in Florida by:

- Requiring the AHCA to deny a license to any health care facility applicant, and the Department of Health (DOH) to deny a license, certificate, or registration to any health care practitioner applicant, if the applicant or any controlling interest has been:
  - Convicted of, or enters a plea of guilty or no contest to, a felony under ch. 409, 817, or 893, F.S., 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence or any subsequent period of probation ended more than 15 years ago;
  - Terminated for cause from the Florida Medicaid Program, unless the applicant has been in good standing with the Florida Medicaid Program for the most recent five years; or
  - Terminated for cause from the federal Medicare program or another state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the most recent five years and the termination occurred at least 20 years prior to the date of the application.
- Requiring pharmacy permit applicants to be fingerprinted and pass a state and national criminal history records check.
- Authorizing the AHCA to deny, revoke, or suspend the license of a home health agency, and requiring the AHCA to impose a fine of $5,000 against a home health agency, that demonstrates a pattern of billing the Medicaid program for medically-unnecessary services.
- Increasing the requirements for applicants for licensure as home health agencies, home medical equipment providers, and health care clinics to include additional financial documentation and a $500,000 surety bond for non-immigrant aliens.
- Prohibiting the AHCA from renewing a home health agency license, if the applicant is located in a county that has at least one home health agency and the county has more than

one home health agency per 5,000 persons, based on the most recent population estimates published by the Legislature's Office of Economic and Demographic Research, and the applicant or any controlling interest has been administratively sanctioned by the AHCA in the last 2 years for a specified list of violations.

- Creating a moratorium on new and change of ownership home health agency licenses in counties that meet certain criteria until July 1, 2010.

In addition, the bill creates incentives for persons to report incidents of Medicaid fraud by: offering monetary rewards for persons who report Medicaid fraud to the authorities; removing a disincentive to pursue an action under the Florida False Claims Act; and providing civil immunity for persons who report suspected Medicaid fraud.

The bill creates disincentives to commit Medicaid fraud directly by creating additional criminal felonies for committing health care fraud by:

- Creating a first and second degree felony for persons who commit Medicaid provider fraud. The new penalties increase in severity based on the amount of money stolen from the Medicaid program or the amount of money the provider attempted to steal.
- Requiring Medicaid providers convicted of Medicaid fraud to also pay the state a fine equal to five times the amount of money stolen from the state or the total amount of money stolen from the Medicaid program, whichever is greater.
- Creating a third degree felony for persons who apply for a home health agency, durable medical equipment, or clinic license and knowingly file information on the licensure application that is misleading or false.

The bill decreases the financial surplus requirements for entities that contract with the AHCA on a prepaid basis, including Medicaid HMOs, provider services networks, and prepaid mental health plans. The surplus requirements will be the same as for commercial HMOs.

The bill also directs the AHCA to develop a plan to implement a medical home pilot project that utilizes primary care case management enhanced by medical home networks to provide coordinated and cost-effective care that is reimbursed on a fee-for-service basis, and to compare the performance of medical home networks with other existing Medicaid managed care models.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

PUBLIC HEALTH

HB 331 — Public Health Initiatives

by Rep. Skidmore and others (SB 902 by Senator Deutch)

The bill changes the name of the Florida Public Health Foundation, Inc., to the Florida Public Health Institute, Inc.; modifies the purpose of the institute; deletes the mission statement for the institute; revises the membership of the board of directors of the institute and the terms of members; deletes the duties of the institute to facilitate communication between biomedical researchers and health providers; and requires the Florida Public Health Institute, Inc., to provide an annual report of its activities, excluding its finances, to the presiding officers in each house of the Legislature.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 36-0; House 116-1

CS/CS/SB 440 — Public Records/Department of Health/Prescription Drug Monitoring Program

by Governmental Oversight and Accountability Committee; Health Regulation Committee; and Senators Fasano and Crist

This bill makes confidential and exempt from the Public Records Law and s. 24(a), Art. I of the State Constitution identifying information, including, but not limited to, the name, address, telephone number, insurance plan number, government-issued identification number, provider number, Drug Enforcement Administration number, or any other unique identifying information or number of a patient, a patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy, that is contained in records held by the Department of Health (DOH) under s. 893.055, F.S.

CS/CS/CS/CS/SB 462, the companion bill to CS/CS/SB 440, creates s. 893.055, F.S., to establish an electronic system in the DOH for tracking controlled substance prescriptions. The DOH is required to give specified entities or persons access to the confidential and exempt information after using a verification process to ensure the legitimacy of that person's or entity's request for the information in particular instances.

This bill establishes criminal penalties for violating the provisions of the bill and subjects the exemption to future repeal and review under the Open Government Sunset Review Act. This bill provides a statement of the public necessity for the exemption.

If approved by the Governor, these provisions take effect July 1, 2009, if CS/CS/CS/CS/SB 462 or similar legislation establishing an electronic system to monitor the prescribing and dispensing of controlled substances is adopted in the same legislative session or extension thereof and becomes law.
Vote: Senate 40-0; House 115-0

CS/CS/CS/CS/SB 462 — Prescription Drugs

by Health and Human Services Appropriations Committee; Governmental Oversight and Accountability Committee; Judiciary Committee; Health Regulation Committee; and Senators Fasano, Aronberg, and Crist

The bill requires the Department of Health (DOH), by December 1, 2010, to design and establish a comprehensive electronic system to monitor the prescribing and dispensing of certain controlled substances. The bill requires prescribers and dispensers of certain controlled substances to report specified information to the DOH for inclusion in the system. When the direct support organization authorized in the bill receives at least $20,000 in nonstate moneys or the state receives at least $20,000 in federal grants for the prescription drug monitoring program, the DOH must adopt rules to implement the system. The rules must be adopted by the DOH in consultation with the Office of Drug Control and must address the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information in the system.

Data regarding the dispensing of each controlled substance must be submitted to the DOH no more than 15 days after the date the drug was dispensed, by a procedure and in a format established by the DOH, and must include minimum information specified in the bill. Any person who knowingly fails to report the dispensing of a controlled substance commits a first-degree misdemeanor. The bill provides exemptions from the data reporting requirements for controlled substances when specified acts of dispensing or administering occur for that specific act of dispensing or administration.

The Office of Drug Control, in coordination with the DOH, is authorized to establish a direct-support organization to provide assistance, funding, and promotional support for activities authorized for the prescription drug monitoring program. The bill creates a 12-member Program Implementation and Oversight Task Force within the Executive Office of the Governor to monitor the implementation and safeguarding of the electronic system established for the prescription drug monitoring program.

The bill provides immunity from liability for prescribers and dispensers who in good faith receive and use information from the prescription drug monitoring program. A person may not recover damages against a prescriber or dispenser authorized to access information under the drug monitoring program for accessing or failing to access such information.

The bill requires each physician who practices in a privately owned pain-management facility that primarily engages in the treatment of pain by prescribing narcotic medications to register the facility with the DOH, unless it is a Florida-licensed hospital, ambulatory surgical center, or mobile surgical facility. The bill creates an exemption to the registration requirements for pain management clinics, to be enforced by the Board of Medicine or the Board of Osteopathic Medicine, as applicable, for a privately owned clinic, facility, or office that advertises in any medium for any type of pain management services or employs one or more physicians who are primarily engaged in the treatment of pain by prescribing or dispensing controlled substances if

the majority of the physicians who provide services in the clinic, facility, or office primarily provide surgical services.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 103-10

HB 707 — Management of Wastewater

by Rep. Aubuchon and others (CS/SB 1296 by General Government Appropriations Committee and Senator Bennett)

The bill requires the Department of Health (DOH), when it issues a health advisory against swimming in beach waters due to bacterial contamination, to notify the appropriate local government and the local office of the Department of Environmental Protection (DEP). The DEP must investigate wastewater treatment facilities within one mile of the affected beach to determine whether a facility experienced an incident that may have contributed to the contamination. Upon completion of its investigation, the DEP must provide written notification to the local government in which the affected beach is located.

The DOH may, upon the request of any multicounty independent special district, assign the responsibility and functions for regulating public swimming pools and bathing places to the district.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 115-0

CS/SB 718 — Discretionary Sales Surtaxes

by Health Regulation Committee and Senator King

The bill amends the discretionary sales surtax provision for the "Indigent Care and Trauma Center Surtax" to delete the exclusion of a county that has a population of at least 800,000 residents and is consolidated with one or more municipalities (Duval County) from levying this surtax. The bill will have the effect of authorizing Duval County to levy the Indigent Care and Trauma Center Surtax at the rate of 0.5 percent to fund health care services for indigent and medically poor persons, as well as Level 1 trauma center services. This tax may be imposed by either an extraordinary vote of the county's governing body or by voter approval in a county-wide referendum.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/CS/SB 766 — Anatomical Gifts

by Judiciary Committee; Health Regulation Committee; and Senators Oelrich and Sobel

This bill revises Florida's anatomical gift law to incorporate certain provisions from the Revised Uniform Anatomical Gift Act of 2006. The bill:

- Defines what constitutes "reasonably available" when a procurement organization must contact a person for action with respect to making, amending, or revoking an anatomical gift;
- Establishes a priority for the purposes of an anatomical gift if a priority is not designated in the document of gift, so that an anatomical gift will be used first for transplantation or therapy if suitable, then for research or education;
- Modifies the manner and effect of making or revoking an anatomical gift;
- Provides safeguards from civil liability or administrative discipline for persons making or using an anatomical gift, the donor's estate, or persons acting on representations related to an individual's relationship to the donor;
- Provides for the validity and interpretation of certain documents of gift; and
- Provides for cooperation between the medical examiner and procurement organizations to facilitate and expedite completion of the medical examiner's responsibilities in a manner that will maximize opportunities to recover anatomical gifts.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/CS/SB 1144 — Prescription Drugs

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peaden

This bill revises the definition of "manufacturer" under the Florida Drug and Cosmetic Act to include:

- A person registered under the federal Food, Drug, and Cosmetic Act (federal Act) as a prescription drug manufacturer who has entered into a written agreement with another prescription drug manufacturer to distribute that manufacturer's prescription drugs as the drug's manufacturer, consistent with the federal Act;
- An affiliated group member of a prescription drug manufacturer who distributes prescription drugs manufactured only by other members of the affiliated group, whether or not the affiliated group member who is distributing the prescription drugs obtains title to the drugs prior to the distribution. An affiliated group is defined in the bill; and
- A licensed third party logistics provider, while providing warehousing, distribution services, or other services on behalf of the prescription drug's manufacturer.

A prescription drug manufacturer is not required to provide a pedigree paper (information about the ownership and possession of the prescription drug) upon the wholesale distribution of the prescription drugs for which it is deemed the manufacturer. The bill conforms the pedigree paper requirements to allow for a distribution within a manufacturer's affiliated group and facilitate the subsequent wholesale distributions of the drug.

In addition, the bill expands the types of business entities that are eligible to apply for a health care clinic establishment permit in order to purchase prescription drugs for use in providing health care or veterinary services.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 39-0; House 118-0

CS/HB 1269 — Breast Cancer Detection and Screening

by Health and Family Services Policy Council and Rep. Homan and others (CS/SB 1880 by Health Regulation Committee and Senators Peaden, Joyner, and Lynn)

This bill creates a breast cancer early detection and treatment referral program within the Department of Health to: promote referrals for the screening, detection, and treatment of breast cancer; educate the public regarding breast cancer and the benefits of early detection; and provide referral services for persons seeking treatment of breast cancer. The program focuses on women aged 19 to 64 who are at or below 200 percent of the federal poverty level for individuals and who do not have health insurance that covers breast cancer screening services. The bill requires the State Surgeon General to submit a report to the Legislature annually regarding breast cancer.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 117-0

CS/HB 1405 — Influenza Vaccine Information

by Health Care Services Policy Committee and Rep. Homan and others (CS/SB 2296 by Health Regulation Committee and Senator Constantine)

This bill requires child care facilities, family day care homes, and large family child care homes to provide information regarding influenza immunizations to parents of children enrolled in the facility or home during the months of August and September of each year.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 116-0

HB 7023 — Open Government Sunset Review/Florida Patient Safety Corporation

by Governmental Affairs Policy Committee and Rep. Mayfield (SB 1896 by Health Regulation Committee and Senator Lynn)

This bill repeals provisions of law creating the Florida Patient Safety Corporation (FPSC), the public records exemption and confidentiality provisions for patient safety data or other records held by the FPSC, and the public meetings exemption for portions of meetings held by the FPSC during which confidential and exempt information is discussed.

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

STATE UNIVERSITIES

CS/CS/SB 762 — State University Tuition and Fees

by Higher Education Appropriations Committee; Higher Education Committee; and Senators Pruitt, King, and Lynn

This bill authorizes each state university to charge a tuition differential subject to approval by the Board of Governors. In addition to the five state universities that currently charge the tuition differential—the University of Florida, Florida State University, the University of South Florida, the University of Central Florida, and Florida International University—the remaining six state universities are authorized to establish a tuition differential, as well.

Seventy percent of the tuition differential would be used to enhance undergraduate education and 30 percent, or the equivalent amount from private sources, would be used to provide financial aid to undergraduate students who exhibit financial need. Possible uses of the tuition differential to enhance undergraduate education include increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, reducing the percentage of students who graduate with excess hours, and other education enhancements. The bill prohibits using the tuition differential to pay the salaries of graduate teaching assistants.

The aggregate sum of tuition and the tuition differential could not increase by more than 15 percent of the total charged for these fees in the previous year. The total undergraduate tuition and fees per credit hour could not exceed the national average for undergraduate tuition at public universities.

The current requirements of the tuition differential continue to apply to students, as follows:

- The tuition differential is not covered by the Bright Futures Scholarship Program;
- Students who were in attendance at the qualifying institution prior to July 1, 2007, and who maintain continuous enrollment may not be charged the tuition differential;
- A university may waive the tuition differential for students who demonstrate unmet financial need under the criteria for the Florida Public Student Assistance Grant (FSAG); and
- Beneficiaries having prepaid tuition contracts in the Prepaid College Tuition Program in effect on July 1, 2007, are exempt from the payment of the tuition differential.

The Board of Governors must issue a report to the Governor, Senate President, House Speaker, and Commissioner of Education regarding the implementation of the tuition differential.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 30-7; House 101-17

SB 234 — State University Presidents

by Senators Gaetz and Lynn

This bill authorizes the state university boards of trustees to appoint, terminate, and establish the terms and conditions of employment of university presidents. The bill would eliminate the Board of Governors' role in the selection and appointment of university presidents.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 118-0

CS/SB 554 — Legal Jurisdiction of Campus Police

by Higher Education Appropriations Committee and Senator Dean

This bill expands the jurisdiction of state university police officers to enforce the law. In particular, the bill authorizes state university police officers to:

- Enforce laws within defined jurisdictional areas as agreed upon in a mutual aid agreement with another law enforcement agency;
- Enforce traffic laws when the violations occur within 1,000 feet of any university owned or controlled property or facilities;
- Enforce traffic laws beyond the 1,000-foot threshold when hot pursuit originates on university property or within 1,000 feet of university owned or controlled property or facilities, or as agreed upon in accordance with a mutual aid agreement;
- Arrest persons for violations of state law or applicable county or city ordinances if the violation occurs on or within 1,000 feet of university owned or controlled property or facilities; and
- Arrest persons for violations of state law or applicable county or city ordinances beyond the 1,000-foot threshold when hot pursuit originates on university property or within 1,000 feet of university owned or controlled property or facilities, or as agreed upon in accordance with a mutual aid agreement.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 115-1

HB 7041 — Public Records and Meetings Exemption, Florida Institute for Human and Machine Cognition, Inc.

by Governmental Affairs Policy Committee and Rep. Eisnaugle (CS/SB 1902 by Governmental Oversight and Accountability Committee and Higher Education Committee)

This bill would reenact the public records and public meetings exemptions for the Florida Institute for Human and Machine Cognition, Inc., as recommended by Senate Interim Project 2009-213.

The following information held by the Florida Institute for Human and Machine Cognition, Inc., is confidential and exempt from public disclosure requirements:

- Information relating to methods of manufacture;
- Potential trade secrets;
- Patentable material;
- Actual trade secrets;
- Business transactions;
- Identification of a donor or prospective donor who wishes to remain anonymous; and
- Information that is otherwise exempt under Florida law or under the laws of the state or nation from which a person provides the information to the institute.

The law also provides a public meetings exemption for that portion of a meeting at which information is presented or discussed that is confidential or exempt from public disclosure requirements.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 75-37

STATE COLLEGES, COLLEGES, AND COMMUNITY COLLEGES

CS/CS/SB 2682 — Florida College System

by Higher Education Appropriations Committee; Higher Education Committee; and Senator Pruitt

The bill implements some of the recommendations of the Florida College System Task Force and the State College Pilot Project. In particular, the bill would:

- Rename the Division of Community Colleges within the Department of Education as the Division of Florida Colleges;
- Define the colleges' service areas;
- Authorize a community college to change its name to college or state college if it has been authorized to grant baccalaureate degrees and has been accredited to do so by the Commission on Colleges of the Southern Association of Colleges and Schools, or, alternatively, with board-of-trustees and State Board of Education approval;

- Require the college to seek a statutory codification of the name in the year following the college's name change;
- Revise the primary mission of the community colleges to include upper level instruction and awarding baccalaureate degrees as authorized by law;
- Provide an opportunity for private institutions and state universities to propose an alternative baccalaureate program to one proposed by a Florida college;
- Require a Florida college's baccalaureate degree proposal to include:
  - A description of the planning process and timeline for implementation;
  - An analysis of workforce demand and unmet need for graduates of the program on a district, regional, or statewide basis, as appropriate;
  - Identification of the facilities, equipment, and library and academic resources that would be used to deliver the program;
  - The program cost analysis of creating a new baccalaureate degree when compared to alternative proposals and other program delivery options;
  - The program's admission requirements, academic content, curriculum, faculty credentials, student-to-teacher ratios, and accreditation plan;
  - The program's enrollment projections and funding requirements; and
  - A plan of action if the program is terminated;
- Require colleges to continue associate degree programs after receiving approval to offer a baccalaureate degree;
- Provide for an exemption from State Board of Education approval for colleges that meet certain criteria;
- Retain St. Petersburg College's authority to provide baccalaureate degrees as the college's board of trustees decide is necessary in its service area.

Finally, the bill renames certain colleges and community colleges.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 118-0

CS/HB 739 — Community College Transportation Fees

by State and Community Colleges and Workforce Policy Committee and Rep. Chestnut and others (CS/CS/SB 622 by Higher Education Appropriations Committee; Higher Education Committee; and Senator Oelrich)

This bill authorizes each community college board of trustees to establish a transportation access fee which could not exceed $6.00 per credit hour. An increase in the fee could only occur once each year and would have to be implemented in the fall term. The fee would not be covered by the Bright Futures Scholarship Program.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 37-1; House 108-4

FLORIDA PREPAID COLLEGE PROGRAM

CS/CS/SB 606 — Florida Prepaid College Program

by Higher Education Appropriations Committee; Higher Education Committee; and Senators Wise, Fasano, Gardiner, and Storms

This bill permits beneficiaries of prepaid contracts to transfer the benefits of a prepaid contract to any eligible educational institution as defined in s. 529 of the Internal Revenue Code. The bill permits Florida Prepaid College Program beneficiaries the maximum choice permitted under s. 529 of the Internal Revenue Code in selecting an educational institution at which the benefits of their plans could be used.

The bill requires that any advertisement disseminated by a for-profit educational institution which references the Florida Prepaid College Program must state that the Florida Prepaid College Board does not endorse any particular educational institution.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 119-0

CS/HB 281 — Prepaid College Programs

by State Universities and Private Colleges Policy Committee and Rep. Weinstein and others (SB 1426 by Senator Wise)

This bill would permit certain purchasers of prepaid contracts for prepaid tuition scholarships to receive a refund for the redemption value of the unused portion of the prepaid contracts at state postsecondary institutions when the refund is used exclusively to fund the purchase of additional prepaid scholarship contracts. The bill only applies to the following entities:

- A purchaser of prepaid contracts that is a non-profit organization as described in s. 501(c)(3) of the U.S. Internal Revenue Code, that is exempt from taxation under s. 501(a) of the U.S. Internal Revenue Code, and that provides a scholarship program which is approved by the Florida College Prepaid Board; and
- The Florida Prepaid College Board direct support organization (Florida Prepaid College Foundation).

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

DISTANCE LEARNING

HB 7121 — Postsecondary Distance Learning

by Education Policy Council and Rep. Culp and others (CS/SB 844 by Higher Education Committee and Senator Oelrich)

This bill enacts recommendations of the Florida Distance Learning Task Force. The Florida Distance Learning Consortium is established to:

- Facilitate collaboration among public institutions in their use of distance learning;
- Increase student access to courses;
- Support institutions in their use of technology;
- Help build partnerships among the institutions, businesses, and communities;
- Manage and promote the Florida Higher Education Distance Learning Catalog;
- Consult with the Florida College System and the State University System to develop a plan for an automated, on-line registration process;
- Coordinate the negotiation of statewide licensing and preferred pricing agreements; and
- Develop and operate a central instructional content repository.

The Board of Governors and the State Board of Education would jointly oversee the consortium.

The bill defines a distance learning course as one in which at least 80 percent of the direct instruction of the course is delivered using some form of technology when the student and instructor are separated by time, space, or both. A community college or state university course would have to meet this definition in order for the institution to assess the distance learning course user fee.

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

CS/CS/SB 1696 — Higher Education Funding

by Policy and Steering Committee on Ways and Means; Higher Education Appropriations Committee; and Senator Lynn

This bill revises higher education funding statutes to conform them to the General Appropriations Act (GAA). The bill:

- Modifies the Bright Futures Scholarship Program to: (1) require a refund for courses withdrawn or dropped by students after the end of the drop and add period; (2) require that full-time students complete at least 24 semester hours, or the equivalent, per academic year for renewal of the scholarship; (3) remove college-related expense awards for Academic Scholars; (4) prohibit conversion of Gold Seal Awards to Medallion Awards; and (5) provide authorization to establish award levels in the General Appropriations Act.
- Establishes a new Prepaid College Plan payment methodology to state universities on behalf of beneficiaries of Prepaid College Plan contracts purchased prior to July 1, 2009. The payment methodology specifies the level that the Prepaid College Board will pay for tuition increases, tuition differential increases, dormitory, and local fee increases each year, within a reasonable range based on fund reserve. An advance payment contract may also be offered that covers registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered, as well as a new plan with incremental credit hour increases.
- Authorizes the Board of Governors, or the board's designee, to increase tuition and out-of-state fees for university graduate programs by up to 15 percent each year, instead of by 10 percent as currently authorized; requires a 50 percent tuition surcharge after 120 percent of required credit hours for resident students; and modifies standards for converting to resident status for tuition purposes.
- Provides flexibility to state and community colleges by deleting an expenditure restriction on tuition revenue; makes a technical revision to the reporting date for the community college distance learning fee revenue; and, modifies community college baccalaureate program statutory language relating to state support and tuition to be "as provided in the General Appropriations Act."
- Limits severance payouts for employees of community colleges, the state university system, and the Board of Governors to one year's salary from state funds.
- Requires notice of state match delay for Community College and State University Facilities and Operating Challenge Grant donations, and allows Community Colleges and Universities to begin construction of facilities projects using existing donations.
- Revises provisions relating to several state student financial assistance programs to clarify eligibility criteria, remittance of unpaid balances and to clarify that award amounts may be prorated based on legislative appropriations; deletes the Ethics in Business

Scholarship Program for state universities and community colleges; and requires annual reporting from all institutions that participate in state-funded student financial assistance programs.

- Provides for consistent reporting requirements for private colleges and universities that receive state appropriations; provides a student fee cap exemption, for 2009-2010 only, to allow Florida State University to increase the student health fee for the purpose of constructing a health service center; and for next year, prohibits state universities from establishing a new requirement for student health insurance coverage.
- Authorizes the Division of Vocational Rehabilitation to review all available service options and to make decisions based on cost effectiveness and the best interests of the client when providing vehicle modifications to eligible persons.
- Places the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute as a unit of the University of South Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-7; House 82-36

COURT-RELATED PROCEEDINGS

CS/SB 2198 — Tobacco Settlement Agreements

by Judiciary Committee and Senator Haridopolos

This bill provides that in civil actions against a signatory, or a successor, parent, or affiliate of a signatory (hereinafter appellants), to a tobacco settlement agreement, brought by persons who have been decertified from a class action lawsuit, the trial court must automatically stay the execution of any judgments during the pendency of all appeals, upon provision of security to the clerk of the Florida Supreme Court.

The amount of security required in each case is equal to the lesser of the amount of the judgment to be stayed or an amount determined by the following tiers of judgments on appeal in Florida courts:

From # appeals	To # appeals	Amount of security per judgment	Maximum Total (all security)
1	40	$5,000,000	$200,000,000
41	80	$2,500,000	$200,000,000
81	100	$2,000,000	$200,000,000
101	150	$1,333,333	$199,999,950
151	200	$1,000,000	$200,000,000
201	300	$666,667	$200,000,100
301	500	$400,000	$200,000,000
501	1,000	$200,000	$200,000,000
1,001	2,000	$100,000	$200,000,000
2,001	3,000	$66,667	$200,001,000

Security amounts are adjusted as the number of cases on appeal changes. In cases having multiple defendants, an individual appellant's required security is proportionate to the percent or amount of liability specifically allocated against that appellant in the judgment. If liability is not specifically allocated in the judgment, the required security is a share of the unallocated portion of the judgment determined by dividing that portion of the judgment equally among all defendants. Once an appellant has provided its required security, that appellant is entitled to a stay of that judgment regardless of whether any other defendants provide security.

When there is no appellate review pending in a Florida court and an appeal is taken outside of Florida, including a review by the United States Supreme Court, the security required to stay the execution of a judgment is equal to the lesser of the amount of the judgment to be stayed or three times the security required to stay a judgment pending appellate review in Florida courts at the time appellate review outside of Florida is sought.

All security must be posted or paid into the registry of the clerk of the Florida Supreme Court. The clerk can collect fees and interest for receipt of the security. All fees and interest collected shall be deposited into the State Courts Revenue Trust Fund.

It is the intent of the Legislature that the clerk of the Florida Supreme Court maintain a record of the number of appeals in Florida courts and all security posted. Additionally, an appellant must maintain an accounting of security paid and provide an updated copy of the accounting to the clerk of the Florida Supreme Court by July 15 of each year. By August 1, 2009, an appellant must provide to the clerk of the Florida Supreme Court a list of all civil actions against that appellant that are covered by the bill. An appellant must update the clerk on any additional actions filed within 60 days after the additional actions are joined.

If an appellant fails to pay a judgment within 30 days of it becoming final, the appellee may claim the security for that judgment provided by that appellant.

The security limits provided in the bill for civil actions brought by or on behalf of persons who claim or have been determined to be members of a former class action that was decertified in whole or in part expires on December 31, 2012.

The current statutory cap of $100 million on security for appeals against certain cigarette manufacturers remains in effect for all other cases.

If approved by the Governor, these provisions take effect upon becoming law and apply to all judgments entered on or after that date.
Vote: Senate 29-10; House 100-17

HB 949 — Nonrecognition of Foreign Defamation Judgments

by Rep. Van Zant and others (SB 1066 by Senators Aronberg and Deutch)

This bill provides that a Florida court is not required to recognize a defamation judgment obtained outside the United States, unless the court determines that the defamation law applied in the foreign court's adjudication provided at least as much constitutional free speech protection as would be provided by the United States and Florida constitutions. Additionally, the bill provides Florida courts personal jurisdiction over any person who obtains a foreign defamation judgment against any person who:

- Is a resident of this state;
- Is a person or entity amenable to the jurisdiction of this state;
- Has assets in this state; or
- May have to take action in this state to comply with the judgment.

The bill provides Florida courts personal jurisdiction for the purpose of rendering declaratory relief with respect to a person's liability for a foreign defamation judgment and for determining whether the foreign defamation judgment should be considered nonrecognizable.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 115-0

CS/SB 258 — Petition for Name Change/Criminal History Check

by Judiciary Committee and Senator Wise

This bill requires that a person filing a petition for a name change have fingerprints submitted for a state and national criminal history records check prior to the court hearing on the petition. Consistent with existing law, those seeking to restore a former name are exempt from the fingerprint requirement and therefore the criminal background check. In addition, the bill retains the exemption for name changes in connection with proceedings for adoptions and dissolutions of marriage from the petition procedures listed under s. 68.07, F.S.

Under the bill, when the name-change petition is filed, the clerk of court will instruct the petitioner on the fingerprint process and provide a list of entities authorized to take fingerprints. The authorized entity will submit the fingerprints electronically to the Florida Department of Law Enforcement (FDLE or the department) to perform a state criminal history records check. In turn, FDLE will forward the prints to the Federal Bureau of Investigation (FBI) for a national criminal history records check. The department will then send the results of the state and national criminal history check to the clerk of court, and the court will use the results to review the information filed by the petitioner and to evaluate whether to grant the petition.

The petitioner for the name change, or the parent or guardian of a minor for whom a name change is being sought, shall bear the cost of processing fingerprints and conducting the criminal history records check.

As a result of the bill, the hearing on a petition for a name change may only be held after the clerk receives the results of the criminal history check. However, as under existing law, a hearing on a petition for restoring a former name may be held immediately after the petition is filed. Following the name change hearing, the clerk will send a final report of the judgment to FDLE along with the results of the criminal history check.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 119-0

CS/SB 412 — Service of Process

by Criminal and Civil Justice Appropriations Committee and Senator Crist

Service of Process

The bill increases fees charged by a sheriff in connection with docketing and service of process in civil cases to $40 from $20. The bill also deletes the provision of law that prohibits additional fees to be charged by the sheriff for service of alias and pluries documents when service was not effected on the original document. The State of Florida and its agencies are exempted from the

increase in fees, as well as the additional fees imposed for service of alias and pluries writs. In addition, the bill:

- Permits special process servers and certified process servers to serve criminal witness subpoenas and criminal summonses; and
- Permits sheriffs to return to the clerk unserved writs that have been on a docket prior to October 1, 2001.

Execution Sale and Notice Procedure

The bill also expands the execution sale and notice procedure to apply in the real property context in addition to the personal property context. More specifically, the bill:

- Clarifies that the sheriff will provide notice of an execution sale prior to the advertisement of the sale to the judgment debtor;
- Includes references to mortgages and other liens against real property to ensure that these lienholders also receive notice of the execution sale;
- Requires creditors to identify in an affidavit provided to a sheriff the liens recorded on real property subject to an execution sale;
- Clarifies that the affidavit must identify all judgment liens, mortgages, financing statements, tax warrants, and other liens against real property and must include name and address information of each lienholder;
- Clarifies that the levying creditor can either perform or review the title search regarding the real property that is the subject of the affidavit;
- Specifies the priority in which proceeds will be distributed from the execution sale of real and personal property;
- Clarifies that when the creditor's title search affidavit discloses the existence of any junior mortgages or other real property liens, the proceeds will be paid into the court registry for distribution among the holders of any junior real property liens; and
- Provides that any surplus from the execution sale is provided to the "owner of the property sold" rather than to the "defendant";

Domestic and Sexual Violence Cases

The bill permits sheriffs to serve facsimile copies of protective injunctions instead of certified copies of protective injunctions in domestic and sexual violence cases. In addition, the bill provides that law enforcement may arrest a person when probable cause exists that the person has violated a condition of pretrial release when the original arrest was for an act of dating violence.

Additional Court Cost Liens

The bill directs the clerk of court to record in the official records a court order imposing county-authorized additional court costs, under s. 939.185, F.S., when a person commits a felony, misdemeanor, delinquent act, or criminal traffic violation. The bill further provides that the order becomes a lien attaching to the person's real and personal property. The lien will be enforceable in the manner provided by law for other liens. The bill creates an exception under which a lien will not attach to real or personal property protected from forced sale under the homestead and other exemption provisions of s. 4, Art. X, State Constitution.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 116-0

CLERKS OF COURT

CS/CS/SB 2108 — Clerk of Court Funding

by Policy and Steering Committee on Ways and Means; Judiciary Committee; and Senator Pruitt

Clerks of the Court Budget

The bill revises the method for setting the budgets of the clerks of court. The clerks' budgets will no longer be based on the projected revenue increase for each clerk and set by the Florida Clerks of Court Operations Corporation (corporation). Instead, each clerk will prepare a budget request for the last quarter of the county fiscal year and the first three quarters of the next fiscal year and submit it to the corporation by October 1 of each year. The budget proposal will be based on four core services. Under each of the core services, the clerks will propose specific services along with a proposed unit cost. The Chief Financial Officer will assist the clerks and the corporation in developing the unit costs.

The corporation and the Chief Financial Officer will recommend unit costs for each clerk and a statewide total budget for all 67 clerks based on the unit costs and projected workload and make its recommendations to the Legislature and the Supreme Court by December 1 of each year. The Legislature will accept, reject, or modify the proposed unit costs and appropriate the clerks' statewide total budget each year in the General Appropriations Act. The corporation will then release funding quarterly to each clerk based on the previous quarter's performance of service units using the approved unit costs.

To phase in the changes made in the clerk budgeting process, the bill specifies that, for FY 2009-2010, the corporation must release funds monthly to individual clerks based on the statewide total appropriated in the General Appropriations Act. Beginning in FY 2010-2011, the new budgeting system required in the bill will be used to appropriate the clerks' budgets.

Florida Clerks of Court Operations Corporation

The bill provides that the corporation is the budget entity for the clerk of courts and is administratively housed in the Justice Administrative Commission (JAC). The corporation is not subject to the supervision or control of the JAC. Funding for the corporation and the clerks will be appropriated to this entity in the General Appropriations Act. Employees of the corporation are considered state employees and must be under the JAC's pay plan. However, employees of the corporation are not classified as career service employees. The corporation is excluded from ch. 120, F.S. (Administrative Procedure Act), as the other entities within the JAC are also not subject to ch. 120, F.S. The corporation will prepare a legislative budget request pursuant to ch. 216, F.S., for its operations.

In addition to the eight clerks of the court currently comprising the executive council of the corporation, the bill provides that one designee of the President of the Senate and one designee of the Speaker of the House of Representatives will be added to the council as ex officio members. The Chief Justice of the Florida Supreme Court must designate one additional member to represent the state courts system.

Collection of Fees

Under the bill, the court-related revenue collected by the clerk is remitted to the Clerks of Court Trust Fund (trust fund). The trust fund is transferred from within the Department of Revenue to the Justice Administrative Commission. The bill splits the current $5.00 of the first $85 of the $295 for initial filing fees in circuit court between the Department of Financial Services ($1.50) for performing clerk audits and the Florida Clerk of Courts Operations Corporation ($3.50) for funding its operations. (Previously, the $5.00 was deposited into the Department of Financial Services Administrative Trust Fund).

In addition, language requiring clerks to submit one-third of county filing fees to the state is removed because, under the bill, all clerk revenues will be remitted to the state. Ten percent of all court-related fines collected by the clerk must be deposited into the clerk's Public Records Modernization Trust Fund to be used exclusively for additional court-related operational needs and program enhancements.

OPPAGA Study

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Chief Financial Officer and the Auditor General, to study the efficiency of the operations and functions of the clerks of court and the courts. More specifically, OPPAGA is tasked with evaluating who is performing each court-related function, how each function is funded, and how efficiently these functions are performed. The Office of Program Policy Analysis and Government Accountability is required to report its findings to the President of the Senate and the Speaker of the House of Representatives by January 15, 2010.

Technology Review Workgroup

The Technology Review Workgroup must develop a proposed plan for identifying and recommending options for the implementation and integration of the clerk and court information technology systems. The plan must:

- Describe the approaches and processes for evaluating the existing computer systems and data-sharing networks of the state courts system and the clerks of the court;
- Identify the required business and technical requirements; and
- Examine the use of the additional service charges collected that are related to storage and access of public records.

The bill also limits clerk of court information technology purchases during the period of the study.

Miscellaneous Changes to Clerk Functions

The bill makes other changes including the following:

- Requires clerks to use collection agents for uncollected amounts due after 90 days;
- Requires the clerks to maintain office hours with the consent of the chief judge;
- Clarifies that the clerk must charge a fee not to exceed $70 if a judicial sale is conducted by electronic means, in addition to the fee already assessed against the winning bidder for clerk services in making, recording, and certifying the sale and title;
- Specifies that the costs of electronic tax deed sales must be added to the other charges for the cost of these sales, including charges related to notice, which are included in the bid of the certificateholder of the property;
- Increases the surcharge imposed to fund a state court facility which a board of county commissioners or local government may charge, in addition to other penalties for noncriminal traffic infractions and other criminal traffic violations, to $30 from $15;
- Authorizes the board of county commissioners or certain local governments to impose a surcharge for any traffic infraction or criminal traffic offense for the purpose of securing payment of the principal and interest on bonds issued by the county on or after July 1, 2009, to fund state court facilities; and
- Requires the clerks to submit expenditure data to comply with the Transparency in Government Spending requirements of SB 1796.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 75-32

REAL PROPERTY, PROBATE, AND TRUST LAW

CS/CS/SB 1552 — Lis Pendens

by Banking and Insurance Committee; Judiciary Committee; and Senator Bennett

This bill amends the law relating to a notice of lis pendens, which is a recorded notice that certain property interests may be affected by a lawsuit. Specifically, the bill amends the law to:

- Permit property to be sold exempt from claims asserted in an action when the lis pendens has expired or been withdrawn or discharged;
- Extend the time for a holder of an unrecorded interest to intervene in the action;
- Simplify the information necessary for filing a valid lis pendens; and
- Provide for the control and discharge of a lis pendens that no longer affects the property.

This bill stems from legislative recommendations of the Real Property, Probate, and Trust Law Section of the Florida Bar.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 115-0

CS/HB 599 — Administration of Estates

by Governmental Affairs Policy Committee and Rep. Hukill and others (SB 1396 by Senator Aronberg)

This bill stems from legislative recommendations of the Real Property, Probate, and Trust Law Section of The Florida Bar pertaining to the administration of estates of decedents and the Florida Uniform Disclaimer of Property Interests Act. The bill makes the following changes:

- Provides a definition of "minor" for purposes of the Probate Code;
- Deletes the definition of "incompetent" and replaces it with the definition of "incapacitated" for purposes of the Probate Code;
- Amends the statute of limitations for determining paternity in probate proceedings;
- Makes clarifications to provisions addressing the elective share;
- Modifies provisions relating to the assessment of attorney's fees and costs when a request for the elective share is withdrawn, and adds a provision for the assessment of fees and costs when an election is not made in good faith;
- Updates limitations on exempt property by:
  - Increasing the dollar limitation on household goods from $10,000 to $20,000;
  - Changing the personal automobile exemption to a personal "motor vehicle" exemption based on gross weight and limiting the exemption to two motor vehicles; and
  - Including all qualified tuition plans authorized by Internal Revenue Code s. 529;

- Clarifies that, in instances in which the petitioner for summary administration is also the trustee of a trust that is a beneficiary of the decedent's estate, the beneficiaries of the trust are to be made aware of the petition for summary administration;
- Adds a savings provision to the Florida Uniform Disclaimer of Property Interests Act (FUDPIA) intended to protect practitioners from inadvertently disqualifying certain post-mortem disclaimers under relevant sections of the Internal Revenue Code;
- Modifies provisions of the FUDPIA to add consistency and correct minor typographical errors; and
- Adds a provision to ensure that the traditional statutory prohibition on disclaimers by insolvent beneficiaries remains unquestionably intact.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 114-0

CS/HB 631 — Estate Inventories and Accountings; Public-Records Exemptions

by Civil Justice and Courts Policy Committee and Rep. Hukill and others (CS/SB 1400 by Judiciary Committee and Senator Aronberg)

This bill requires confidentiality for and exempts from public-records requirements:

- Estate inventories filed in an estate proceeding;
- Any inventory of the elective estate; and
- Any accounting filed in the estate proceeding.

It provides that the confidential and exempt records shall be disclosed by the custodian for inspection or copying to the personal representative, the personal representative's attorney, an interested person as prescribed by statute, or by court order upon a showing of good cause. The bill provides that the public-records exemptions are subject to repeal and review under the Open Government Sunset Review Act and provides a statement of public necessity for the public-records exemptions.

This bill stems from legislative recommendations of the Real Property, Probate, and Trust Law Section of The Florida Bar.

If approved by the Governor, these provisions take effect on July 1, 2009, if HB 599 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.
Vote: Senate 40-0; House 114-0

CS/HB 965 — Trust Administration

by Civil Justice and Courts Policy Committee and Rep. Grady and others (CS/CS/SB 1958 by Banking and Insurance Committee; Judiciary Committee; and Senator Gelber)

This bill stems from legislative recommendations of the Real Property, Probate, and Trust Law Section of The Florida Bar pertaining to the Florida Trust Code. The bill makes the following changes:

- Amends the definition of "beneficiary" to clarify that a permissible appointee is not a beneficiary unless the power of appointment is irrevocably exercised in favor of the appointee;
- Provides that persons who take trust property if a power of appointment is not exercised ("takers in default") may represent and bind permissible appointees;
- Provides that a trust settlor creating a trust in Florida cannot designate the law of another state to govern the meaning and effect of the trust terms unless there is some demonstrable connection between the trust and the designated state;
- Provides that the designated representative must be specifically nominated. It also provides that the trust instrument may also authorize any person or persons, other than a trustee of the trust, to designate one or more persons to represent and bind a beneficiary and receive any notice, information, accounting, or report;
- Allows for the delegation of investment functions to a qualified cotrustee even if the settlor reasonably expected the cotrustees to perform certain functions jointly;
- Applies the fiduciary delegation rules of s. 518.112, F.S., to delegation of investment functions of a trustee;
- Clarifies that except in cases of willful misconduct on the part of the trustee with the authority to direct or prevent actions of the trustees of which the excluded trustee has actual knowledge, an excluded trustee is not liable as a consequence of the trustee's actions; and
- Clarifies that the distribution date to the beneficiary of a trust refers to the time that the right to possession or enjoyment arises and is not necessarily the time that any benefit of the right is realized.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 115-0

TAX LAW

CS/CS/CS/SB's 2430 and 1960 — Taxation of Documents

by Policy and Steering Committee Ways and Means; Finance and Tax Committee; Judiciary Committee; and Senators Lawson and Gelber

Discretionary Surtax on Documents

This bill extends the authority of Miami-Dade County to impose a discretionary excise tax on documents subject to tax pursuant to ch. 201, F.S., in order to finance the Housing Assistance Loan Trust Fund. Absent the extension of the surtax, there would be an automatic imposition of the statewide rate of 70 cents per $1,000 effective on October 1, 2011. However, with the extension of the surtax, the state tax on deeds in Miami-Dade County will remain at 60 cents per $1,000. The bill extends the authority for Miami-Dade County to assess the discretionary surtax on documents by providing that the surtax will sunset on October 1, 2031.

In addition, the bill:

- Describes how the funds are to be allocated among the Department of Revenue's administrative costs, homeownership assistance, and rental housing units;
- Defines homeownership assistance;
- Authorizes creation of a housing assistance voucher program, under which vouchers may be used for down payment assistance for the purchase of single-family residences by low-income or moderate-income persons;
- Requires counties that levy the surtax (currently Miami-Dade County is the only county eligible) to adopt a housing plan every three years, to have adopted an affordable housing element of its comprehensive plan, and to have a report prepared for the county's governing body that explains how the housing assistance program is being implemented; and
- Provides for the Legislature's Office of Program Policy Analysis and Government Accountability to regularly review the surtax program and report to the President of the Senate and the Speaker of the House of Representatives.

In providing for the allocation of surtax revenues, the bill requires that no less than 35 percent shall be used to provide homeownership assistance for low-income and moderate-income families, and no less than 35 percent for construction, rehabilitation, and purchase of rental housing units. The remaining amount is to be allocated for homeownership assistance or rental housing units, at the county's discretion.

Transfer of Beneficial Ownership of Real Property

This bill expresses legislative findings and intent related to a 2005 decision of the Florida Supreme Court holding that the transfer of property between a grantor and its wholly owned grantee, absent any exchange of value, is without consideration or a purchaser and thus not

subject to the documentary stamp tax. Specifically, the bill states that the Supreme Court's decision in *Crescent Miami Center, LLC v. Florida Department of Revenue*, 903 So. 2d 913 (Fla. 2005), is inconsistent with the intent of the Legislature because it permits tax avoidance. Rather, the bill notes, the prior holding of the district court of appeal in this same case prevents tax avoidance and therefore is consistent with the intent of the Legislature at the time the relevant statute – s. 201.02, F.S. – was amended in 1990. Finally, the bill expresses the intent of the Legislature to impose documentary stamp tax when the beneficial ownership of real property is transferred to a new owner by the use of techniques applicable in the Supreme Court case in combination with transfers of ownership of, or distributions from, artificial entities.

Additionally, the bill amends s. 201.02, F.S., to provide for the application of documentary stamp tax on certain conveyances of property involving a conduit entity and to impose documentary stamp tax on the transfer for consideration of a beneficial interest in real property. Specifically, when a grantor conveys property to a conduit entity, and the grantor's ownership interest in the conduit entity is subsequently transferred for consideration within three years, tax shall be imposed on each transfer of an interest in the conduit entity at the rate of 70 cents for each $100 of the consideration paid or given in exchange for the interest. The bill provides that a gift of an ownership interest in a conduit entity shall not be taxed to the extent there is no consideration in the transaction. The bill further provides that certain transfers for estate-planning purposes of an interest in a conduit entity to an irrevocable grantor trust are not subject to tax. The bill authorizes the Department of Revenue to adopt emergency rules to implement these changes. Under the provisions of the bill, the amendments to this statute apply to transfers for which the first transfer to a conduit entity occurs after July 1, 2009.

Documentary Stamp Tax Revenue Distributions

The bill provides for priority distribution of documentary stamp tax revenue for the benefit of Florida Forever bonds, Everglades Restoration bonds, and Preservation 2000 bonds issued prior to July 1, 2009, when required to meet these bond obligations.

If approved by the Governor, these provisions take effect July 1, 2009, except as otherwise expressly provided in the act.
Vote: Senate 39-0; House 118-0

PUBLIC RECORDS

HB 7037 — Open Government Sunset Review/Federal Attorneys and Judges

by Governmental Affairs Policy Committee and Rep. McBurney and others (CS/SB 1342 by Judiciary Committee)

This bill reenacts the public-record exemptions, for specified personal information relating to current or former U.S. attorneys and assistant U.S. attorneys and current or former federal judges and magistrates, found in s. 119.071(4)(d)3. and 4., F.S. The information covered by the public-

records exemptions includes: the home addresses, telephone numbers, social security numbers, and photographs of these officials; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of their spouses and children; and the names and locations of schools and day care facilities attended by their children. The exemptions will expire on October 2, 2009, unless saved from repeal through reenactment by the Legislature.

The bill reenacts the exemptions and makes amendments to s. 119.071, F.S., that include:

- Relocating, revising, and combining the public-records exemptions provided for identification and location information concerning federal attorneys, judges, and magistrates;
- Defining the term "identification and location information";
- Eliminating social security numbers from the scope of information covered by the combined public-records exemption because there is an existing public-records exemption for social security numbers in s. 119.071(5), F.S.; and
- Requiring a federal attorney, judge, or magistrate to provide a written statement that efforts have been made to protect the information from disclosure through other means.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 114-0

DOMESTIC SECURITY

HB 7017 — Public Records/Building Plans Held by an Agency

by Governmental Affairs Policy Committee and Rep. Plakon (SB 754 by Military Affairs and Domestic Security Committee)

The bill reenacts an existing public records exemption for building plans, blueprints, schematic drawings, and diagrams which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development. The exemption applies to draft, preliminary, and final formats of such plans. The bill responds to a legislative finding that such facilities should be protected from potential acts of terrorism.

This bill reenacts and amends s. 119.071(3)(c), F.S.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 114-0

CS/HB 7141 — Seaport Security

by Full Appropriations Council on General Government and Health Care; Criminal and Civil Justice Policy Council; and Rep. Adams (CS/CS/CS/SB 2684 by Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee; Military Affairs and Domestic Security Committee; and Senator Lynn)

This bill makes a number of revisions to existing Florida law relating to seaport security substantially reducing the cost of credentialing for port workers while improving overall seaport security efficiency. These revisions include:

- Aligning state definitions of secure and restricted access areas within a seaport with federal definitions;
- Allowing all or part of a seaport listed in s. 311.09, F.S. to be exempted from the seaport security standards provided in law if a determination is made that activity associated with such facilities is not vulnerable to criminal activity or acts of terrorism;
- Establishing the federal Transportation Worker Identification Credential (TWIC) as the only credential authorized for use by the seaports listed in s. 311.09, F.S., when granting access to secure and restricted access areas;
- Maintaining a requirement for a criminal history background check of crimes committed in Florida when determining access eligibility for secure and restricted assess areas;
- Aligning state criminal offenses that disqualify a person for unescorted access to secure and restricted access areas with federal disqualifying offenses under the TWIC program;

- Creating an affidavit process for determining access eligibility for TWIC holders that reduces and consolidates state fees for port workers;
- Establishing an Access Eligibility Reporting System that provides a centralized secure database for use by seaports when granting or denying persons access to secure and restricted access areas. The Department of Law Enforcement is authorized to create a pilot project in order to design, test, and implement the system;
- Adding a representative of seaport workers and a representative of seaport tenants to the membership of the Seaport Security Standards Advisory Council; and
- Directing the Office of Drug Control to commission an update of the Florida Seaport Security Assessment of 2000. A report of this updated assessment must be presented to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010.

This bill substantially amends s. 311.12, F.S.; amends ss. 311.121, 311.123, 311.124, 311.13, 943.0585, and 943.059, F.S., creates s. 311.115, F.S.; and repeals ss. 311.111 and 311.125, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 36-2; House 112-0

MILITARY AFFAIRS

CS/HB 635 — Military Affairs

by Military Affairs and Local Affairs Policy Committee and Rep. Scionti and others (CS/CS/SB 206 by Judiciary Committee; Military Affairs and Domestic Security Committee; and Senators Justice, Deutch, and Baker)

The bill updates references to the Uniform Code of Military Justice and the Manual for Courts-Martial, to reflect the latest editions.

The bill implements additional employment protections for servicemembers who are ordered into "state active duty," similar to protections available under the Servicemembers Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

The bill specifies that members of the National Guard returning to work after serving on state active duty are entitled to seniority accrued prior to or during deployment and any additional rights and benefits that would have accrued to the servicemember.

A servicemember must provide the employer prompt notice of his or her intent to return to work. Certain limited exceptions are allowed to the requirement that employers must allow servicemembers returning from state active duty to return to work. These exceptions include:

- A change of circumstances has occurred that makes employment of the servicemember impossible or unreasonable;

- The employment would create an undue hardship on the employer;
- The servicemember's previous employment was only for a brief, nonrecurrent period; or
- The employer had legally sufficient cause to terminate the servicemember at the time he or she left for state active duty.

Employers are precluded from discharging reemployed servicemembers upon their return to work for a period of 1 year, unless the discharge is for cause. Employers may not require servicemembers to use annual, vacation, compensatory, or similar leave for periods of deployment.

The bill eliminates a requirement that a National Guard member must have been employed for 1 year before deployment into state active duty to be eligible to bring suit against an employer for violating statutory protections.

The bill creates a civil penalty of up to $1,000 per violation as a result of a failure to comply with the provisions of ch. 250, F.S., affording protections to servicemembers, as well as for violations of federal laws protecting rights of servicemembers.

This bill amends ss. 250.35, 250.482, and 250.82, F.S. and creates s. 250.905, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 114-0

CS/CS/HB 685 — Educational Dollars for Duty Program

by Economic Development and Community Affairs Policy Council; Military and Local Affairs Policy Committee; and Rep. Proctor and others (SB 442 by Senators Fasano, Wise, and Gaetz)

The bill reorganizes and consolidates state educational assistance for Florida National Guard members into one program to be known as the Educational Dollars for Duty Program (EDD). The bill expands education assistance eligibility for current members of the Guard and gives the Adjutant General the sole responsibility for developing and administering the program. The bill authorizes the Adjutant General to adopt rules for program administration.

EDD provides assistance for Guard members who enroll in an authorized course of study at Florida public and nonpublic institutions of higher learning accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. The bill classifies all active drilling members of the Florida National Guard as residents for tuition purposes at Florida public postsecondary institutions.

Guard members who have obtained a master's degree under this program are ineligible for further assistance under the provisions of this bill. Enrollment in college-preparatory courses is authorized.

Funding the Educational Dollars for Duty Program is subject to appropriation by the Legislature.

This bill amends ss. 250.10, 1009.21 and 1009.26, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 113-0

HB 7123 — Military Base Closures

by Economic Development and Community Affairs Policy Council and Rep. Murzin and others (CS/CS/SB 2322 by Commerce Committee; Military Affairs and Domestic Security Committee; and Senators Gaetz, Peaden, Altman, Haridopolos, and Justice)

The bill establishes the 9-member Florida Council on Military Base and Mission Support. The council is created to provide oversight and direction for initiatives, claims, and actions taken on behalf of the state relating to federal Base Realignment and Closure Commission (BRAC) activities.

The President of the Senate, Speaker of the House of Representatives, and Governor each appoint three members to the council to include members of the Legislature and other persons who are knowledgeable of military base issues and defense industry related economic development in Florida.

The council is required to submit a report each January 1 to the Governor and the Legislature on its activities and any recommendations that it may have.

The bill creates s. 288.984, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

HB 7125 — Public Records/Public Meetings/Military Bases

by Economic Development and Community Affairs Policy Council; and Rep. Murzin (CS/SB 2324 by Military Affairs and Domestic Security Committee; and Senator Gaetz)

The bill creates a public records and meetings exemption for certain activities of the Florida Council on Military Base and Mission Support.

Council activities covered under the bill include the records and discussions of the strengths and weaknesses of the state's military bases and strategies that are formulated to protect those bases during a base realignment and closure process. The exemption is subject to legislative review and repeal under the provisions of s. 119.15, F.S., the Open Government Sunset Review Act.

The bill makes willful and knowing disclosure of exempt information covered under this act a first degree misdemeanor punishable as provided in ss. 775.082 or 775.083, F.S.

The bill creates s. 288.985, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 106-13

VETERANS' AFFAIRS

HB 509 — Disabled Veterans Building Permit Fee Exemption

by Rep. Zapata and others (SB 644 by Senators Fasano and Baker)

The bill allows all honorably discharged 100-percent service connected disabled veterans an exemption from county or municipality license or permit fees for improvements on homestead property that would make the residence safe for the veteran.

The bill removes the cap, currently set in law at $200,000, on revenues deposited in the State Homes for Veterans Trust Fund from the sale of special license plates. The change will result in approximately $250,000 in additional annual funding to the State Homes for Veterans Trust Fund.

The bill authorizes deferment of tuition and fees for veterans and other students receiving benefits from the Post 9/11 GI Bill if the benefits are delayed in transmission under circumstances beyond the students' control.

This bill substantially amends ss. 295.16, 320.089, and 1009.27, F.S.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 113-0

CS/CS/SB 1796 — Governmental Financial Information

by Governmental Oversight and Accountability Committee; Policy and Steering Committee on Ways and Means; and Senators Alexander, Haridopolos, Aronberg, Gaetz, Storms, Altman, and Oelrich

This bill requires a website be established for public access to government entity financial information. The initial phase will include appropriations data and expenditure data for all branches of state government. The Joint Legislative Auditing Committee will oversee the website and will propose additional phases of information to be made available. The committee will provide a proposal by March 1, 2010, to be submitted to the President of the Senate and the Speaker of the House of Representatives, that will include a schedule of additional phases of information by the type of information to be provided for specific governmental entities, including local government units, community colleges, state universities, and other government entities that receive state appropriations. The proposal will include timeframes for additional phases as well as a proposed development entity for the additional information.

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

CS/SB 1798 — State Employees

by Policy and Steering Committee on Ways and Means and Senator Alexander

This bill resolves the noneconomic collective bargaining issues at impasse between the State of Florida and the bargaining representatives for state employees for FY 2009-2010.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 1806 — Service Charge on Income of Trust Funds

by Policy and Steering Committee on Ways and Means and Senator Alexander

This bill increases the service charges applied to trust fund receipts by 1 percent. This bill is expected to shift roughly $30.1 million from the various state trust funds to the General Revenue Fund.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

SB 2600 — General Appropriations Act

by Policy and Steering Committee on Ways and Means

The General Appropriations Act for FY 2009-2010, provides for a total budget of $66.5 billion, including:

General Revenue (GR):	$21.2 billion
Trust Funds (TF):	$45.3 billion*

**Includes $5.7 billion in federal funds from the American Recovery and Reinvestment Act of 2009*

The budget is summarized by committee as follows:

- Pre-K–12 Education Appropriations..... $13.4 billion
  - $8.1 billion General Revenue
  - $5.3 billion Trust Funds
- Higher Education Appropriations..... $6.0 billion
  - $3.3 billion General Revenue
  - $2.7 billion Trust Funds
- Health and Human Services Appropriations..... $26.0 billion
  - $5.2 billion General Revenue
  - $20.8 billion Trust Funds
- Criminal and Civil Justice Appropriations ..... $5.2 billion
  - $3.7 billion General Revenue
  - $1.5 billion Trust Funds
- General Government Appropriations..... $3.8 billion
  - $0.4 billion General Revenue
  - $3.4 billion Trust Funds
- Transportation and Economic Development Appropriations ..... $9.7 billion
  - $0.3 billion General Revenue
  - $9.4 billion Trust Funds

Pre-K–12 Education Appropriations

Budget Summary

The total Pre-K–12 Education budget is $22.3 billion for FY 2009-2010. This is made up of $8.1 billion in General Revenue, $328.8 million from the Educational Enhancement Trust Fund, $875 million in Federal Education Stabilization Funds, $148.4 million from Federal Discretionary Stabilization Funds, $1.3 billion from Directed Federal Stimulus Funds and $8.9 billion in required and local discretionary effort.

The budget keeps the Senate's commitment to maintain funding in the classroom, by limiting reductions from General Revenue for the Florida Education Finance Program (FEFP). The General Revenue was reduced significantly but was then restored using Federal Stabilization

Funds, both Education and Discretionary funds. Therefore, the total funds provided to school districts receives little or no net reduction in appropriations.

Florida Education Finance Program (FEFP)
The budget minimizes the student impact within public schools and increases the state average funding per student slightly. The FEFP is $17.9 billion, or $6,873 per student. This is an increase of $28 per student over FY 2008-2009.

Class Size Reduction
Class Size Reduction receives an additional allocation for PreK-3 grades for $116.1 million.

Discretionary Millages
The budget transfers 0.25 mills from fixed capital outlay to the FEFP and then compresses the funds to the state average, adding approximately $380 million to the operations budget. This millage is now fully flexible and can be moved back to fixed capital if necessary. If moved back to capital, the move is permanent.

The budget conforming bill also authorizes an additional discretionary 0.25 mills which requires a super majority vote of the school board to be used for critical operating or capital needs. In the following year, this levy must be approved by the voters. Revenue from this additional discretionary millage would be added to the FEFP in future calculations if levied for operating purposes.

School Recognition
School recognition is funded at $129.9 million, for an estimated $75 per student award.

Voluntary Pre-Kindergarten (VPK)
VPK general revenue funds are reduced, but funding is restored and increased by $17.4 million with Federal Discretionary Stabilization Funds to maintain the existing base student amounts of $2,575 for school year programs and $2,190 for summer programs.

School for the Deaf and Blind
General revenue is reduced, but funding is fully restored from Federal Discretionary Stabilization Funds.

School Lunch and Breakfast
State funding was held harmless from the budget reductions. The budget also adds $40 million from federal appropriations, $5.4 million from targeted stimulus for equipment, and another $2.5 million from Federal Discretionary Stabilization Funds to serve our neediest children.

Mentoring Programs
Mentoring programs received funds to partially restore nonrecurring funds. The following programs received a year-to-year reduction of 7 percent: Best Buddies, Take Stock in Children, Big Brothers Big Sisters, Boys and Girls Clubs, Governor's Mentoring Initiatives, State Alliance of YMCAs.

Florida Virtual School (FLVS)
The FLVS is funded at $114.9 million, a 31.7 percent increase in total funds due to increased enrollment. However, the FLVS will not receive class size reduction funding, and the 0.114 bonus FTE will only be provided for public school students. The FLVS total reduction per student is capped at 10 percent per student.

Excellent Teaching
Bonuses funded at $46.9 million, for roughly an 8 percent bonus. This is a reduction of 18 percent ($10.8 million), but funding is provided in its own line item with no changes to current law.

Reading Initiatives
Reading grants and reading assessment programs funded at $4.6 million.

State Board of Education
State Board of Education general revenue funding is reduced 9 percent, including the elimination of 58 FTE positions.

The budget also gives districts added fiscal flexibility and makes significant funding changes to enable cost savings for school districts, including:

- Class Size Reduction –
  - Compliance is maintained at school level for FY 2009-2010, but also requires calculation at class level for informational purposes.
- Capital Improvement Millage – Makes permanent the authority to use capital improvement millage for property and casualty insurance premiums and certain motor vehicles.
- FEFP Categorical Flexibility –
  - Transportation – flexibility for classroom expenditures.
  - Instructional Materials – flexibility for classroom expenditures after March 1, 2010.
  - Class Size Reduction – may be used for operating expenditures if the district has met class size requirements.
  - Supplemental Academic Instruction – flexibility for classroom expenditures.
  - Reading Allocation – flexibility for classroom expenditures.
- Provides district flexibility on employment contract days above the mandatory instructional time.

Higher Education Appropriations

Budget Summary
The total Higher Education budget is $6.7 billion for FY 2009-2010. This is made up of $3.3 billion in General Revenue, $776.2 million from the Educational Enhancement Trust Fund, $229.4 million in Federal Education Stabilization Funds, $97.7 million from the Federal

Discretionary Stabilization Funds, $28 million from Directed Federal Stimulus Funds and $1.9 billion in student tuition and fees.

The budget keeps the commitment to maintain funding in the classroom by limiting reductions from General Revenue for all core public delivery systems and need-based student financial aid. These reductions are partially restored using Federal Stabilization Funds when available. Therefore, the total funds for Community Colleges, State Universities, Workforce Centers, and need-based financial aid receive little or no net reduction in appropriations.

Florida College System
The Florida College System budget is $1.721 billion, which is an increase of $43.9 million or 2.6 percent over the current year when including $83.3 million in Federal Stabilization Funds and $49.6 million from the 8 percent tuition increase.

Workforce Education
The Workforce Education budget is $547.7 million, which is a decrease of $2.7 million or 0.5 percent from the current year when including $24.5 million in Federal Stabilization funds and $2.6 million from the 8 percent tuition increase.

State University System
The State University System budget is $3.4 billion, an increase of $42.4 million or 1.26 percent over the current year when including $161.3 million from the Federal Stimulus Funds and $104.5 million from the 8 percent tuition increase and the tuition differential (base tuition at $64.5 million and tuition differential at $40 million).

Within the university budget, additional funding of $21.2 million is provided to fully fund the third year of implementation for the UCF and FIU medical schools. An additional $10 million is provided to increase base funding for medical education at UF and USF.

Bright Futures and Financial Aid
Bright Futures is funded at $418.9 million. This includes funding for new students. All students are funded at the current award level. The proposal does not fund book allowances for Academic Awards and implements Bright Futures changes regarding refunds for dropped classes and changes to renewal requirements. There is no reduction to need-based financial aid.

Private Colleges and Universities
The appropriation for private colleges and universities is $114.8 million, a reduction of $12.2 million, or 9.6 percent from the current year when including $35.1 million from the Federal Stimulus Funds. Florida Resident Access Grants (FRAG) are funded at $2,529 per student and Access to Better Learning and Education (ABLE) grants are at $986 per student.

Vocational Rehabilitation and Blind Services
In Vocational Rehabilitation and Blind Services, most federally matched programs are maintained at current year state appropriations. These programs receive substantial funding through directed Federal Stimulus Funds.

Health and Human Services Appropriations

FY 2009-2010
Total – $26.0b ($5.2b GR; $20.8b TF)

Federal Stimulus
Federal Stimulus Medicaid FMAP – $1,851.4m
Other Federal Stimulus – $113.3m

Agency for Health Care Administration
Major Issues Funded
- Medicaid Workload/Price Level – $1.3b total; $530.5m GR
- Medically Needy – $528.7m total; $160.7m GR
- Meds AD Program – $367.8m total; $113m GR
- Fraud and Abuse – $2.6m total; $.9m GR; 5 FTE

Reductions
- Nursing Home Rates 3 percent – ($81.3m total; $26.3 GR)
- Hospice Rates 3 percent – ($7.1m total; $2.3m GR)
- Hospital Inpatient Rates 1.5 percent – ($35.5m total; $11.6m GR)
- Hospital Outpatient Rates 1.6 percent – ($10.4m total; $3.4m GR)
- CHD Clinic Rates 3 percent – ($3.0m total $1.0m GR)
  $3m trust fund authority provided to allow CHDs to buy back rate reduction.
- Nursing Home Diversion Rates 3 percent – ($7.5m total; $2.4m GR)
- HMO Rates 0.9 percent – ($19.2m total; $6.2m GR)
- ICF/DD – ($17.4m total; $5.6m GR)
  9.64 percent reduction of savings associated with implementation of a provider assessment program that is restored with quality assessment revenue.
- Nursing Home Diversion 2,200 slots – ($28m total; $9.1m GR)
- Fraud and Abuse/Home Health – ($16.3m total; $5.3m GR)
- Administrative Reductions – (6 FTE; $2.45m total; $1.1m GR)
  - Nurse Monitors (SB 1986) – (12 FTE; $.8m total TF)
- Pharmaceutical Expense Assistance – ($.3m GR)
- Florida Senior Care Pilot Program – ($.9m total; $.4m GR)

Agency for Persons with Disabilities
Major Issues Funded
- Waiver Deficit – $19.1m TF; $6.2m state share
- Restoration of Waiver – $9.2m; $3m GR; to restore behavior assistance services, behavioral therapy assessment and a geographical rate reduction for residential habilitation services in Broward, Miami-Dade, Palm Beach and Monroe counties
- Developmentally Disabled Projects – $.5m

Reductions
- Area Office Administration – ($.2m total; $.1m GR)
- Central Office Administration – ($.4m GR)

- Special Categories Administration – ($.2m total; $.1m GR)
- Eliminate Medication Review in Waiver – ($.3m total; .1m GR)
- Consolidate Durable and Medical Equipment in Waiver – ($.9m total; $.3m GR)
- Special Projects Fund Shift – ($.5m GR)
- Institution Unfunded Vacant Positions – (140 FTE)

Department of Children and Family Services

Major Issues Funded

- Cash Assistance Caseload Projection – $44.6m Federal Stimulus (TANF Emergency Contingency)
- Substance Abuse Restoration – $4.6m TANF
- Independent Living Restoration – $3.0m GR
- Community Based Care Restoration – $7.7m total; $4.2m GR; $1.4m Trust Fund Cash; $2.1m Federal Stimulus TANF
- Mental Health Services Continuation – $5.4m Trust Fund (ADAMH Block Grant)
- Mental Health and Substance Abuse Services – $6.5m Trust Fund (Medicaid Administrative Claiming)
- Maintenance Adoption Subsidies – $27.4m total; $9.75m GR; $12.4m Title IV-E; $2.5m TANF; $2.0m Federal Stimulus TANF; $.8m Federal Stimulus (Title IV-E FMAP Adjustment)
- Foster Care and Related Services – $6.3m Federal Stimulus (Title IV-E Waiver)
- Homeless Prevention Grants – $12.9m Federal Stimulus
- Violence Against Women – $5.5m Federal Stimulus
- SNAP (Food Stamps) Administration – $14.6m Federal Stimulus
- Violent Sexual Predator – $8.6m GR
- Substance Abuse/Mental Health Projects Restoration – $15.2m Total; $9.7m GR; $5.5m Trust Fund Cash
- Marissa Amora Claim – $1.7m Trust Fund Cash

Reductions

- Administration – (60.5 FTE; $1.9m total; $1.6m GR)
- ACCESS Administration – ($5.5m total; $3.6m GR)
- Homeless Grant and Aid Program – ($1.1m GR)

Department of Elder Affairs

Major Issues Funded

- Elder Nutrition – $7.2m Federal Stimulus
- Senior Employment – $1.1m Federal Stimulus
- Emergency Home Energy Assistance Program – $1.2m
- Public Guardianship Program – $.3m

Reductions

- Local Services Programs 5 percent – ($.4m GR)
- Home Care for the Elderly 5 percent – ($.4m GR)
- Contracted Services 5 percent – ($.05m GR)
- Community Care for the Elderly 3 percent – ($1.1m GR)

- Alzheimer's Disease Initiative 5 percent – ($.6m GR)
- Osteoporosis Screening and Education – ($.2m GR)
- Administrative Efficiencies – ($.3m GR)

Department of Health

Major Issues Funded

- Children's Medical Services IT Project – $2.6m NR
- WIC Data System – $2.7m NR
- Electronic Death Registry – $.4m NR
- Tobacco Education and Prevention – $2.3m TF
- Biomedical Research Grants – $50m TF
- HIV/AIDS Grant – $4.2m TF
- Child Nutrition Program – $30.0m TF
- WIC Program – $97.5m TF
- Early Steps – $3.0m TF
- Early Steps IDEA Part C – $11.5m Federal Stimulus
- Miami Project to Cure Paralysis – $1m NR
- Diabetes Research Institute – $1m NR
- Maintenance and Repairs – $7.5m NR
- Orange County Health Department FCO – $7.0m NR
- Appropriated Positions for CHD and ODD, including 400 positions in a lump sum

Reductions

- Health Promotion and Education Projects – ($.5m GR)
- Environmental Health – ($.5m GR)
- Correctional Medical Authority – ($.1m)
- Children's Medical Administrative Activities – ($1.2 GR)
- Biomedical Research – ($12.95m total; $11.25m GR)
- Vacant Positions – (256 FTE; $14.8m total; $10.8m GR)
- Pharmaceutical Services – ($1.0m GR)
- Minority Health Initiatives – ($1.0m GR)
- Non-Core Mission/Non-Critical – ($1.0m GR)
- Fund Shift Administration – ($9.9m GR)

Department of Veterans' Affairs

Major Issues Funded

- Benefits and Assistance at Colleges and Universities – 39 FTE; $2.5m TF
- St. John's Veterans' Home Start-Up – 9 FTE; $.4m GR;
    - Veterans' Homes Food Products – $.5m TF
- Veterans' Homes Expenses – $.1m TF
- Veterans' Homes Contracts – $1.0m TF
- Veterans' Homes Maintenance and Repairs – $1.4m NR TF
- St. John's Nursing Home Construction – $1.9m NR TF

Reductions

- Fund Shift Veterans' Homes – ($.4m GR)

Criminal and Civil Justice Appropriations

Budget Highlights

- Provided $21.5 million to the courts, the state attorneys and the public defenders to enhance drug courts from federal stimulus funding, in order to divert defendants from state prison.
- Provided the Department of Corrections with $42.6 million and 1,056 positions for new correctional facilities coming on-line in FY 2009-2010.
- Provided $5.0 million in federal stimulus funding for correctional officer equipment needs.
- Provided the Department of Corrections with 948 additional positions as a result of de-privatizing health services in Region IV and at Taylor CI, de-privatizing food services, and converting contract staffing to FTE positions.
- Provided $5.5 million in fixed capital outlay to expand the food services facility at Lowell Correctional Institution.
- Provided $700,000 for a Department of Corrections/Judicial prison diversion program for non-violent offenders. The funding may be used for drug treatment, residential and outpatient programming, day reporting, or other services as an alternative to prison and to reduce recidivism.
- Funded a new revenue section in the Office of State Courts Administrator to assist the courts in tracking revenues as their budget is now more dependent on fees. Increased funding for due process services in the Justice Administrative Commission by $4.4 million.
- Provided $5.4 million for grant funding to small counties for detention services in the Department of Juvenile Justice.
- Expanded the Redirection Program in the Department of Juvenile Justice by $1.6 million in non-recurring general revenue and $500,000 in federal stimulus funding. This increase will add approximately 85 new slots, which will serve 680 additional youth in FY 2009-2010.

Budget Reductions

- Reduced current operational funding in the Department of Corrections general revenue appropriations by $34.4 million.
- Made no reductions to correctional officers in the Department of Corrections.
- Did not privatize the Suwannee Correctional Institution or Annex.

- Reduced general revenue funding for the Department of Legal Affairs by $2.4 million, but gave the department additional budget authority to utilize $1.5 million in trust funds to mitigate reductions.
- Made no reductions to the state court system. This was accomplished through creation of new or increased court fees in SB 1718 that creates $220 million for the State Courts Revenue Trust Fund and allowed the conference to reduce general revenue in the courts by a like amount.
- Made no reductions to the State Attorneys.
- Made no reductions to the Public Defenders or Regional Conflict Counsels.
- Made no reductions to CINS/FINS, PACE Center for Girls, and Associated Marine Institutes in the Department of Juvenile Justice.
- Reduced non-secure and secure bed capacity in the Department of Juvenile Justice by $2.9 million in general revenue.
- Reduced Juvenile Justice Probation Services by $2.7 million in general revenue and 65 FTEs, of which 55 positions are vacant. This represents a 5 percent reduction in the Department of Juvenile Justice's probation services.

General Government Appropriations Committee

Total Budget $3,715.7 million

- $407.7 million GR; $3,389.3 million TF; 20,816.5 positions
- $291.5 million Federal Stimulus
- $53.9 million or 13 percent recurring general revenue reduction
- 313 positions reduced
- $72.3 million revenue redirected to general revenue
- $17.1 million fee adjustments

Major Issues Funded

- Everglades Restoration – $50 million TF (bond proceeds)
- Drinking and Wastewater Revolving Loan Programs – $93.1 million TF
- Fiscally Constrained Counties – $23.2 million GR
- State Parks Repair and Maintenance – $5 million TF
- Mulberry/Piney Point Cleanup – $15.7 million TF
- Underground Storage Tanks Cleanup – $90 million TF (bond proceeds)
- Beaches Restoration – $5.5 million GR and $9.5 million TF (re-appropriation from previous years' funds)
- Small County Solid Waste Management Grants – $2.6 million TF
- Boating Improvement Grants – $4.5 million TF
- Mobile Irrigation Labs– $.4 million TF
- Citrus Health Response Program – $7.4 million TF
- Citrus Research – $.5 million GR

- Agriculture Best Management Practices – $1.4 million GR
- Emergency Food Distribution Program, Farm Share and Food Banks – $500,000 TF
- Child Support Automated Management System (CAMS) – $33 million TF
- Collection Analytics System – $2.1 million TF
- General Tax Auditors – 25 FTE and $1.3 million TF
- Pensions and Benefits to the National Guard – $1.9 million GR
- Continue Debt Service for State Buildings – $7.9 million TF
- State Buildings Repair and Maintenance – $7.4 million TF
- Lottery Instant Ticket Vending Machines – $3.9 million TF
- Slot Operations – 11 positions and $.6 million TF to support three new facilities in Miami-Dade county.
- Banking Examinations Staffing – 8 positions and $1.0 million TF for increased investigations and examinations of banking institutions.
- Nationwide Mortgage Licensing System – 5 positions and $1.0 million TF for Florida's participation in a national licensing and registration system for loan originators.

Federal Stimulus

- $14.9 million for the Child Support program in the Department of Revenue
- $221.4 million for the Drinking Water and Clean Water State Revolving Loan programs in the Department of Environmental Protection
- $1.7 million for the Diesel Emission Reduction Act in the Department of Environmental Protection
- $11 million for the Underground Storage Tank Cleanup program in the Department of Environmental Protection
- $11.2 million for Recreation and Parks programs in the Department of Environmental Protection
- $14.3 million for the Divisions of Forestry, Marketing and Aquaculture in the Department of Agriculture and Consumer Services
- $17 million for habitat restoration, research, law enforcement, and derelict vessel removal in the Fish and Wildlife Conservation Commission

Revenue Adjustments

- $.9 million from the repeal of the shoreline fishing exemption.
- $1.9 million from a fee to support the regulation of weights and measuring devices in the state.
- $1.8 million from fees to support the regulation of food safety, seed dealer and fertilizer programs.
- Redirects $400,000 from forestry timber receipts redirected to support Forestry/Wildfire program operations.
- $6.2 million from a noncompliant taxpayer penalty in the Department of Revenue.

- Redirects $35 million or 100 percent of the sales tax revenue in the Ecosystems Management and Restoration Trust Fund in the Department of Environmental Protection to the General Revenue Fund.
- Redirects $6.3 million from the Land Acquisition Trust Fund in the Department of Environmental Protection to the General Revenue Fund. An increase in state park fees will offset this documentary stamp tax revenue redirect.
- Redirects $2.3 million from the Water Protection and Sustainability Trust Fund in the Department of Environmental Protection to the General Revenue Fund.
- Redirects $.06 million from the Marine Resources Conservation Trust Fund in the Fish and Wildlife Conservation Trust Fund to the General Revenue Fund.
- Redirects $28.6 million or 100 percent of surplus lines tax revenue from the Insurance Regulatory Trust Fund in the Department of Financial Services to the General Revenue Fund.

Reductions Due to Decline in Revenue

- Invasive Plant Control $12.7 million – Documentary Stamp Tax Revenue Decline
- Lake Restoration $4 million – Documentary Stamp Tax Revenue Decline
- Land Management $4 million – Documentary Stamp Tax Revenue Decline

Transportation and Economic Development Appropriations

Total budget of $9.65 billion, $289.4 million in general revenue, and $9.36 billion in trust funds.

Department of Military Affairs

- Florida National Guard Tuition Assistance Program – $1.6 million
- Maximized Federal Funds through National Guard Cooperative Agreements providing for Capital Improvement Projects – $13.44 million

Department of State

- Provided $1.2 million for Library Cooperative Grants
- Provided $2.5 million for Cultural and Museum Grants
- Provided $550,000 for Historic Preservation Grants
- Provided $12.8 million to maintain Library Grant funding to continue maintenance of effort in the receipt of $8.4 million in federal funding
- Provided $344,256 from nonrecurring GR to Reimburse Counties for Special Elections for legislative seats
- Eliminated 17 Vacant Positions for a savings of $666,681 in GR

Department of Community Affairs

- Small Cities Community Developmental Block Grants – $33 million.
- Weatherization Grants for Low Income Persons – $11.7 million.
- $65.5 million for the Low Income Home Energy Assistance Program.

- Provided $30 million for the Florida Homebuyer Opportunity Program and SHIP
- Provided $1 million for the preservation of public housing
- Provided $1 million for Civil legal assistance
- Community Development Block Grant Disaster Recovery – $17 million
- Federal Stimulus Funding:
  - Community Services Block Grant Assistance – $29.1 million
  - Weatherization Grants – $158 million
  - Small Cities Community Developmental Block Grants – $7.5 million

Division of Emergency Management

- Emergency Management Performance Grants – $7.5 million.
- $7 million for the Residential Construction Mitigation program and $5 million for the Pre-disaster Mitigation Program.
- Hurricane Shelter Retrofits – $3 million.
- $5.8 million for Repetitive Flood Loss Programs.
- Interoperable Data Communication Systems – $34.5 million.
- $274.4 million in hurricane-related recovery funds.

Department of Transportation

- Elimination of 17 FTE (vacant) and a redirection of $18.9 million in operating funds to the Work Program.
- Increased Utility Costs for Highway Lighting – $5.8 million
- 11 FTE and $11.3 million for Motor Carrier Compliance Program.
- Transportation Infrastructure Pilot Program – $8 million.
- $3 million to Retrofit and Reinforce Traffic Signals Along Evacuation Routes
- Small County Resurfacing Assistance Program (SCRAP) – $25.3 million.
- Small County Outreach Program – $23.5 million.
- County Incentive Grant Program – $68 million.
- Department of Transportation Work Program Total – $5.5 billion.

Department of Highway Safety and Motor Vehicles

- Florida Highway Patrol –
  - Maintains FHP operations with no further reductions
  - Equipment for the FHP – $1.5 m
  - Federal Real ID Grant Compliance Grant – $5.8 m
- Various fee increases support the shift of expenditures from the General Revenue Fund to the Highway Safety Operating Trust Fund reflecting a savings to the General Revenue Fund of over $100 million.

Office of Tourism, Trade and Economic Development

- Economic Incentives Programs – $23.6 million for the QTI (Qualified Targeted Industries Tax Incentives), QDC (Qualified Defense Contractors Tax Incentives), Brownfield Redevelopment Projects, and other economic development programs.

- $11.4 million for Enterprise Florida.
- $25.0 million for Visit Florida.
- $10.8 million for Film Incentives
- $200,000 provided for the Hispanic Business Initiative Fund Outreach Program.
- $2.75 million for the Black Business Investment Board and the Black Business Loan Program
- $1.0 million provided for Military Base Protection and Defense Related Grants.
- $20 million funded for Economic Development Transportation Projects.
- $3.8 million provided for Space Florida.
- $1.65 million for Space, Defense and Rural Infrastructure.
- $13.5 million for the Quick Action Closing Fund.

Agency for Workforce Innovation

- Maintained funding for School Readiness by utilizing state trust funds and protected receipt of federal stimulus funds.
- Continued the Non-Custodial Parent Program at $1.4 million and HIPPY (Home Instruction Program for Pre-School Youngsters) at $1.4 million
- Continued $3 million for T.E.A.C.H. (Teacher Education and Compensation Helps) Program to enhance the quality of childcare
- Reduced administrative costs in Early Learning Program $712,400 from recurring GR
- Provided $6 million in state and federal funds for the Early Learning Information System (ELIS)
- Provided $8 million in non-recurring Temporary Assistance for Needy Families (TANF) for Regional Workforce Boards
- Provided an additional $2.8 million in state trust funds for the Workforce Program and authorized a $2 million transfer to Department of Military Affairs for About Face and Forward March programs
- Provided $3.3 million from nonrecurring GR funding for the Quick Response Training Program
- Provided 150 FTE and authorized $50 million in federal Unemployment Comp administrative funds to handle increased workload
- Provided $2 million in federal Unemployment Comp administrative funds for Phase 2 of the UC Claims and Benefits System replacement
- Provided $650,000 from federal funds for capital repairs to Reed Act facilities statewide.

- Federal Stimulus Funding:
  - School Readiness – $73.3 million.
  - Workforce Programs – $106.3 million

If approved by the Governor, these provisions take effect July 1, 2009, except as otherwise provided.
Vote: Senate 32-8; House 75-43

SB 2602 — Implementing the 2009-2010 General Appropriations Act

by Policy and Steering Committee on Ways and Means

This bill, relating to implementing appropriations, provides the following substantive modifications for FY 2009-2010:

Section 2 authorizes the Department of Corrections and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of each department. The payment may not exceed 1 percent of the construction costs, less any building impact fees paid to the local government.

Section 3 allows the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population and the additional positions are approved by the Legislative Budget Commission.

Section 4 authorizes the Department of Legal Affairs to spend funds from Specific Appropriations 1266 and 1267 on the same programs and in the same method as was done in FY 2008-2009.

Section 5 authorizes the Department of Legal Affairs to transfer cash remaining after required disbursements from certain Attorney General case numbers to the Operating Trust Fund to pay salaries and benefits.

Section 6 allows the Chief Justice of the Supreme Court to request a loan for the State Courts Revenue Trust Fund if the Revenue Estimating Conference projects that the revenue deposited into the trust fund will be less than 98 percent of the amount appropriated from the trust fund.

Section 7 allows a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 8 directs the Department of Transportation to reduce the work program levels to balance the finance plan based on the 2009-2010 General Appropriations Act and prioritizes the types of projects to be deferred.

Section 9 directs the Department of Transportation to transfer funds to the Office of Tourism, Trade, and Economic Development in an amount equal to $20,300,000 for the purpose of funding economic development transportation projects. This transfer shall not reduce, delete, or defer any existing projects funded, as of July 1, 2009, in the Department of Transportation's 5-year work program.

Section 10 grants authority to the Governor to recommend the initiation of fixed capital outlay projects funded by federal grants through the American Recovery and Reinvestment Act of 2009. The recommendations are subject to approval by the Legislative Budget Commission.

Section 11 grants authority to the Executive Office of the Governor to transfer funds appropriated for the American Recovery and Reinvestment Act of 2009 to specific appropriation categories established to track the expenditure of such funds.

Section 12 authorizes the Department of Children and Families to allocate funds appropriated for forensic mental health treatment services to the areas of the state having the greatest demand for services and treatment capacity and to allocate Community-Based Medicaid Administrative Claiming funds in proportion to contributed provider earnings.

Section 13 suspends the nursing home lease bond requirements for FY 2009-2010.

Section 14 requires the Department of Health to issue a request for proposal for the financing, design and construction for a replacement facility for the A.G. Holley State Hospital and for the provision of hospital services and other operations currently provided by the A.G. Holley State Hospital. Authorizes tax exempt certificates of participation to finance the project and a lease-purchase agreement.

Section 15 modifies FY 2008-2009 proviso related to the Low Income Pool funding in order to reduce the current year appropriation by roughly $130 million. This funding is appropriated in FY 2009-2010.

Section 16 extends the authority of the Department of Children and Family Services to reorganize.

Section 17 implements legislative intent regarding the use of funds in Specific Appropriation 278A and 288A requiring all public and private agencies and institutions participating in child welfare cases to enter certain information into the Florida Safe Families Network (FSFN) in order to maintain the accuracy and usefulness of the automated child welfare case management system; directs the Department of Children and Family Services to work with the Office of the State Courts Administrator to allow a judge or magistrate to access FSFN information concerning cases to which they are assigned, by the date of the network's release during FY 2009-2010; and instructs the department to submit a report on its progress on providing access to the Florida Safe Families Network by February 1, 2010.

Section 18 requires that contracts between the Department of Children and Family Services and community-based care agencies be funded by a grant of general revenue, other state trust funds, and applicable federal funding sources and authorizes certain expenditures.

Section 19 allows the Agency for Health Care Administration to exclude certain entities from participating in the hospitalist program and authorizes the Agency to continue the physician lock-in program for certain patients.

Section 20 makes a technical correction to proviso contained in Specific Appropriation 438 relating to crisis counseling requiring that a maximum of 2.5 percent be spent on direct services per direct client service provider per year.

Section 21 allows the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 22 allows the Executive Office of the Governor to transfer funds appropriated for the payment of human resource management assessments between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 23 allows the Executive Office of the Governor to transfer funds appropriated for the payment of salary and benefits between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 24 clarifies the method for calculating impacts on ad valorem tax revenue for fiscally constrained counties resulting from revisions of Article VII of the State Constitution.

Section 26 authorizes the Department of Citrus to deposit funds derived from the sale of property into the Citrus Advertising Trust Fund.

Section 27 removes the prohibition of funding reserve funds from bond proceeds.

Section 29 requires the Department of Management Services to submit an analysis of the disposition of all state-owned facilities and the effect of disposal.

Section 30 prioritizes the distribution of funds in the Water Management Lands Trust Fund within the Department of Environmental Protection for FY 2009-2010 only.

Section 31 provides site selection and cleanup criteria for the removal of contaminated soil as it relates to the use of the Inland Protection Trust Fund within the Department of Environmental Protection.

Section 32 expands current funding provisions for the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection to allow for the funding of activities which preserve and repair the state's beaches.

Section 34 authorizes moneys in the General Inspection Trust Fund to be appropriated for certain programs operated by the Department of Agriculture and Consumer Services.

Section 35 permits the Department of Environmental Protection to award grants equally to certain small counties for solid waste programs.

Section 36 allows the Department of Agriculture and Consumer Services to extend, revise or renew a contract related to promotion of agriculture.

Section 37 prohibits a state agency from adopting certain rules or policies related to nitrogen-reduction limits until the final report mandated by Specific Appropriation 471 is completed.

Section 38 shifts 5 percent of the entertainment industry financial incentive funding from the digital media projects queue to the independent Florida filmmaker queue.

Section 39 allows Enterprise Florida to advance up to $600,000 to the Institute for Commercialization of Public Research for its operations.

Section 41 extends the expiration date of paragraph (n) to allow funds in the State Transportation Trust Fund to be used for administrative expenses of a multicounty transportation or expressway authority created under ch. 343 or ch. 348, F.S., where jurisdiction for the authority includes a portion of the State Highway System until July 1, 2010.

Section 42 authorizes funds from the State Transportation Trust Fund to be used to pay for county and school district transportation infrastructure improvements.

Section 43 permits funds to be transferred from the State Transportation Trust Fund to the General Revenue Fund as specified in the 2009-2010 General Appropriations Act.

Section 44 allows a participant in an adult or youth work experience activity administered by the Agency for Workforce Innovation to be provided workers' compensation insurance coverage through the state's risk management pool.

Section 45 allows the Department of Transportation to fund operating and maintenance costs associated with publicly owned airport security projects.

Section 47 creates the Florida Homebuyer Opportunity Program within the Florida Housing Finance Corporation, and specifies program operation, administration and criteria.

Section 48 reduces the salaries of members of the Legislature by 7 percent – adjusting the members' June 30, 2009 salaries. This is equivalent to a 2 percent reduction to the salary earned during FY 2008-2009.

Section 49 extends the authorization of payments into the state employee health savings accounts.

Section 50 extends the authorization to assign an employee from one agency to another agency if recommended by the Governor and approved by the chairs of the respective legislative appropriations committees.

Section 51 requires each agency to review the use of cellular telephones, PDAs and other wireless devices by employees and submit a report to the President of the Senate and the Speaker of the House of Representatives by September 1, 2009.

Section 52 reenacts s. 215.32, F.S., to authorize the Legislature to transfer in the General Appropriations Act unencumbered trust fund balances to the General Revenue Fund or the Budget Stabilization Fund.

Section 53 reenacts s. 215.5601, F.S., to clarify that certain withdrawals from the Chiles Endowment Fund are to be treated as reductions in contributed principal to the Fund.

Section 54 extends the initial appointments to the Energy and Climate Commission until the 2010 Regular Session. This commission has duties related to the implementation and administration of federal monies received for energy programs.

Section 56 repeals s. 49 of ch. 2008-153, L.O.F., relating to the provisions of s. 215.5601, F.S., reverting back to the language as it existed on June 30, 2008.

Section 57 provides a legislative determination that the authorization and issuance of state debt is in the best interest of the state and is necessary to address a critical state emergency.

Section 58 limits the use of state funds for travel by state employees during FY 2009-2010.

Section 59 specifies that no section will take effect if the appropriations and proviso to which it relates are vetoed.

Section 60 provides that a permanent change made by another law to any of the same statutes amended by this bill takes precedence over the provision in this bill.

If approved by the Governor, these provisions take effect June 29, 2009, except as otherwise provided.
Vote: Senate 40-0; House 74-44

HB 5013 — Transportation

by Transportation and Economic Development Appropriations Committee and Rep. Glorioso

This bill revises the definition of roadside beautification to include conservation, enhancement, and stabilization and requires the purchase of plant materials from in-state commercial nurseries. The bill removes the funding cap for design and build projects funded under the American Recovery Reinvestment Act of 2009. The bill recognizes that construction aggregate materials

mining is an industry of critical importance and that the mining of construction aggregate materials is in the public interest. The bill revises eligibility and prioritization criteria for the Small County Outreach Program. The bill revises requirements for the logo sign program on the interstate highway system; authorizes a rotation-based logo program; requires the department to adopt rules that set reasonable rates for annual permit fees; caps the annual permit fee for sign locations inside an urban area at $5,000, and for sign locations outside the defined urban area at $2,500. The bill authorizes the Hillsborough County Expressway Authority to make and issue bonds for the purpose of financing all or part of the improvement or extension of the expressway system. The bill authorizes the Northwest Florida Regional Transportation Planning Organization to conduct a feasibility study of advance-funding transportation capacity projects with recommendations provided to the legislature. The bill requires the Department of Community Affairs in consultation with the Department of Transportation to implement an Energy Economic Zone Pilot Project focused on creating green economic development, infrastructure and jobs.

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

PROFESSIONS

CS/HB 63 — Auctioneers

by General Government Policy Council and Rep. Boyd and others (CS/SB 482 by Regulated Industries Committee and Senator Baker)

This bill requires applicants for licensure as auctioneers or auctioneer apprentices to file a complete set of fingerprints for submission to the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI). It requires that the fingerprints be in an electronic format. It provides that the FDLE will conduct the state criminal records check and the FBI will conduct a national criminal records check. The Florida Board of Auctioneers (board) within the Department of Business and Professional Regulation (department) is required to review results of the state and national criminal records to determine whether the applicant has committed acts or offenses that disqualify him or her from licensure.

The vendors and agencies that are authorized by rule of the department to perform the fingerprinting must collect the fingerprinting fee and pay the FDLE for the cost of processing. According to the department and the FDLE, the cost for electronic fingerprint submissions for state and national criminal history background checks is $43.25.

The bill requires that both the application for licensure as an auctioneer apprentice and the license itself must be signed by the licensed auctioneer who will serve as the sponsor of the apprentice. The bill requires that the auctioneer apprentice's sponsor regularly review the records of the apprentice, which the board requires the sponsor to maintain, in order to determine if the apprentice's records are accurate and current.

The bill requires auction businesses to be licensed and specifies license application requirements for an auction business, including the disclosure of the business' legal name and fictitious names, a complete set of fingerprints of each natural person who controls 20 percent or more in the business, and evidence of financial responsibility. The bill also makes auction businesses subject to the disciplinary provisions currently applicable to auctioneers and auctioneer apprentices. It provides a five-year disqualification from either licensure as an auctioneer or apprentice or holding an ownership interest in an auction business, for any person whose license has been revoked.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-2; House 117-0

CS/CS/SB 1640 — Public Accountancy

by General Government Appropriations Committee; Regulated Industries Committee; and Senator Jones

The bill provides for practice mobility for certified public accountants (CPAs). Practice mobility permits a CPA in another state who is not licensed in Florida, but is licensed in another state, to perform limited accounting services in Florida without obtaining a Florida license, notifying or registering with the board, or paying a fee. According to the Florida Institute of Certified Public Accountants, 38 states have adopted practice mobility statutes. The types of accountancy services that may be provided under practice mobility include tax advisory services or consulting services in Florida from out-of-state. However, a CPA without a Florida license could not provide the types of services that require the expression of an opinion or an attestation by the CPA.

The bill exempts certified public accountants from the requirement of a laws and rules examination as a condition of license renewal. The bill requires CPAs to have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college or university. The 150 semester hours of college education required by the bill equal the same number of total educational hours that are required under current law. The bill provides an exception to the work experience requirement for any person who has completed the required 150 semester hours of college education on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

The bill permits CPAs whose license is inactive or delinquent to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods during which the licensee was inactive or delinquent. The continuing education required for reactivation is that required for the most recent two-year license period plus one-half of the required continuing education, which is a minimum of 48 hours. A minimum of eight hours of continuing education must be in ethics subjects approved by the board. This bill provides a six-month amnesty for an inactive licensee that limits the required continuing education to 120 hours.

The bill provides that seven members of the Board of Accountancy (board) must be certified public accountants licensed in Florida and have practiced full-time in Florida for at least five years. The bill would permit past board members to serve a term of two years, and provides that they may be reappointed for additional terms. Current law limits past board members to serving a maximum of two years.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

TIMESHARES

CS/HB 61 — Temporary Accommodations

by Economic Development Policy Committee and Rep. Precourt and others (CS/SB 392 by Finance and Tax Committee and Senator Haridopolos)

The bill clarifies the laws governing state and local taxes due from timeshare transactions and from transient stays at timeshare resorts. The bill provides that the tourist development tax, the tourist impact tax, the transient rentals tax, and the convention development tax are applicable to transient stays at timeshare resorts.

The bill specifies the types of transactions that are not subject to the tourist development tax, the tourist impact tax, the transient rentals tax, and the convention development tax. The exempted transactions include timeshare exchanges, fees charged by a third party to facilitate a timeshare exchange and inspection packages. Inspection packages are a timeshare marketing practice in which the seller or operator of a timeshare offers a one-time inspection privilege package to prospective timeshare buyers.

The bill includes mobile home parks, recreational vehicle parks, and condominiums as the types of facilities that may be subject to a transient rental tax. These types of facilities are currently specifically listed as the types of facilities that are subject to the local option tourist development tax, the tourist impact tax, and the convention development tax.

The bill permits timeshare companies to offer debt cancellation products with regard to the sale of timeshare interests. It requires that every public offering of a timeshare plan that is not a multisite timeshare plan must provide a statement that a timeshare owner's obligation to pay assessments continues for the duration of ownership and a person inheriting an interest is responsible for its payment. The bill also requires a timeshare interest resale service provider to provide a description of any fees and costs that must be paid, their due date and the ratio of timeshare interests listed versus sold by the provider for a two year period.

The bill provides an effective date of July 1, 2009. The bill further provides that it is intended to be clarifying and remedial in nature, and does not provide a basis for assessments of tax, or refunds of tax, for periods prior to July 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 112-0

CONSTRUCTION

SB 2064 — Construction Defects

by Senator Altman

The bill provides uniform use of terms, defines new terms, and provides clarification for when the provisions of ch. 558, F.S., apply to construction defect cases.

The bill defines "completion of a building or improvement" and amends the definition of "service." The bill revises procedures for notice and opportunity to repair certain defects. The bill specifies that there are no construction lien rights for destructive testing under certain circumstances. The bill provides that the exchange of discoverable information between the claimant and person served with notice must occur within 30 days. The bill provides that the parties may agree in writing to mediation in the contract or at any time thereafter. The bill further provides that unless the parties agree, after October 1, 2009, all written contracts must contain a notice that any claims for defects are subject to the notice and cure provisions of ch. 558, F.S.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 38-0; House 118-0

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CS/CS/CS/CS/HB 425 — Department of Business and Professional Regulation

by Full Appropriations Council on General Government and Healthcare; Government Operations Appropriations Committee; General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee; and Rep. Plakon and others (CS/CS/SB 2262 by Community Affairs Committee; Regulated Industries Committee; and Senator Gaetz)

The bill revises provisions related to jurisdiction of the Department of Business and Professional Regulation (DBPR), including provisions related to application requirements, disciplinary guidelines, criminal proceedings, talent agencies, building code, public accountancy, real estate, barbers, cosmetology, construction, electrical contracting, Florida State Boxing Commission, hotels and restaurants, service operations, engineering, and the hospitality education program.

General Licensing [s. 455.213(1), F.S.]

The bill removes the general requirement that an application for licensure include a notarized signature of the applicant for all license types.

Discipline [s. 455.227, F.S.]

The bill adds two additional grounds for disciplining a licensee. A licensee may be disciplined for failing to report the plea to a crime or conviction of a crime to the board or department within

30 days after conviction or entry of a plea to a crime in any jurisdiction and for being terminated from a treatment program for impaired practitioners for failure to comply, without good cause, with the terms for monitoring rehabilitation progress or success.

Criminal Proceedings [s. 455.2274, F.S.]

The bill creates s. 455.2274, F.S., to specify that a DBPR representative may voluntarily appear in a criminal proceeding against a licensee in order to provide pertinent information about the licensee.

Talent Agencies [ch. 468, F.S.]

The bill amends several requirements for talent agencies relating to records management. The bill requires the talent agency to give each applicant a copy of a contract within 24 hours after the contract's execution. The bill requires the talent agency to notify an artist in writing that the artist has three business days to rescind the contract for employment. The bill prohibits a talent agency from dividing fees without written consent of the artist. The bill also increases the penalty for violations of the practice act from $1,000 to $5,000.

Building Code Training [ch. 468, 471, 481, and 489, F.S.]

Current law requires engineers, architects, interior designers, and contractors to successfully complete the building code core curriculum prior to licensure. The bill removes the core curriculum licensure examination requirement.

Public Accounting Examination [s. 473.311, F.S.]

The bill removes the reference to the laws and rules examination for CPAs. As a result, CPAs will no longer be required to take the laws and rules examination prior to licensure.

Real Estate Brokers and Sales Associates [ch. 475, F.S.]

Current law provides that continuing education requirements do not apply to an attorney who is otherwise qualified to conduct real estate related activities. The bill specifies that to be exempt from continuing education requirements, the attorney must be a member in good standing with the Florida Bar.

Barbers' Board [s. 476.134, F.S.]

The bill removes the requirement for a practical examination and requires that the barbers' examination include a written test only.

Cosmetology [s. 477.0265, F.S.]

The bill increases the fee cap for a cosmetologist license from $25 to $50.

Architecture and Interior Design [s. 481.229, F.S.]

The bill specifies that an exemption from licensure exists for a manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment if it is not used for construction, does not affect lifesafety systems, and provides that the designs are not architectural, interior, or engineering designs.

Construction [ch. 489, F.S.]

The bill increases the fee cap for a construction contractor license from $200 to $250.

The bill clarifies the difference between a state specialty contractor license issued by DBPR and a local specialty license issued by a local government and removes the requirement that applicants for registered construction contractor licenses provide a copy of a local occupational license.

The bill reorganizes and expands the parameters of the existing disclosure document for property owners acting as their own contractor and requires a homeowner to sign the disclosure statement prior to obtaining a permit.

The bill removes the requirement that an applicant obtain a certificate of authority for a business organization when the applicant proposes to engage in contracting under a business organization. Instead, an applicant for a contractor's license will apply to DBPR to act as the qualifying agent of the business organization as part of the licensure requirement for a registered or certified license.

Construction and Electrical Contracting [ch. 489, F.S.]

Under current law, an unlicensed construction or electrical contractor cannot enforce their contract. The bill specifies that an individual is considered unlicensed if they do not have a required state license. The bill specifies that this provision is retroactive and applies to contracts entered into on or after October 1, 2000.

Division of Hotels and Restaurants [ch. 509, F.S.]

The bill makes the three-year pilot program that allows patrons' dogs within designated outdoor areas of food service establishments permanent.

The bill repeals the rate notification and advertisement requirements and related enforcement penalties for public lodging establishments.

Hospitality Education Program [s. 509.302, F.S.]

The bill makes the goal of the Hospitality Education Program (HEP) to provide training courses to transition hospitality education students from school to careers in the restaurant or lodging

industries. This change eliminates all licensee and licensee's employee compliance training programs currently provided by the program. The bill requires that at least 68 percent of the HEP funds collected must be used for careers in the restaurant industry, and at least 14 percent must be used for careers in the lodging industry.

Florida State Boxing Commission [ch. 548, F.S.]

The bill creates a definition for the term "event" to mean "one or more matches comprising a show."

The bill specifies that the Florida State Boxing Commission must approve the sanctioning organization for amateur mixed martial arts events.

Division of Service Operations [ss. 20.165 and 455.217, F.S.]

The bill creates the Division of Service Operations within DBPR. The bill amends s. 455.217(1), F.S., to transfer from the Division of Technology to the newly created Division of Service Operations the department's responsibilities related to professional examinations. The bill clarifies that the department shall use qualified testing vendors to develop, prepare, and evaluate exams.

Engineering [s. 471.003, F.S.]

The bill increases the value of an electrical, plumbing, or air-conditioning and refrigeration system from $50,000 to $125,000 under the licensed engineer exemptions.

Office of Program Policy Analysis and Government Accountability

The bill provides that OPPAGA shall perform a study and make recommendations to the Legislature by December 1, 2009, regarding the enactment of laws to provide for protection and remedies from existing and unregulated online poker activities.

If approved by the Governor, these provisions take effect on October 1, 2009.
Vote: Senate 37-0; House 116-0

GAMING

CS/CS/SB 788 — Gaming

by Policy and Steering Committee on Ways and Means; Regulated Industries Committee; and Senators Jones and King

The bill includes the following provisions relating to an Indian gaming compact between the State and the Seminole Indian Tribe of Florida (Tribe):

- Grants the Governor the authority to execute an Indian gaming compact on behalf of the State with the Tribe for the purpose of authorizing Class III gaming on the Tribe's lands;
- Provides the form of the compact and specifies the minimum terms and standards required for a valid compact;
- Requires that the negotiated compact be ratified by the Legislature;
- Requires ratification of amendments to the compact if they alter the provisions related to covered games, the amount of revenue sharing payments, suspension or reduction of payments, or exclusivity;
- Provides that revenue sharing payments from the Tribe must be deposited into the Educational Enhancement Trust Fund;
- Authorizes the Governor to negotiate agreements with the Indian Tribes for all taxes, including sales taxes;
- Provides legislative intent to review the compact within 5 years in order to consider the authorization of additional Class III games; and
- Designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to monitor the Tribe's compliance with the compact.

The bill provides that an Indian gaming compact between the State and Tribe must:

- Have a 15-year term;
- Permit the Tribe to offer no-limit poker and slot machines at seven specified tribal casinos;
- Permit the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, only at tribal casinos in Broward County and Hillsborough County;
- Require a guaranteed minimum payment of $150 million;
- Require the Tribe to make revenue sharing payments to the state based on the following annual amounts:
  - 12 percent of net win up to $2.5 billion,
  - 15 percent of net win between $2.5 billion and $3 billion;
  - 20 percent of net win between $3 billion and $4 billion;
  - 22.5 percent of net win between $4 billion and 4.5 billion; and
  - 25 percent of any net win above $4.5 billion.

- Require the Tribe to waive sovereign immunity for tort claims by patrons in the amount of $500,000 per person and $1 million per incident;
- Require the Tribe to maintain insurance of $1 million per occurrence and $10 million in the aggregate;
- Permit the state to inspect public and non-public areas of the Tribe's gaming facilities with at least concurrent notice and with no limitations on the number of random inspections;
- Require annual slot machine compliance audits;
- Prohibit persons under 21 years of age from entering the casino floor and from playing the covered games;
- Require a $250,000 per facility annual donation to a compulsive gambling program;
- Require that the Tribe provide a process for employee disputes that permits the tribal employee to be represented by an attorney or other legally-authorized representative, including language interpreters;
- Provide a process for resolving compact disputes between the State and the Tribe through specified presuit nonbinding arbitration; and
- Require the Tribe to use its best efforts to spend its revenue in this state to acquire goods and services from Florida-based vendors, professionals, and material and service providers.

The bill includes the following provisions related to pari-mutuel wagering:

- Provides a gradual increase in the number of performances that comprise a full schedule of live racing for quarter horses;
- Streamlines regulatory procedures for the pari-mutuel industry by:
  - Changing the term "year" to fiscal year instead of calendar year;
  - Requiring monthly payment of taxes instead of weekly beginning on July 1, 2012;
  - Providing a consistent definition of the term "conviction";
  - Providing flexibility for occupational license renewal and fees;
  - Providing enhanced fingerprint regulations; and
  - Expanding the current cruelty to animal prohibitions.
- Provides for greater flexibility of breeders' and stallion awards;
- Allows quarter horse permitholders to run thoroughbred races up to 50 percent of the time;
- Authorizes a quarter horse permit to convert to a limited thoroughbred permit;
- Restricts quarter horse permit holders to a 35-mile lease restriction;
- Authorizes a jai alai permit to convert to a greyhound permit if certain requirements are satisfied;

- Provides for a reduction of the tax rate on slot machine revenue from 50 percent to 35 percent with a guarantee of tax revenue to be that which was collected in 2008-2009;
- Provides for a gradual reduction of the slot machine annual license fee from $3 million to $2 million;
- Allows for slot machines to be linked using a progressive system;
- Provides that the payout percentage of a slot machine facility shall be no less than 85 percent;
- Authorizes Class III slot machines in a county that has had a referendum approving slots or has a referendum approving slots that was approved by law or the Constitution provided that such facility has conducted 2 years of racing and complies with other requirements for slot licensure;
- Provides that an initial cardroom license shall not be issued unless the permitholder has a facility and has begun racing;
- Allows for the conduct of no-limit poker in cardrooms; and
- Extends the hours of cardroom operation from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day on Saturday and Sunday.

The bill provides a contingent effective date.

- The Indian gaming compact provisions take effect upon becoming law.
- The pari-mutuel wagering provisions take effect only if:
  - The Governor and an authorized representative of the Tribe execute an Indian Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988 and requirements of this act,
  - The compact is ratified by the Legislature, and
  - The compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior.

  Such sections take effect on the date that the approved compact is published in the Federal Register.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 31-9; House 82-35

HIGHWAY SAFETY AND MOTOR VEHICLES

CS/CS/HB 293 — Motor Vehicle and Mobile Home Title Transfer

by Full Appropriations Council on Education and Economic Development; Economic Development and Community Affairs Policy Council; and Rep. Rogers and others (CS/SB 906 by Judiciary Committee and Senator Smith)

This bill contains several recommendations of the Automobile Lenders Industry Task Force, which was created by the Legislature in 2008. In addition, the bill modifies and clarifies statutory notification requirements and jurisdictional matters relating to the impounding, recovery, towing and storage of motor vehicles and vessels, amends provisions relating to motor vehicle immobilization or impoundment subsequent to a DUI conviction, and modifies laws regarding the electronic filing system. The bill:

- Places additional requirements upon owners when transferring motor vehicles.
- Allows, under certain conditions, the Department of Highway Safety and Motor Vehicles (department) to withhold registration, renewal of registration, or replacement registration.
- Provides specific definitions of "immobilization," "immobilization agency," and "impoundment." Eliminates the return receipt requirement for notification letters sent by impounding agencies and towing companies to vehicle and vessel owners, lienholders, and other interested parties. Expands the ability of lienholders relating to taking possession of impounded vehicles. Provides upon issuing an order of impoundment or immobilization, the court order must include the name and telephone numbers of all mobilization agencies meeting specified criteria. Requires all costs and fees for the impoundment or immobilization to be paid directly to the person impounding or immobilizing the vehicle. Provides when motor vehicle immobilizations are not performed by a local government agency, private businesses directed by the court to perform these services must meet minimum criteria.
- Preempts to the state, jurisdiction over the outsourced electronic filing system for use by licensed motor vehicle dealers. Allows a licensed motor vehicle dealer to charge customers a fee for use of the electronic filing system. Requires a temporary tag be issued and displayed during the time an application for a transfer of a registration license plate is processed. Requires a licensed motor vehicle dealer to provide certain required information via an electronic system to the department when the owner of a vehicle transfers a registration license plate to a replacement or substitute vehicle acquired from the dealer. Requires the dealer to give the owner written notice documenting the transfer if the dealer cannot provide the required transfer information to the department under certain circumstances.
- Requires, by January 1, 2010, the Office of Program Policy Analysis and Government Accountability, with input from the department and from affected parties, including tax collectors, service providers, and motor vehicle dealers, to report to the President of the

Senate and the Speaker of the House of Representatives on the status of the outsourced electronic filing system, including program standards and statutory compliance.

If approved by the Governor, these provisions take effect July 1, 2009, except as otherwise specified in the bill.
Vote: Senate 40-0; House 115-0

CS/SB 344 — Dori Slosberg and Katie Marchetti Safety Belt Law

by Transportation Committee and Senators Rich, Oelrich, Jones, Hill, Altman, Lynn, Storms, Bullard, Deutch, Gaetz, Lawson, and Joyner

The bill (Chapter 2009-32, L.O.F.), cited as the "Dori Slosberg and Katie Marchetti Safety Belt Law," amends the "Florida Safety Belt Law" to provide for primary enforcement of the safety belt law for operators and front seat passengers. Section 316.614, F.S., currently provides for primary enforcement of the safety belt law for all passengers under 18 years of age and secondary enforcement of the safety belt law for operators and front seat passengers over 18 years of age. The bill would allow law enforcement officers to stop motorists solely for not using their safety belts. A person violating this section would be cited for a nonmoving violation, punishable by a $30 fine.

These provisions were approved by the Governor and take effect June 30, 2009.
Vote: Senate 33-4; House 95-20

CS/CS/HB 405 — Delivery Vehicles

by Economic Development and Community Affairs Policy Council; Insurance, Business, and Financial Affairs Policy Council; and Rep. Nelson and others (CS/CS/CS/SB 1088 by Commerce Committee; Community Affairs Committee; Transportation Committee; and Senator Altman)

The bill creates a new subsection (3) of s. 316.2126, F.S., authorizing "seasonal delivery personnel" to use golf carts, low-speed vehicles, and utility vehicles on certain roads within residential areas, having a posted speed limit of 35 mph or less, for the purpose of delivering goods from October 15 through December 31 of each year. However, seasonal delivery personnel are prohibited from driving golf carts on roads having a speed limit of 30 to 35 mph when a municipality's ordinance prohibits such conduct. The bill requires any vehicle operated, as authorized in the bill, to meet certain safety requirements.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 34-3; House 102-13

CS/CS/HB 481 — Highway Safety

by Full Appropriations Council on General Government and Health Care; Public Safety and Domestic Security Policy Committee; and Rep. Kreegal and others (CS/CS/SB 1114 by Policy and Steering Committee on Ways and Means; Criminal Justice Committee; and Senator Richter)

The bill assesses an additional $65 civil penalty for failure to stop for a school bus, reckless driving, and racing on highways. The $65 is deposited into the Administrative Trust Fund. The bill directs funds collected from the $65 fine imposed by the bill to be distributed as follows:

- 30 percent to Level II trauma centers operated by a public hospital governed by an elected board of directors;
- 35 percent to verified trauma centers based on trauma caseload volume for the most recent calendar year available; and
- 35 percent to verified trauma centers based on severity of trauma patients for the most recent calendar year available.

In addition, the bill requires a person who is convicted of a violation of failure to stop at a traffic signal when so required, failure to stop for a school bus, reckless driving, and racing on the highways to attend a driver improvement course.

The bill provides language to clarify a court, after considering residency and employment obligations, may order a defendant to pay a fine of $10 for each hour of public service or community work required, only if the court determines that either would create an undue hardship for the defendant in completing the required service.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 116-1

HB 687 — Motor Vehicle Registration Applications

by Rep. Boyd and others (SB 1394 by Senator Oelrich)

This bill requires the Department of Highway Safety and Motor Vehicles (DHSMV), to include a check-off for a voluntary contribution of $1.00 to Florida Sheriffs Youth Ranches, Inc., on each application and renewal form for motor vehicle registration. Florida Sheriffs Youth Ranches, Inc., a not-for-profit organization, has completed the statutory requirements, authorizing it to seek legislative enactment of the voluntary contribution check-off.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 118-0

CS/SB 858 — Driver Licenses/Contribution to Stop Heart Disease

by Health Regulation Committee and Senator Garcia

This bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to include a check-off for a voluntary contribution of $1.00 to Stop Heart Disease on each driver's license application form. Stop Heart Disease is a special trust fund established by the Florida Heart Research Institute, a nonprofit organization. The Florida Heart Research Institute has completed the statutory requirements, authorizing it to seek legislative enactment of the voluntary contribution check-off.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 117-0

SB 1030 — Motor Vehicle Emergency Lights/Correctional Agency

by Senator Garcia

Current law permits police and the Department of Corrections to show or display blue lights, on vehicles owned, operator, or leased, when responding to emergencies.

Of Florida's 67 counties, 9 counties operate their jail detention facilities in county departments rather than Sheriff's Offices. This bill amends s. 316.2397, F.S., to allow vehicles owned, operated, or leased by any county correctional agency to show or display blue lights when responding to emergencies.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 119-0

CS/CS/SB 1100 — Department of Highway Safety and Motor Vehicles

by Transportation and Economic Development Appropriations Committee and Transportation Committee

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (department). A section-by-section summarization follows:

Section 1. Reenacts and amends s. 20.24, F.S., relating to the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, and the Division of Motor Vehicles. The bill amends s. 20.24, F.S., to delete the reference to the Bureau of Motor Vehicle Inspection within the Division of Motor Vehicles. This obsolete bureau was phased out over two fiscal years and eventually eliminated during FY 2001-2002. The reenactment of s. 20.24, F.S., will have the effect of continuing the department, the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board.

Section 2. Creates an undesignated section of law to statutorily provide the department authority to implement the $1 credit provision associated with the *Collier* Settlement Agreement. Specifically, the new section provides any person who held a driver license, identification card or motor vehicle registration valid between June 1, 2000, and September 30, 2004, is eligible for a single $1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010. This section expires on July 1, 2011.

Section 320.08046, F.S., provides a $1 surcharge on license taxes for all vehicles required to be registered in Florida. Of this $1 surcharge, 58 percent is directed to the General Revenue Fund and 42 percent is directed to the Grants and Donations Trust Fund in the Department of Juvenile Justice, to fund community juvenile justice partnership grants. The bill identifies only the General Revenue Fund portion of this surcharge as the funding mechanism for the estimated $10.4 million in revenue not collected as a result of the settlement. The bill recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement.

The department estimates approximately 10.4 million driver license/identification card holders and/or motor vehicle registrants would be eligible to receive the credit.

Section 3. Amends s. 316.126, F.S., to require motorists traveling on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle or wrecker to slow to a speed that is 20 mph less than the posted speed limit if they are unable to move over as required by the Move Over Act.

Section 4. Amends s. 316.2085, F.S., to state that, rather than being "permanently affixed horizontally to the ground," a motorcycle tag must simply be "permanently affixed to the vehicle." The bill clarifies the prohibition regarding the visibility or legibility of a tag by adding that "[n]o device for or method of concealing or obscuring the legibility of the license tag of a motorcycle shall be installed or used" by a rider.

Section 5. Expands s. 316.2122(3), F.S., which currently requires low speed vehicles to be registered and insured in accordance with s. 320.02, F.S. The bill adds a requirement that mini trucks must also be registered and insured, and provides that both low speed vehicles and mini trucks must be titled in accordance with ch. 319, F.S.

In addition, s. 316.2122, F.S., is amended to provide mini trucks generally may be operated in the same situations as low speed vehicles. Mini trucks are permitted on roads where the posted speed limit is 35 miles per hour or less, although this does not prohibit the vehicle from crossing at an intersection with a road having a higher speed limit. On roads governed by a county or municipality, the county or municipality may prohibit operation of mini trucks when deemed necessary in the interest of safety. On roads governed by the Florida Department of Transportation (FDOT), FDOT may prohibit operation of mini trucks when deemed necessary in the interest of safety.

The bill provides drivers of mini trucks must have a valid driver's license.

Section 6. Amends s. 320.01(27), F.S., to modify the definition of motorcycle slightly, to account for standards issued by the National Highway Traffic Safety Administration (NHTSA). While the current Florida definition of "motorcycle" excludes all vehicles in which the driver is enclosed by a cabin, NHTSA currently recognizes a small number of enclosed-cabin vehicles as motorcycles, not vehicles, for the purposes of identifying the correct set of safety standards. In order to fully comply with NHTSA safety standards, the bill provides a motorcycle does not include vehicles with cabins, except when the specific vehicle meets NHTSA requirements for a motorcycle.

In addition, the bill creates s. 320.01(45), F.S., to define "mini truck" as any four-wheeled reduced-dimension truck that does not have NHTSA truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.

Section 7. Creates s. 320.0847, F.S., to provide the department must create license plates of unique design to be issued to mini trucks, along with low speed vehicles, upon payment of the appropriate license taxes and fees.

Section 8. Amends s. 320.0848, F.S., to provide that for a disabled person whose disability prevents the person from physically visiting or being transported to a driver license or tax collector office to obtain a driver's license or an identification (ID) card, a certifying physician may sign the exemption section of the department's parking permit application to exempt the disabled person from being issued a driver's license or ID card for the number to be displayed on the parking permit. This change will allow the department to issue handicapped placards to individuals without issuing non-compliant identification cards. According to the department, these changes are necessary to conform the handicap placard issuance process to the requirements of the REAL ID Act of 2005 (REAL ID).

Section 9. Amends s. 322.0261, F.S., to require the department to identify any operator convicted of or who pleaded nolo contendere to a traffic offense giving rise to a third crash which occurred within 36 months after the first crash, and to require the operator, in addition to other applicable penalties, to attend a department-approved driver improvement course in order to maintain driving privileges. The course must include behind-the-wheel instruction and an assessment of the operator's ability to safely operate a motor vehicle. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver license is canceled by the department until the course is successfully completed.

Since there currently is no department-approved driver improvement course offered that includes behind-the-wheel instruction, the bill will require the development of special course requirements and curricula by the department.

Section 10. Amends s. 322.03, F.S., to phase out the issuance of licenses that are "valid in Florida only" as required by the REAL ID Act. Specifically, this section allows a part-time resident issued a "valid in Florida only" license to continue to hold such license until the next regularly scheduled renewal. Licenses identified as "valid in Florida only" may not be issued or renewed effective November 1, 2009.

Section 11. Amends s. 322.08, F.S., to specify the department shall not issue a driver license or ID card to anyone holding a valid driver license or ID card issued by another state. This would eliminate the issuance of licenses that are "valid in Florida only." The REAL ID Act prohibits customers from holding two REAL ID compliant documents simultaneously; and therefore, this necessary change puts Florida statutes in compliance with REAL ID.

Section 12. Amends s. 322.125, F.S., to authorize the department to adopt rules and regulations required to carry out the purposes of the Medical Advisory Board.

Section 13. Amends s 322.271, F.S., to allow the department to eliminate the hearing for non-egregious suspensions while still requiring the driver to complete all other necessary reinstatement provisions, including DUI substance abuse education and driver training programs.

"Non-egregious" suspensions are those which do not involve death or serious bodily injury, multiple DUI convictions, or a "second or subsequent suspension or revocation pursuant to the same provision of this chapter." The department retains the right to hold a hearing for a re-instatement that might otherwise qualify as non-egregious, "based on the severity of the offense."

According to the department, in its FY 2008-2009 budget reduction exercise, the department proposed to eliminate 10 FTEs if it could eliminate non-egregious hearings. Conference Report on HB 5001, General Appropriations Act for FY 2008-2009, reflected the reduction of these 10 FTEs and related funding of $398,921.

Section 14. Amends s. 322.64, F.S., to make technical changes conforming to current Federal Motor Carrier Safety Administration regulations.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise specified in the bill.
Vote: Senate 39-0; House 116-0

CS/CS/CS/SB 2630 — Motor Vehicle Dealerships

by Judiciary Committee; Commerce Committee; Transportation Committee; and Senator Haridopolos

The bill address several issues related to the licensing of motor vehicle dealers and motor vehicle manufacturers, distributors, and importers, as well as the franchise contracts these businesses enter into to conduct business in the state of Florida. Following is a section-by-section analysis of the bill:

Section 1. Amends s. 320.64, F.S., which specifies actions that may lead the Department of Highway Safety and Motor Vehicles (DHSMV) to deny, suspend, or revoke the state license of a vehicle manufacturer, distributor, or importer (licensee). The section adds or elaborates upon

situations related to automobile franchise agreements between licensees and the auto dealers who sell their products.

Section 2. Amends s. 320.642, F.S., to make minor grammar corrections.

Section 3. Amends s. 320.643, F.S., to specify a licensee or the DHSMV may not:

- Reject a proposed transfer of a legal, equitable, or beneficial interest in a motor vehicle dealer entity to a trust or other entity, or to any beneficiary thereof, that is established by an owner of any interest in a motor vehicle dealer for estate planning purposes, if the controlling person of the trust or entity, or the beneficiary, is of "good moral character."
- Condition a proposed transfer based on a relocation of, construction of any addition or modification to, or any refurbishing or remodeling of the dealership structure, facility, or building of the existing motor vehicle dealer, or upon any modification of the existing franchise agreement, except for the change of ownership.

The bill provides licensee may not reject or withhold approval of a proposed transfer unless the licensee can prove in court the rejection or withholding of approval of the proposed transfer was reasonable and was not in violation of or precluded by any provision in s. 320.643, F.S.

Section 4. Amends s. 320.696, F.S., relating to the options for computing reimbursement of warranty work. The bill revises the provision in current law specifying a licensee may not seek to recover compensation for warranty work either directly or indirectly.

Section 5. Provides if any provisions of this act, or its application to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the act, which are severable.

Section 6. Provides a process whereby recreational vehicle (RV) dealers may sell used RVs on consignment. This provision conforms provisions relating to certificate of title requirements for RV dealers to provisions currently allowed for motor vehicle dealers.

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

CS/HB 7027 — Open Government Sunset Review/Motor Vehicle Records

by Economic Development and Community Affairs Policy Council; Governmental Affairs Policy Committee; and Rep. Schenck (CS/SB 1290 by Governmental Oversight and Accountability Committee and Transportation Committee)

The bill reenacts the public records exemption in s. 119.0712(2), F.S., relating to personal information contained in a motor vehicle record. This exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also amends s. 119.0712(2), F.S., by removing the codification of the federal law and clarifies personal information, including highly restricted personal information, contained in a motor vehicle record is confidential pursuant to the Driver's Privacy Protection Act (DPPA) by cross-referencing the federal law and its protections. The bill maintains the public record exemption for emergency contact information. The bill also maintains a prohibition against the use of information received pursuant to the DPPA for the mass commercial solicitation of clients for litigation against motor vehicle dealers.

If approved by the Governor, these provisions take effect October 1, 2009.
Vote: Senate 40-0; House 115-0

TRANSPORTATION ADMINISTRATION

HB 1021 — Department of Transportation

by Rep. Aubuchon (CS/CS/SB 424 by Finance and Tax Committee; Transportation Committee; and Senator Gardiner)

The bill makes changes to numerous programs administered by or affecting the Florida Department of Transportation (FDOT). A section-by-section summarization follows:

Section 1. Amends s. 120.52, F.S., to exclude transportation authorities created under ch. 343, F.S., from the definition of "agency" for the purposes of ch. 120, F.S., the Administrative Procedure Act.

Section 2. Amends s. 125.42, F.S., to correct a cross-reference.

Section 3. Amends s. 163.3177, F.S., to better integrate airport planning and adjacent land use in the local government comprehensive planning process.

Section 4. Amends s. 163.3178, F.S., to exempt certain seaport-related projects from development-of-regional-impact (DRI) review if the project is within 3 miles of a seaport.

Section 5. Amends s. 163.3180, F.S., to provide a definition of the term "backlog" as used in proportionate-share and proportionate fair-share contribution calculations for transportation concurrency.

Section 6. Amends s. 163.3182, F.S., to provide legislative findings relative to transportation concurrency backlogs and to authorize transportation concurrency backlog authorities to issue bonds. The 25 percent tax increment financing rate for ad valorem tax proceeds may be exceeded upon interlocal agreement of all affected taxing authorities.

Section 7. Amends s. 337.11, F.S., to authorize FDOT, through rule, to award a monetary stipend to unsuccessful bidders for design-build contracts to compensate for proposal development costs if the department determines it is in the best interest of the public to do so.

Section 8. Amends s. 337.18, F.S., to revise surety bond recording requirements. As amended, contractors would be required to maintain copies of surety bonds at their principal place of business and at the jobsite rather than in the county public records. Copies of the surety bonds would also remain available from FDOT.

Section 9. Amends s. 337.185, F.S., to include maintenance contractors in the process used by construction contractors to arbitrate contract disputes via the State Arbitration Board.

Section 10. Amends s. 337.403, F.S., providing additional exemptions to utility companies from utility relocation costs related to transportation projects. Utility companies are exempted from paying for relocation of a utility to accommodate a transportation project when the utility serves the transportation authority or its tenants exclusively. The revisions also require FDOT to bear the costs of the relocation of underground utilities under certain circumstances.

Section 11. Amends s. 337.408, F.S., authorizing FDOT to direct the relocation or removal of public pay telephones if they present an endangerment to life or property. The revisions also allow public pay telephones, including advertising displayed upon them, to be installed within governmental right-of-way limits under certain circumstances.

Section 12. Amends s. 338.01, F.S., requiring all new or replacement electronic toll collection systems installed on toll roads in the state to be interoperable with FDOT's electronic toll collection system.

Section 13. Amends s. 338.165, F.S., removing high-occupancy toll (HOT) lanes and express lanes from FDOT's authorization to request issuance of bonds secured by toll revenues collected on selected facilities for the purpose of funding transportation projects located within the county or counties in which the project is located.

Section 14. Creates s. 338.166, F.S., to authorize FDOT to request the issuance of bonds secured by revenues collected on HOT/express lanes on I-95 in Broward and Miami-Dade Counties. Tolls may continue to be collected after the discharge of any bond indebtedness but must first be used for operation and maintenance of the HOT/express lane project or associated transportation project. Any remaining toll revenues may be used for the construction, maintenance, or improvement of any road on the State Highway System. FDOT is authorized to implement variable toll rates on the HOT/express lanes. Except for HOT/express lanes, no tolls may be charged on any interstate highway where tolls were not being charged on July 1, 1997.

Section 15. Amends s. 338.2216, F.S., to provide for alternative tolling and payment methods including video billing and variable pricing for the Turnpike Enterprise system.

Section 16. Amends s. 338.231, F.S., to eliminate the requirement to maintain a uniform toll rate structure on the turnpike system.

Section 17. Amends s. 339.12, F.S., to increase the maximum amount of project agreements for projects or project phases not included in the adopted work program from $100 million to $250

million. The revisions also create a new reimbursement program for counties with a population of 150,000 or less. The program authorizes FDOT to enter into agreements with governmental entities to advance a maximum of $200 million in projects or project phases from outside the 5-year adopted work program. Projects included in these agreements must also be included in the governmental entity's comprehensive plan. This new program authorizes FDOT to enter into long-term repayment agreements with these counties for up to 30 years.

Section 18. Amends s. 339.135, F.S., to revise the notification process used by FDOT when amending the work program. Under the revisions, FDOT must notify each affected municipality, metropolitan planning organization, and county when deleting or deferring capacity-enhancing projects. FDOT must include comments received from affected bodies in its preparation of work program amendments.

Section 19. Amends s. 339.2816, F.S., to reinstate the Small County Road Assistance Program in 2012. Certain eligibility criteria relating to ad valorem tax rates are removed.

Section 20. Amends s. 348.0003, F.S., to require the members of each statutorily-created expressway authority, transportation authority, bridge authority, and toll authority to comply with constitutional financial disclosure requirements. The Miami-Dade Expressway Authority currently is required to comply.

Section 21. Amends s. 479.01, F.S., to modernize the definition of "automatic changeable facing" as it relates to outdoor advertising.

Section 22. Amends s. 479.07, F.S., to prohibit un-permitted signs outside urban areas, rather than incorporated area. The bill revises requirements for display of sign permit tags and directs FDOT to establish, by rule, a fee for furnishing a replacement permit tag in an amount that covers the actual cost of the tag. The amendment relegates the permitting of signs viewable from two or more roads in separate jurisdictions to the more stringent requirements. The amendment adds Hillsborough County and the City of Miami to a pilot program reducing the allowable minimum distance betweens signs to 1000 feet if all other requirements are met.

Section 23. Amends s. 479.08, F.S., to revise provisions for the denial or revocation of a sign permit for violations. Any notice of a violation must include a detailed description of the violation.

Section 24. Amends s. 479.156, F.S, to revise provisions relating to a municipality or county's ability to permit and regulate wall murals as "customary use" under federal law. The amendment allows a determination of customary use, the determination overrides the controls in the agreement between FDOT and the United States Department of Transportation.

Section 25. Amends s. 479.261, F.S., to expand the services for which the interstate highway logo sign program is applicable. FDOT is authorized to implement a 3-year rotation system to provide for the removal or addition of participating businesses. Permit fees are to be established based on market demand, population, traffic volume, and costs but may not exceed $5,000 in urban areas or $2,500 in other areas.

Section 26. Directs FDOT to conduct a study examining transportation alternatives for the Interstate 95 travel corridor considering needs relating to transportation, emergency management, homeland security, and economic development.

Section 27. Repeals ch. 343, part III, F.S., to abolish the non-functioning Tampa Bay Commuter Transit Authority.

Section 28. Amends s. 316.191, F.S., to increase the term for which a vehicle used in a violation of street racing provisions may be impounded from 10 days to 30 days.

Section 29. Amends s. 316.191, F.S., to revise the definition of "race" to include prearranged competitions as well as immediate responses to challenges to demonstrative superiority of a vehicle or driver.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-1; House 116-0

CS/HB 1065 — Airline Safety

by Roads, Bridges, and Ports Policy Committee and Rep. Plakon and others (CS/SB 1864 by Judiciary Committee and Senator Baker)

The bill creates the "Airline Safety and Wildlife Protection Act of Florida." The bill includes a legislative finding that the ability of airport operators to manage wildlife hazards in a manner consistent with federal and state law is necessary to prevent jeopardy to human life or aircraft safety. Further, the bill declares the legislative intent that an airport should not be subject to penalties, restrictions, liabilities, or sanctions when taking authorized actions to manage wildlife, and that the authorization should not be superseded by the actions of other state and local agencies.

The bill provides an airport authority or any other entity owning or operating an airport may not be subject to any administrative or civil penalty, restriction, or other sanction stemming from authorized actions taken for the purpose of protecting human life or aircraft safety from wildlife hazards.

The bill defines what constitutes an authorized action and provides exceptions to that definition. The bill specifies that it is not intended to provide immunity from liability with respect to intentional or negligent torts, and is not intended to affect the waiver of sovereign immunity.

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

CS/CS/HB 1205 — Charter County Transit System Surtax

by Economic Development and Community Affairs Policy Council; Military and Local Affairs Policy Committee; and Rep. Braynon and others (CS/SB 2210 by Transportation Committee and Senator Wilson)

This bill renames the Charter County Transit System Surtax, the "Charter County Transportation System Surtax" and allows prospective eligibility for twelve existing charter counties by removing an existing provision requiring charter adoption prior to January 1, 1984. The bill allows proceeds of the surtax to be remitted to transit authorities for specified uses and requires any charter county distributing the proceeds of a charter county transit system surtax to one or more of its municipalities, to revise the interlocal agreement directing the distribution no less frequently than every five years for the purpose of including newly created municipalities in the distribution.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 38-0; House 102-9

CS/HB 1213 — Jacksonville Transportation Authority

by Roads, Bridges, and Ports Policy Committee and Rep. A. Gibson and others (SB 2246 by Senators King and Baker)

The bill makes significant changes to the Jacksonville Transportation Authority (JTA) Law by providing consistency between the JTA's current functions and operations and its statutory powers, duties, and responsibilities. The bill also provides the JTA statutory authority to enter into public-private partnerships to build, operate, own, or finance transportation facilities. Additionally, the bill requires the Florida Transportation Commission to monitor the efficiency, productivity, and management of the JTA.

The bill also amends s. 334.30, F.S., concerning public-private transportation facilities, to provide a legislative finding that certain private entities perform a governmental function when entering into agreements with the Department of Transportation and, as a consequence, certain transportation facilities will receive an exemption from the payment of ad valorem tax to the extent the property is owned by the state or other government entity, from intangible tax levied by ch. 199, F.S., and from special assessments levied by the state or any political subdivisions.

Further, the private entities, or consortia, are exempt from the tax imposed by ch. 201 F.S., on all documents or obligations to pay money that arise out of the agreements to design, build, operate, own, or finance transportation facilities.

The bill directs the JTA to conduct and fund a study determining the feasibility of creating a regional transportation authority (RTA) in Northeast Florida composed of Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 40-0; House 119-0

CS/CS/SB 1778 — Department of Highway Safety and Motor Vehicles

by Policy and Steering Committee on Ways and Means; Transportation and Economic Development Appropriations Committee; and Senator Fasano

The bill amends chs. 319, 320 and 322, F.S., providing for various fee increases related to driver's licenses, title services and the registration of vehicles: The bill:

- Terminates the DUI Programs Coordination Trust Fund within the Department of Highway Safety and Motor Vehicles (department) and provides for the transfer of current balances and revenues.
- Increases the fee for a copy of a crash report from $2 to $10.
- Increases the fee for failure to file an application for the transfer of a motor vehicle or mobile home title within 30 days of delivery from $10 to $20.
- Increases the fee for an original or duplicate certificate of title from $24 to $70 and from $3 to $49 for a vehicle for hire.
- Provides for a $20 fee for each subsequent examination of a rebuilt vehicle certificate of title.
- Provides for a service fee of $2.50 for the shipping and handling of each paper certificate of title mailed by the department.
- Increases the fee for expedited service on title transfers, title issuances, duplicate titles or recording of liens from $7 to $10.
- Increases the fee on license registrations from 50 cents to $1.25 to cover the cost of the Florida Real Time Vehicle Information System.
- Increases a service charge on registration receipt from $2.50 to $5 and the service charge for the issuance of a validation sticker from $1 to $3.
- Extends the life cycle of the license plate from 6 to 10 years and increases the cost of the plate from $12 to $28. The annual advanced replacement fee is increased from $2 to $2.80.
- Changes the term "retroreflective" to "retroflection" and increases the fee from $1 to $1.50.
- Increases the fee imposed upon the initial application for registration of a vehicle from $100 to $225.
- Increases the annual license tax imposed for the operation of motor vehicles by 35 percent. This increase varies depending on the current flat rate based on the weight of the vehicle.

- Increases the surcharge imposed on commercial motor vehicles with a gross weight of 10,000 pounds or more from $5 to $10.
- Increases the surcharge imposed on each license tax imposed under s. 320.08, F.S., from $2 to $4.
- Increases the General Revenue Surcharge on the license tax from $1 to $5.50.
- Increases the processing fee charged for both prestige or specialty license plates from $2 to $5.
- Provides for the distribution of the Florida Golf license plate annual use fee to the Dade Amateur Golf Association and specifies that up to 10 percent of the proceeds from the annual use fee may be used for the administration of the Florida Junior Golf Program.
- Requires the department to develop an Autism license plate with an annual use fee of $25, the proceeds of which are to be distributed to Achievement and Rehabilitation Centers, Inc., to fund service programs for autism and related disabilities.
- Clarifies the distribution of annual license tax revenues imposed on mobile homes to the county or municipality where the units are located.
- Allows an importer or distributor of motor vehicles to purchase dealer license plates.
- Requires the department to annually transfer $5 million from the Highway Safety Operating Trust Fund to the Transportation Disadvantaged Trust Fund in the Department of Transportation beginning July 1, 2011.
- Requires the department to assess a $75 fee and a $2.50 service charge for the publication of a notice of intent to establish or relocate an existing dealership to a location within a territory where the same line-make vehicle is presently represented by a franchised dealer.
- Provides for the distribution of revenues collected from voluntary checkoffs on both drivers license and motor vehicle registration applications.
- Increases the fee for the reexamination of a driver's license knowledge test from $5 to $10 and a skills test from $10 to $20.
- Expands the driver's license services for which a tax collector may charge a service fee, and increases that fee from $5.25 to $6.25.
- Increases the fee for driver history records from $2.10 to $8 for a 3-year history and from $3.10 to $10 for a 7-year history.
- Increases the driver's license delinquent fee for failure to renew within 12 months of expiration from $1 to $15.
- Increases the fee for an original, renewal or replacement identification card from $10 to $25.
- Increases fees associated with licensing of drivers:
  - Original Class E or Motorcycle use only – increased from $27 to $48
  - Renewal Class E or Motorcycle use only – increased from $20 to $48

  - Commercial Driver's License or Renewal – increased from $67 to $75
  - Replacement License – increased from $10 to $25
  - Increases drivers license reinstatement fees
    - Service fee for reinstatement of license suspended for failure to timely pay a fine, attend driver improvement school or appear at a scheduled hearing from $47.50 to $60
    - Service fee is increased from $35 to $45 following a suspension, and from $60 to $75 following a revocation.
    - Increases the reinstatement fee for revocation or suspension for refusal to submit to a breath, blood or urine test from $115 to $130

- Provides for a $25 fee for a formal administrative review hearing, and a $12.00 fee for an informal hearing on a license suspensions related to failure to submit to a breath, blood or urine alcohol test.

- Provides that an additional fee of $12 be collected when installing an ignition interlock device and remitted to the department for deposit in the Highway Safety Operating Trust Fund to be used for the operations of the Ignition Interlock Device Program.

- Prohibits any DUI program offering probation services from referring clients to their own probation services program and directs the department to adopt rules to administer.

If approved by the Governor, these provisions take effect September 1, 2009, except as otherwise expressly provided.
Vote: Senate 40-0; House 74-43

CS/CS/SB 1780 — Department of State

by Policy and Steering Committee on Ways and Means; Transportation and Economic Development Appropriations Committee; and Senator Fasano

The bill relates to functions within the Department of State (DOS) as follows:

Cultural Grant Program:

- Creates a consolidated cultural grants program and adds definitions for clarification.

Division of Corporations:

- Eliminates requirement for DOS to provide a second notice for failure to file annual reports, provides a date and time for administrative dissolution or revocation of authority to conduct business in the state for failure to file annual reports;

- Deletes the requirement that a fictitious name renewal notice be sent to the registered owner and requires that the expiration of a fictitious name be sent to the owner or registrant;

- Authorizes the DOS to collect electronic addresses and to provide notices by electronic transmission if an e-mail address is available.

Uniform Commercial Code:

- Requires an additional $10 fee for filing an initial financing statement under the Uniform Commercial Code and requires that 100 percent of the fee be deposited into the General Revenue Fund.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 96-22

CS/SB 1782 — Unemployment Compensation Claims and Benefits Information System

by Transportation and Economic Development Appropriations Committee and Senator Fasano

The bill creates s. 443.113, F.S., to provide substantive statutory authority for the replacement of the Unemployment Compensation Claims and Benefits technology system.

The statutory provision establishes and defines the project's:

- Governance structure,
- Planned scope,
- Main business objectives that must be achieved, and
- Completion timeframes.

If approved by the Governor, these provisions take effect July 1, 2009.
Vote: Senate 39-0; House 117-0

HB 7061 — Welfare Transition Trust Fund/DMA

by Transportation and Economic Development Appropriations Committee and Rep. Glorioso

The bill (Chapter 2009-24, L.O.F.) re-creates the Welfare Transition Trust Fund within the Department of Military Affairs (DMA). The trust fund serves as a repository for funds collected from the Temporary Assistance to Needy Families (TANF) Block Grant.

These provisions were approved by the Governor and take effect July 1, 2009.
Vote: Senate 40-0; House 119-0

MEMORIALS

A memorial is a document addressed to Congress, to the President of the United States, or to an executive or legislative body or official to express the consensus of the Legislature or to petition action on matters within the jurisdiction of the addressee. In the Florida Legislature, both houses must pass a memorial, and it is not subject to approval or veto by the Governor. The Legislature also uses a memorial to request that Congress propose an amendment to the United States Constitution or enact legislation.

The following memorials were approved by the Senate and House during the 2009 Regular Session:

Bill	By	To Subject	Vote: Senate / House
CS/SB 152	Health Regulation Committee and Senators Aronberg, Deutch, and Gelber	TO: U.S. Congress SUBJECT: Home Health Services/Increase Federal Funding	Approved / Approved
SB 1330	Senator Jones	TO: U.S. Congress SUBJECT: Silver Alert Grant Program	Approved / Approved

CLAIM BILLS

During the 2009 session, 30 claim bills were filed in the Senate. There were 22 companion bills filed in the House of Representatives. Also, there was one House claim bill filed that did not have a Senate companion.

Of the 30 claim bills filed in the Senate, 7 were approved by the Senate but only 5 of those were approved by both the House and Senate. At this time, none of the claim bills have been approved by the Governor. If they become law, four of the claim bills will authorize or direct payment of $8,200,000 to be paid from local government budget accounts. The funds to pay on the other claim bill, (SB 58), will be drawn from a Department of Children and Families trust fund in the amount of $950,000 per year through FY 2018-2019.

The following claim bills were approved:

Bill	By	Relief:	Vote: Senate	/ House
SB 30	Senator Hill	Sheila and John Forehand v. City of Jacksonville; $500,000	34-5	117-0
CS/SB 46	Health Regulation Committee and Senator Ring	Raul Otero v. South Broward Hospital District; $2,000,000	33-6	116-0
CS/SB 58	Policy and Steering Committee on Ways and Means and Senator Pruitt	Garcia-Bengochea v. Dept. of Children and Family Services; ($950,000 with continuing Appropriation)	32-7	113-3
CS/SB 522	Education Pre-K – 12 Committee and Senator Smith	V. Merriweather v. Palm Beach County School Board; $3,900,000	32-6	118-0
SB 524	Senator Smith	Fatta Family v. Broward County Sheriff's Office; $1,800,000	30-6	114-3

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