

# CHAPTER 97-100

## Senate Bill No. 434

An act relating to the Florida Statutes; amending ss. 240.117(3), 240.118(1), 240.2098(2), 240.268(6), 240.3215(2), 240.38(6), 242.3305(1), 250.10(1), (2), (3), (5), 253.033(1), (4)(a), 255.29(3), 282.322, 324.202(2)(b), 334.14(1)(a), 339.135(4)(g), 341.052(5), 348.753(2), 348.967(2)(a), 364.025(2), 370.154, 373.0693(1)(b), 373.605(1), 377.709(6), 381.0101(2)(a), 381.0301(1), 397.411(2)(b), 400.191(1)(c), 400.441(1)(a), 400.4415(1), (2)(a), (b), (9), 400.452(3), 400.471(3), and 400.6255, Florida Statutes, and ss. 240.253(1)(a), (b), 240.61(13), 250.5205(1), 252.85(1), 282.3061(8), 287.042(2)(a), 287.055(10)(b), 287.0947(1)(f), 288.1221(2), 288.1226(5)(c), 288.905(3)(c), 288.9604(2), 288.973(1)(f), 288.975(11), 290.0065(10), 290.009(1), 316.193(3)(c), 320.08056(4)(j), 320.08058(10)(c), 320.0848(1)(d), (2)(c), 320.27(2), 320.827, 322.2616(18), 338.155(2), 341.501, 370.021(2)(d), 370.0615(9), 370.092(2), 370.1111(1)(c), 376.30711(1)(b), 378.101(4)(b), 381.00315, 381.004(2)(c), 394.90(5)(b), 400.4075(5), (6), and 402.33(10)(b), Florida Statutes (1996 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; and improving the clarity of the statutes and facilitating their correct interpretation.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 240.117, Florida Statutes, is amended to read:

240.117 Common placement testing for public postsecondary education.—

(3) By January 15, 1996, the Articulation Coordinating Committee shall recommend and the State Board of Education shall adopt rules which would require high schools to offer students the opportunity to take the common placement test at the beginning of the tenth grade year before enrollment in the eleventh grade year in public high school for the purpose of obtaining remedial instruction prior to entering public postsecondary education.

Reviser's note.—Amended to improve clarity.

Section 2. Subsection (1) of section 240.118, Florida Statutes, is amended to read:

240.118 Postsecondary feedback of information to high schools.—

(1) On or before January 1, 1994, the State Board of Education shall adopt rules that require the Commissioner of Education to report to the

State Board of Education, the Legislature, and the school districts on the performance of each first-time-in-postsecondary education student from each public high school in this state who is enrolled in a university, community college, or public degree career education school. Such reports shall be based on information databases maintained by the Division of Universities, Division of Community Colleges, and Division of Applied Technology and Vocational, Adult, and Community Education. In addition, the universities, community colleges, and degree career education schools shall provide school districts access to information on student performance in regular and preparatory courses and shall indicate students referred for remediation pursuant to s. 240.117 or s. 239.213.

Reviser's note.—Amended to conform to s. 13, ch. 94-232, Laws of Florida, which amended s. 20.15 to redesignate the Division of Vocational, Adult, and Community Education as the Division of Applied Technology and Adult Education.

Section 3. Subsection (2) of section 240.2098, Florida Statutes, is amended to read:

240.2098 University student ombudsman office.—

(2) Each university must have an established procedure by which a student may appeal to the office of the ombudsman a decision that is related to the student's access to courses and credit granted toward the degree. Detailed information concerning this procedure must be included in the university catalog.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 4. Subsection (6) of section 240.268, Florida Statutes, is amended to read:

240.268 University police officers.—

(6) The university, in concurrence with the Department of Law Enforcement, shall adopt rules, including, but not limited to, the appointment, employment, and removal of university police in accordance with the state Career Service System, and, further, establish in writing a policy manual, including, but not limited to, routine and emergency law enforcement situations. A policy manual shall be furnished to each university police officer.

Reviser's note.—Amended to conform to part II of chapter 110, entitled "Career Service System."

Section 5. Subsection (2) of section 240.3215, Florida Statutes, is amended to read:

240.3215 Community college district board of trustees; degrees and certificates.—

(2) ~~Effective August 1, 1984,~~ Each board of trustees shall require the use of scores on tests for college-level communication and computation skills provided in s. 229.551 as a condition for graduation with an associate in arts

degree. Use of test scores before August 1, 1984, shall be limited to student counseling and curriculum improvement.

Reviser's note.—Amended to delete obsolete provisions.

Section 6. Subsection (6) of section 240.38, Florida Statutes, is amended to read:

240.38 Community college police.—

(6) The community college, with the approval of the Department of Law Enforcement, shall adopt rules, including, without limitation, rules for the appointment, employment, and removal of community college police in accordance with the state Career Service System and shall establish in writing a policy manual, that includes, without limitation, procedures for managing routine law enforcement situations and emergency law enforcement situations. The community college shall furnish a copy of the policy manual to each of the police officers it employs.

Reviser's note.—Amended to conform to part II of chapter 110, entitled "Career Service System."

Section 7. Subsection (1) of section 242.3305, Florida Statutes, is amended to read:

242.3305 Florida School for the Deaf and the Blind; responsibilities and mission.—

(1) The Florida School for the Deaf and the Blind is a state-supported residential school for hearing-impaired and visually impaired students in preschool through 12th grade. The school is a part of the state system of public education and shall be funded through the Division of Public Schools of the Department of Education. The school shall provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and their parents. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the Florida resident access grant ~~tuition voucher~~ program as provided in s. 240.605.

Reviser's note.—Amended to conform to s. 32, ch. 94-230, Laws of Florida, which changed "tuition voucher" to "Florida resident access grant."

Section 8. Subsections (1), (2), (3), and (5) of section 250.10, Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—

(1) In case of a vacancy, the Governor shall, subject to confirmation by the Senate, appoint a federally recognized officer of the Florida National Guard who shall have served therein as such for at least 5 years and attained the rank of major or higher, to be the Adjutant General of the state with the rank of not less than brigadier general or such higher rank as may be authorized by applicable tables of organization of the Department of the

Army. The Adjutant General and all other officers of the Florida National Guard on permanent duty with the Military Department of Military Affairs and who are paid from state funds shall receive the pay and allowances of their respective grade as prescribed by applicable pay tables of the national military establishment for similar grade and period of service of personnel, unless a different rate of pay and allowances be specified in the appropriation bill, in which event such pay shall be the amount therein specified. An officer, with his or her consent, may be ordered to active state service for administrative duty with the Military Department of Military Affairs at a grade lower than the officer currently holds.

(2) The Adjutant General of the state shall be the Chief of the Military Department of Military Affairs. He or she shall:

(a) Supervise the receipt, preservation, repair, distribution, issue, and collection of all arms and military stores of the state.

(b) Supervise all troops, arms, and branches of the militia, such supervisory powers covering primarily all duties pertaining to their organization, armament, discipline, training, recruiting, inspection, instruction, pay, subsistence, and supplies.

(c) Maintain records of all officers and men and women of the organized militia, and keep on file in the Adjutant General's office, copies of all orders, reports, and communications received and issued by him or her.

(d) Cause the law and orders relating to the militia of Florida to be indexed, printed, and bound, and prepare and publish blank books, forms, and stationery when necessary, and furnish them at the expense of the state.

(e)1. Prepare and publish by order of the Governor such orders, rules and regulations, consistent with law, as are necessary to bring the organization, armament, equipment, training, and discipline of the Florida National Guard to a state of efficiency as nearly as possible to that of the regular United States Army and Air Force, and the Adjutant General shall attest all orders of the commander in chief relating to the militia.

2. Establish by directive an organized and supervised physical fitness program for state active duty personnel of the Department of Military Affairs, provided that the program does not exceed 1 hour per day, for a maximum of 3 hours per week, and originates and terminates at the normal work site. All fees, membership dues, equipment, and clothing relating to such physical fitness program shall be at no cost to the state. Administrative leave, not to exceed 3 hours per week, shall be provided by the department to all state active duty personnel participating in the physical fitness program.

(f) Prepare such reports and returns as the Secretary of Defense may prescribe and require.

(g) Provide military police or security guards to secure or guard any state military reservation or armory that the Adjutant General finds necessary to secure or guard.

(h) Perform such other duties as may be required of the Adjutant General by the commander in chief.

(i) The Adjutant General may employ such clerical help as is necessary for the proper conduct of the ~~Military Department of Military Affairs~~, and he or she is authorized to accept such clerical, technical, or other assistants as may be provided by the Federal Government.

(j) Establish and maintain as part of the Adjutant General's office a repository of records of the services of Florida troops, including Florida officers and enlisted personnel, during all wars, and shall be the custodian of all records, relics, trophies, colors, and histories relating to such wars, now in possession of or which may be acquired by the state.

(k) The Adjutant General shall have a seal of office, to be approved by the commander in chief, and all copies of papers in his or her office, duly certified and authenticated under the said seal, shall be admissible in evidence in all cases in like manner as if the original were produced.

(l) The Adjutant General shall, upon request, provide a summary to the Governor on the number and condition of the organized militia, and the number and condition of the arms and accouterments in the custody of the state, and shall transmit to the Governor at said time a detailed report of all funds and moneys received and disbursed by the ~~Military Department of Military Affairs~~. The Adjutant General may also make such recommendations as to needed legislation as he or she may deem proper.

(3) There shall be furnished suitable buildings for conducting the business of the ~~Military Department of Military Affairs~~ and for the proper storage, repair and issuance of military property.

(5) The Adjutant General shall employ a federally recognized officer of the Florida National Guard as the state quartermaster who under the direction of the Adjutant General shall be accountable for all funds accruing to the ~~Military Department of Military Affairs~~, receive, preserve, repair, issue, distribute, and account for all ~~State Military Department of Military Affairs~~ property to include real estate pertaining to the State Armory Board; construct, maintain, improve, and repair facilities pertaining to the ~~Military Department of Military Affairs~~ and the armory board; the state quartermaster will be the recorder of the armory board and will perform such other duties as may be required of him or her by the Adjutant General; the state quartermaster shall give a surety bond in a surety company approved by the Adjutant General in such amount as the Adjutant General may determine.

Reviser's note.—Amended to conform to the redesignation of the Military Department as the Department of Military Affairs by s. 2, ch. 73-93, Laws of Florida.

Section 9. Subsection (1) and paragraph (a) of subsection (4) of section 253.033, Florida Statutes, are amended to read:

253.033 Inter-American Center property; transfer to board; continued use for government purposes.—

(1) All real and personal property presently owned by the Inter-American Center Authority, pursuant to former s. 554.072 or otherwise, and all existing liabilities of said authority are hereby transferred to the Board of Trustees of the Internal Improvement Trust Fund. However, the liability to the Department of Transportation for road and bridge work is hereby waived and satisfied. Except as provided in s. 4, chapter 75-131, Laws of Florida, all obligations in connection with contracts and bond issues of the authority shall be assumed and performed by the trustees as provided by law or contract. No action shall be taken as a result of this act that will impair the obligations of any such contract or outstanding bonds.

(4) The Board of Trustees of the Internal Improvement Trust Fund may lease to Dade County approximately 300 acres of land, and approximately 90 acres of abutting lagoon and waterways, designated as the Primary Development Area, and may also transfer to Dade County all or any part of the plans, drawings, maps, etc., of the Inter-American Center Authority existing at the date of transfer, provided Dade County:

(a) Assumes responsibilities of the following agreements:

1. That certain agreement entered into on June 12, 1972, between the City of Miami and Inter-American Center Authority whereby the authority agreed to repurchase, with revenues derived from the net operating revenue of the project developed on the leased lands after expenses and debt service requirements, the approximately 93 acres of lands previously deeded to the City of Miami as security for repayment of the \$8,500,000 owed by the authority to the City of Miami. Title to the land repurchased pursuant to the provisions of this subsection shall be conveyed to the State of Florida.

2. Those certain rights granted to the City of North Miami pursuant to the provisions of former s. 554.29(1)(a) and former s. 554.30 obligating the authority to issue a revenue bond to the City of North Miami, containing provisions to be determined by Dade County, to be repaid from all ad valorem taxes, occupational license fees, franchise taxes, utility taxes, and cigarette taxes which would have accrued to the authority or the City of North Miami by nature of property owned by the authority having been in the City of North Miami and from the excess revenue after operating expenses, development cost and debt service requirements, of the project developed on the leased lands.

Any property leased under this subsection shall not be leased for less than fair market value.

Reviser's note.—Amended to conform to the repeal of the provisions of former chapter 554 by s. 1, ch. 75-131, Laws of Florida.

Section 10. Subsection (3) of section 255.29, Florida Statutes, is amended to read:

255.29 Construction contracts; department rules.—The Department of Management Services shall establish, through the adoption of administrative rules as provided in chapter 120:

(3) Procedures to govern negotiations for construction contracts and modifications to contract documents when such negotiations are determined by the secretary ~~executive director~~ of the Department of Management Services to be in the best interest of the state.

Reviser's note.—Amended to conform to s. 4, ch. 92-279, Laws of Florida, which renamed the Department of General Services as the Department of Management Services and provided that the head of the department is the Secretary of Management Services. Chapter 92-279 revised all other existing references to the executive director of the department to refer to the secretary.

Section 11. Section 282.322, Florida Statutes, is amended to read:

282.322 Special monitoring process for designated information resources management projects.—For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Information Resource Commission, in consultation with each affected agency, or the Board of Regents for each affected university, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Information Resource Commission or the Board of ~~or~~ Regents as appropriate upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, and the Legislative Information Technology Resource Committee. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.

Reviser's note.—Amended to correct an apparent typographical error.

Section 12. Paragraph (b) of subsection (2) of section 324.202, Florida Statutes, is amended to read:

324.202 Seizure of motor vehicle license plates by recovery agents.—

(2) The Department of Highway Safety and Motor Vehicles shall:

(b) Provide a method for the payment of the fee in s. 627.733(7) to the recovery agent or recovery agency seizing the license plate pursuant to this section. The requirements with respect to payment must provide that when the owner or operator whose driver's license has been suspended under ~~to~~ s. 316.646 or s. 627.733 pays the reinstatement fee to the Department of Highway Safety and Motor Vehicles, the department shall pay the recovery agent.

Reviser's note.—Amended to improve clarity.

Section 13. Paragraph (a) of subsection (1) of section 334.14, Florida Statutes, is amended to read:

334.14 Employees of department who are required to be engineers.—

(1) At a minimum, each of the following employees of the department must be a professional engineer registered under chapter 471:

(a) The State ~~Highway Transportation~~ Highway Engineer and the district secretary for each district, except that in lieu of engineering registration the district secretary for each district may hold an advanced degree in an appropriate related discipline such as a master of business administration.

Reviser's note.—Amended to conform to s. 40, ch. 90-136, Laws of Florida, which renamed the State Transportation Engineer as the State Highway Engineer.

Section 14. Paragraph (g) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(g) The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Florida Administrative Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:

1. Conduct an in-depth evaluation of the tentative work program as required in s. 20.23 for compliance with applicable laws and departmental policies; and

2. Hear all questions, suggestions, or other comments offered by the public.



By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:

- a. Financial soundness;
- b. Stability;
- c. Production capacity;
- d. Accomplishments, including compliance with program objectives in s. 334.046;
- e. Compliance with approved local government comprehensive plans;
- f. Objections and requests by metropolitan planning organizations;
- g. Policy changes and effects thereof;
- h. Identification of statewide or regional projects; and
- i. Compliance with all other applicable laws.

Reviser's note.—Amended to conform to the title of the publication.

Section 15. Subsection (5) of section 341.052, Florida Statutes, is amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(5) The department shall distribute 15 percent of the funds designated for the public transit block grant program into the Transportation Disadvantaged Trust Fund for distribution to community transportation coordinators as provided by the rules of the Commission for the Transportation Disadvantaged Commission.

Reviser's note.—Amended to conform to the redesignation of the Transportation Disadvantaged Commission as the Commission for the Transportation Disadvantaged by s. 64, ch. 94-237, Laws of Florida.

Section 16. Subsection (2) of section 348.753, Florida Statutes, is amended to read:

348.753 Orlando-Orange County Expressway Authority.—

(2) The governing body of the authority shall consist of five members. Three members shall be citizens of Orange County, who shall be appointed by the Governor. The fourth member shall be, ex officio, the chair of the County Commissioners of Orange County, and the fifth member shall be, ex officio, the district secretary of the Department of Transportation serving in the district that contains Orange County. ~~Two of the members of the authority who are first appointed shall be designated by the Governor to serve for terms expiring January 3, 1965, and the other member of the authority who is first appointed shall be designated by the Governor to serve for a term~~

~~expiring January 3, 1967. Thereafter, The term of each appointed member shall be for 4 years. Each appointed member shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. Each appointed member of the authority shall be a person of outstanding reputation for integrity, responsibility, and business ability, but no person who is an officer or employee of any city or of Orange County in any other capacity shall be an appointed member of the authority. Each such original appointment shall be made within 30 days of the effective date of this part. Any member of the authority shall be eligible for reappointment.~~

Reviser's note.—Amended to delete provisions that have served their purpose.

Section 17. Paragraph (a) of subsection (2) of section 348.967, Florida Statutes, is amended to read:

348.967 Santa Rosa Bay Bridge Authority.—

(2)(a) The governing body of the authority shall consist of seven members. Three members shall be appointed by the Governor and three members shall be appointed by the Board of County Commissioners of Santa Rosa County, none of whom shall be an elected official at the time of his or her appointment. The six members appointed by the Governor and the board of county commissioners shall be permanent residents of Santa Rosa County at all times during their terms of office. The seventh member shall be the district secretary of the Department of Transportation serving in the district that contains Santa Rosa County. ~~Two of the members of the authority who are appointed by the Governor shall be designated to serve for terms expiring January 3, 1986, and the third member appointed by the Governor shall be designated to serve for a term expiring January 3, 1988. One of the members of the authority appointed by the board of county commissioners shall be designated to serve for a term expiring January 3, 1986, and the two remaining members appointed by the board of county commissioners shall be designated to serve for a term expiring January 3, 1988. Thereafter, The term of each appointed member shall be for 4 years. The district secretary shall serve ex officio. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. Any member of the authority is eligible for reappointment.~~

Reviser's note.—Amended to delete provisions that have served their purpose.

Section 18. Subsection (2) of section 364.025, Florida Statutes, is amended to read:

364.025 Universal service.—

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2000, an interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism.

The interim mechanism shall be implemented by no later than January 1, 1996, and shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

Reviser's note.—Amended to improve clarity.

Section 19. Section 370.154, Florida Statutes, is amended to read:

370.154 Shrimp regulations; closed areas; suspension of license, etc.—Any person convicted of taking shrimp in a closed area who is punishable under s. 370.15(7) or (8) ~~370.15(6) or s. 370.151(5)~~ shall, in addition to the penalties set forth therein, have his or her permit and the permit of the boat involved in the violation, issued pursuant to s. ~~370.15(6)~~ 370.15(5), revoked, if the person holds such a permit, and he or she shall be ineligible to make application for such a permit for a period of 2 years from the date of such conviction. If a person not having a permit is convicted hereunder, that person and the boat involved in the violation shall not be eligible for such a permit for 5 years.

Reviser's note.—The reference to s. 370.15(6) is amended to conform to the redesignation of s. 370.15(6) as s. 370.15(7) by s. 1, ch. 79-263, Laws of Florida, and the subsequent division of that provision into subsections (7) and (8) by s. 12, ch. 86-240, Laws of Florida. The reference to s. 370.151(5) is deleted to conform to its repeal by s. 13, ch. 86-240. The reference to s. 370.15(5) is amended to conform to its redesignation as s. 370.15(6) by s. 1, ch. 79-263.

Section 20. Paragraph (b) of subsection (1) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(1)

(b) No subdistrict or basin in the St. Johns River Water Management District other than established by this act shall become effective until approved by the Legislature.

Reviser's note.—Amended to conform to the correct name of the water management district as created in s. 373.069.

Section 21. Subsection (1) of section 373.605, Florida Statutes, is amended to read:

373.605 Group insurance for water management districts.—

(1) The governing board of any water management district is hereby authorized and empowered to provide group insurance for its employees in the same manner and with the same provisions and limitations authorized for other public employees by ss. 112.08, 112.09, 112.10, 112.11, ~~112.12~~ and 112.14.

Reviser's note.—Amended to conform to the repeal of s. 112.12 by s. 4, ch. 76-208, Laws of Florida.

Section 22. Subsection (6) of section 377.709, Florida Statutes, is amended to read:

377.709 Funding by electric utilities of local governmental solid waste facilities that generate electricity.—

(6) EXEMPTIONS.—A new solid waste facility, as defined in this section, not greater than 75MW, or a solid waste facility expansion of not greater than 50MW, shall be exempt from the need determination process outlined in s. 403.519.

Reviser's note.—Amended to improve clarity.

Section 23. Paragraph (a) of subsection (2) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(2) DEFINITIONS.—As used in this section:

(a) "Board" means the Environmental Health Professionals Advisory Certification Board.

Reviser's note.—Amended to conform to the correct title of the board as created in subsection (4).

Section 24. Subsection (1) of section 381.0301, Florida Statutes, is amended to read:

381.0301 Education and resource development.—

(1) The department shall foster the recruitment, retention, and continuing education and training of health professionals and managers needed to administer the public health mission. This responsibility shall be conducted in cooperation with federal, state, and local agencies whose purpose is to prepare persons for service in public health, especially the Centers for Disease Control and Prevention, the State University System, Florida medical schools, and the College of Public Health of the University of South Florida. To support the department in this endeavor:

Reviser's note.—Amended to conform to Pub. L. No. 102-531, which renamed the Centers for Disease Control as the Centers for Disease Control and Prevention.

Section 25. Paragraph (b) of subsection (2) of section 397.411, Florida Statutes, is amended to read:

397.411 Inspection; right of entry; records.—

(2)

(b) The department shall conduct compliance ~~compliant~~ investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida statute and rule. The department may conduct a fire, safety, and health inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The department, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.

Reviser's note.—Amended to improve clarity.

Section 26. Paragraph (c) of subsection (1) of section 400.191, Florida Statutes, is amended to read:

400.191 Availability, distribution, and posting of reports and records.—

(1) The agency shall, within 60 days from the date of an annual inspection visit or within 30 days from the date of any interim visit, forward the results of all inspections of nursing home facilities to:

(c) The area office supervisor of the agency in whose district the inspected facility is located.

Reviser's note.—Amended to improve clarity.

Section 27. Paragraph (a) of subsection (1) of section 400.441, Florida Statutes, is amended to read:

400.441 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency and the Department of Health and Rehabilitative Services, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(a) The maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, lighting, ventilation, and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure.

Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the agency, the department, and the Department of Health and Rehabilitative Services.

1. Evacuation capability determination.—

a. The provisions of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, shall be used for determining the ability of the residents, with or without staff assistance, to relocate from or within a licensed facility to a point of safety as provided in the fire codes adopted herein. An evacuation capability evaluation for initial licensure shall be conducted within 6 months after the date of licensure. For existing licensed facilities that are not equipped with an automatic fire sprinkler system, the administrator shall evaluate the evacuation capability of residents at least annually. The evacuation capability evaluation for each facility not equipped with an automatic fire sprinkler system shall be validated, without liability, by the State Fire Marshal, by the local fire marshal, or by the local authority having jurisdiction over firesafety, before the license renewal date. If the State Fire Marshal, local fire marshal, or local authority having jurisdiction over firesafety has reason to believe that the evacuation capability of a facility as reported by the administrator may have changed, it may, with assistance from the facility administrator, reevaluate the evacuation capability through timed exiting drills. Translation of timed fire exiting drills to evacuation capability may be determined:

(I) Three minutes or less: prompt.

(II) More than 3 minutes, but not more than 13 minutes: slow.

(III) More than 13 minutes: impractical.

b. The Office of the State Fire Marshal shall provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the Agency for Health Care Administration who are responsible for regulating facilities under this part, and to local governmental inspectors. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

c. The Office of the State Fire Marshal, in cooperation with provider associations, shall provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

d. The administrator of a licensed facility shall sign an affidavit verifying the number of residents occupying the facility at the time of the evacuation capability evaluation.

2. Firesafety requirements.—

a. Except for the special applications provided herein, effective January 1, 1996, the provisions of the National Fire Protection Association, Life Safety Code, NFPA 101, 1994 edition, Chapter 22 for new facilities and Chapter 23 for existing facilities shall be the uniform fire code applied by the State Fire Marshal for assisted ~~adult-congregate~~ living facilities, pursuant to s. 633.022.

b. Any new facility, regardless of size, that applies for a license on or after January 1, 1996, must be equipped with an automatic fire sprinkler system. The exceptions as provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to any new facility housing eight or fewer residents. On July 1, 1995, local governmental entities responsible for the issuance of permits for construction shall inform, without liability, any facility whose permit for construction is obtained prior to January 1, 1996, of this automatic fire sprinkler requirement. As used in this part, the term “a new facility” does not mean an existing facility that has undergone change of ownership.

c. Notwithstanding any provision of s. 633.022 or of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing facility housing eight or fewer residents is not required to install an automatic fire sprinkler system, nor to comply with any other requirement in Chapter 23 of NFPA 101, 1994 edition, that exceeds the firesafety requirements of NFPA 101, 1988 edition, that applies to this size facility, unless the facility has been classified as impractical to evacuate. Any existing facility housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes granted in this section.

d. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

e. This paragraph does not supersede the exceptions granted in NFPA 101, 1988 edition or 1994 edition.

f. This paragraph does not exempt facilities from other firesafety provisions adopted under s. 633.022 and local building code requirements in effect before July 1, 1995.

g. A local government may charge fees only in an amount not to exceed the actual expenses incurred by local government relating to the installation and maintenance of an automatic fire sprinkler system in an existing and properly licensed assisted ~~adult-congregate~~ living facility structure as of January 1, 1996.

h. If a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be

equipped with an automatic fire sprinkler system. Major reconstruction of a building means repair or restoration that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before reconstruction. Multiple reconstruction projects within a 5-year period the total costs of which exceed 50 percent of the initial value of the building at the time the first reconstruction project was permitted are to be considered as major reconstruction. Application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold.

i. Any facility licensed before January 1, 1996, that is required to install an automatic fire sprinkler system shall ensure that the installation is completed within the following timeframes based upon evacuation capability of the facility as determined under subparagraph 1.:

- (I) Impractical evacuation capability, 24 months.
- (II) Slow evacuation capability, 48 months.
- (III) Prompt evacuation capability, 60 months.

The beginning date from which the deadline for the automatic fire sprinkler installation requirement must be calculated is upon receipt of written notice from the local fire official that an automatic fire sprinkler system must be installed. The local fire official shall send a copy of the document indicating the requirement of a fire sprinkler system to the Agency for Health Care Administration.

j. It is recognized that the installation of an automatic fire sprinkler system may create financial hardship for some facilities. The appropriate local fire official shall, without liability, grant two 1-year extensions to the timeframes for installation established herein, if an automatic fire sprinkler installation cost estimate and proof of denial from two financial institutions for a construction loan to install the automatic fire sprinkler system are submitted. However, for any facility with a class I or class II, or a history of uncorrected class III, firesafety deficiencies, an extension must not be granted. The local fire official shall send a copy of the document granting the time extension to the Agency for Health Care Administration.

k. A facility owner whose facility is required to be equipped with an automatic fire sprinkler system under Chapter 23, NFPA 101, 1994 edition, as adopted herein, must disclose to any potential buyer of the facility that an installation of an automatic fire sprinkler requirement exists. The sale of the facility does not alter the timeframe for the installation of the automatic fire sprinkler system.

l. Existing facilities required to install an automatic fire sprinkler system as a result of construction-type restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted herein, or evacuation capability requirements shall be notified by the local fire official in writing of the automatic fire sprinkler requirement, as well as the appropriate date for final compliance as provided in this subparagraph. The local fire official shall send a copy of the document to the Agency for Health Care Administration.



m. Except in cases of life-threatening fire hazards, if an existing facility experiences a change in the evacuation capability, or if the local authority having jurisdiction identifies a construction-type restriction, such that an automatic fire sprinkler system is required, it shall be afforded time for installation as provided in this subparagraph.

n. There is created a study-work group consisting of representatives of the Office of the State Fire Marshal, Florida Fire Chiefs' Association, Florida Fire Marshals' Association, Florida Assisted Living Association, Florida Association of Homes for the Aging, Florida Health Care Association, Florida League of Cities, Florida Association of Counties, Florida State Firemen's Association, Building Officials' Association of Florida, the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services, and the Agency for Health Care Administration. Each entity involved shall select its representative to the study-work group. The Florida Fire Chiefs' Association shall coordinate study-work group activities. The study-work group shall examine the National Fire Protection Association, NFPA 101, Chapter 23, 1994 edition, and shall report to the Legislature by December 31, 1995, its recommendations for firesafety standards that will provide a reasonable level of firesafety for the protection of assisted living facility residents without imposing unnecessary economic impact on facilities regulated under this part. Expenses incurred while participating in this study-work group activity shall be borne by the participants.

Facilities that are fully sprinkled and in compliance with other firesafety standards are not required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. In lieu of the remaining drills, staff responsible for residents during such hours may be required to participate in a mock drill that includes a review of evacuation procedures. Such standards must be included or referenced in the rules adopted by the department after consultation with the State Fire Marshal. Pursuant to s. 633.022(1)(b), the State Fire Marshal is the final administrative authority for firesafety standards established and enforced pursuant to this section. All licensed facilities must have an annual fire inspection conducted by the local fire marshal or authority having jurisdiction.

Reviser's note.—Amended to conform to s. 3, ch. 95-209, Laws of Florida, which redesignated the term "Adult Congregate Living Facility" as "Assisted Living Facility."

Section 28. Subsection (1), paragraphs (a) and (b) of subsection (2), and subsection (9) of section 400.4415, Florida Statutes, are amended to read:

400.4415 Assisted Adult ~~congregate~~ living facilities advisory committee.—

(1) There is created the assisted adult ~~congregate~~ living facilities advisory committee, which shall assist the agency in developing and implementing a pilot rating system for facilities. The committee shall consist of nine members who are to be appointed by, and report directly to, the director of the agency. The membership is to include:

- (a) One researcher from a university center on aging.
- (b) One representative from the Florida Health Care Association.
- (c) One representative from the Florida Assisted Living Association.
- (d) One representative from the Florida Association of Homes for the Aging.
- (e) One representative from the Agency for Health Care Administration.
- (f) One representative from the aging and adult services program of the Department of Health and Rehabilitative Services.
- (g) One representative from the alcohol, drug abuse, and mental health program of the Department of Health and Rehabilitative Services.
- (h) One representative from the Department of Elderly Affairs.
- (i) One consumer representative from a district long-term care ombudsman council.

(2) The committee shall perform the following duties:

(a) Assist in developing a pilot assisted adult ~~congregate~~ living facilities rating system based on the rules developed under this part, and including the identification and specification of criteria to be used in determining a superior rating.

(b) Assist in developing surveyor guidelines and training to ensure the equitable application of the assisted adult ~~congregate~~ living facility rating system.

(9) The pilot rating system shall be implemented for a period not to exceed 2 years. Within 1 year of the completion of the pilot, the agency shall prepare and submit to the Legislature a report on the effectiveness of the rating system in assisting consumers to make informed choices, the utilization of the rating system as a measure of quality of services and care provided by facilities, and the impact of the rating system upon the enhancement of services provided throughout Florida's assisted adult ~~congregate~~ living facility industry.

Reviser's note.—Amended to conform to s. 3, ch. 95-209, Laws of Florida, which redesignated the term "Adult Congregate Living Facility" as "Assisted Living Facility."

Section 29. Subsection (3) of section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs; core educational requirement.—

(3) Such a program must be available at least quarterly in each district of the Department of Health and Rehabilitative Services. The competency test must be developed by the department in conjunction with the agency

and providers and must be available for use by January 1, 1997. Beginning July 1, 1997, a new facility administrator must complete the core educational requirement including the competency test within 3 months after being employed as an administrator. Failure to complete a core educational requirement specified in this subsection is a violation of this part and subjects the violator to a penalty as prescribed in s. 400.419. Administrators licensed in accordance with chapter 468, part II, are exempt from this requirement. Other licensed professionals may be exempted, as determined by the department by rule. ~~Persons responsible for managing the facility's food service who successfully complete the core training on or after October 1, 1991, are exempt from the certification requirements mandated by s. 381.061(9).~~

Reviser's note.—Amended to delete a provision that has served its purpose. The referenced certification requirements were repealed by s. 58, ch. 91-297, Laws of Florida.

Section 30. Subsection (3) of section 400.471, Florida Statutes, is amended to read:

400.471 Application for license; fee; provisional license; temporary permit.—

(3) An applicant for initial licensure must demonstrate financial ability to operate by submitting a balance sheet and income and expense statement for the first 2 years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses. The applicant shall have demonstrated financial ability to operate if the assets, credit, and projected revenues meet or exceed projected liabilities and expenses. All documents required under this subsection ~~paragraph~~ must be prepared in accordance with generally accepted accounting principles and signed by a certified public accountant.

Reviser's note.—Amended to facilitate correct interpretation.

Section 31. Section 400.6255, Florida Statutes, is amended to read:

400.6255 Patients with Alzheimer's disease or other related disorders; certain disclosures.—An adult family-care foster ~~home~~ licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The home must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the home and must maintain a copy of all such advertisements and documents in its records. The department shall examine all such advertisements and documents in the home's records as part of the license renewal procedure.

Reviser's note.—Amended to conform to the change in terminology pursuant to s. 2, ch. 93-209, Laws of Florida.

Section 32. Paragraphs (a) and (b) of subsection (1) of section 240.253, Florida Statutes (1996 Supplement), are amended to read:

## 240.253 Personnel records.—

(1) Each university shall adopt rules prescribing the content and custody of limited-access records that the university may maintain on its employees. Such limited-access records are confidential and exempt from the provisions of s. 119.07(1). Such records are limited to the following:

(a) Records containing information reflecting academic evaluations of employee performance and shall be open to inspection only by the employee and by officials of the university responsible for supervision of the employee.

(b) Records maintained for the purposes of any investigation of employee misconduct, including but not limited to a complaint against an employee and all information obtained pursuant to the investigation of such complaint, shall be confidential until the investigation ceases to be active or until the university provides written notice to the employee who is the subject of the complaint that the university has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action;
2. Concluded the investigation with a finding to proceed with disciplinary action; or
3. Has Issued a letter of discipline.

For the purpose of this paragraph, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that a finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 90 days after the complaint is filed.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation and to provide contextual consistency.

Section 33. Subsection (13) of section 240.61, Florida Statutes (1996 Supplement), is amended to read:

## 240.61 College reach-out program.—

(13) By January 15 of each year, the Postsecondary Education Planning Commission shall submit to the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, and the Governor a report that evaluates the effectiveness of the college reach-out program. The report must be based upon information provided by participating institutions, the Division of Universities, the Division of Community Colleges, and the Division of Applied Technology Vocational, and Adult, and Community Education pursuant to subsections (7) and (12). The evaluation must include longitudinal cohort assessments of college reach-out program participants from their entry into the program to their graduation from postsecondary institutions. To the extent feasible, the performance of college reach-out program participants must be compared to the performance of comparable cohorts of students in public school and postsecondary education.

Reviser's note.—Amended to conform to s. 13, ch. 94-232, Laws of Florida, which amended s. 20.15 to redesignate the Division of Vocational, Adult, and Community Education as the Division of Applied Technology and Adult Education.

Section 34. Subsection (1) of section 250.5205, Florida Statutes (1996 Supplement), is amended to read:

250.5205 Mortgages, trust deeds, etc.; penalty.—

(1) In any proceeding commenced during the period of state active service to enforce obligations secured by mortgage, trust deed, or other security upon real or personal property owned prior to the commencement of a period of active service, the court may on its own motion stay the proceedings or otherwise dispose of the case as is equitable to conserve the interests of all parties. The court shall stay ~~on~~ the proceedings upon the application of a person or agent of the person in state active service unless, in the opinion of the court, the ability of the defendant to comply with the terms of the obligations is not materially affected.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation.

Section 35. Subsection (1) of section 252.85, Florida Statutes (1996 Supplement), is amended to read:

252.85 Fees.—

(1) Any owner or operator of a facility required under s. 302 or s. 312 of EPCRA, or by s. 252.87, to submit a notification or an annual inventory form to the commission shall be required to pay an annual registration fee. The fee for any company, including all facilities under common ownership or control, shall not be less than \$25 nor more than \$2,000. The department shall establish a reduced fee, of not less than \$25 nor more than \$500, applicable to any owner or operator regulated under part I of chapter 368, chapter 527, or s. 376.303, which does not have present any extremely hazardous substance, as defined by EPCRA, in excess of a threshold planning quantity, as established by EPCRA. The department shall establish a reduced fee of not less than \$25 nor more than \$1,000, applicable to any owner or operator of a facility with a Standard Industrial Classification Code of 01, 02, or 07, which is eligible for the "routine agricultural use" exemption provided in ss. 311 and 312 of EPCRA. The fee under this subsection shall be based on the number of employees employed within the state at facilities under the common ownership or control of such owner or operator, which number shall be determined, to the extent possible, in accordance with data supplied by the Department of Labor and Employment Security. In order to avoid the duplicative reporting of seasonal and temporary agricultural employees, fees applicable to owners or operators of agricultural facilities, which are eligible for the "routine agricultural use" reporting exemption provided in ss. 311 and 312 of EPCRA, shall be based on employee data which most closely reflects such owner or operator's permanent nonseasonal workforce. The department shall establish by rule the date by which the fee is to be paid, as well as a formula or method of determining the

applicable fee under this subsection without regard to the number of facilities under common ownership or control. The department may require owners or operators of multiple facilities to demonstrate common ownership or control for purposes of this subsection.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation.

Section 36. Subsection (8) of section 282.3061, Florida Statutes (1996 Supplement), is amended to read:

282.3061 State Strategic Plan for Information Resources Management.—

(8) The executive director ~~administrator~~ shall provide progress reports to the commission on the implementation of the State Strategic Plan for Information Resources Management on a schedule determined by the commission.

Reviser's note.—Amended to conform to ch. 94-226, Laws of Florida, which redesignated the executive administrator as the executive director and to conform to usage elsewhere in the section.

Section 37. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes (1996 Supplement), is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which state agencies shall make purchases pursuant to s. 287.056, and under which a federal, county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged ~~Transportation Disadvantaged Commission~~, or other local public agency may make purchases. The division may restrict purchases from some term contracts to state agencies only for those term contracts where the inclusion of other governmental entities will have an adverse effect on competition or to those federal facilities located in this state. In such planning or purchasing the Minority Business Advocacy and Assistance Office may monitor to ensure that opportunities are afforded for contracting with minority business enterprises. The division, for state term contracts, and all agencies, for multiyear contractual services or term contracts, shall explore reasonable and economical means to utilize certified minority business enterprises. Purchases by any county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged ~~Transportation Disadvantaged Commission~~, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Reviser's note.—Amended to conform to s. 64, ch. 94-237, Laws of Florida, which renamed the Transportation Disadvantaged Commission as the Commission for the Transportation Disadvantaged.

Section 38. Paragraph (b) of subsection (10) of section 287.055, Florida Statutes (1996 Supplement), is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(10) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—

(b) The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections (4) and (5). A design criteria professional who has been selected to prepare the design criteria package is not be eligible to render services under a design-build contract executed pursuant to the design criteria package.

Reviser's note.—Amended to improve clarity.

Section 39. Paragraph (f) of subsection (1) of section 287.0947, Florida Statutes (1996 Supplement), is amended to read:

287.0947 Florida Council on Small and Minority Business Development; creation; membership; duties.—

(1) On or after October 1, 1996, the secretary of the Department of Labor and Employment Security may create the Florida Advisory Council on Small and Minority Business Development with the purpose of advising and assisting the secretary in carrying out the secretary's duties with respect to minority businesses and economic and business development. It is the intent of the Legislature that the membership of such council include practitioners, laypersons, financiers, and others with business development experience who can provide invaluable insight and expertise for this state in the diversification of its markets and networking of business opportunities. The council shall initially consist of 19 persons, each of whom is or has been actively engaged in small and minority business development, either in private industry, in governmental service, or as a scholar of recognized achievement in the study of such matters. Initially, the council shall consist of members representing all regions of the state and shall include at least one member from each group identified within the definition of "minority person" in s. 288.703(3), considering also gender and nationality subgroups, and shall consist of the following:

(f) The chairperson of the Florida Black Business Investment Board or the chairperson's designee.

A candidate for appointment may be considered if eligible to be certified as an owner of a minority business enterprise, or if otherwise qualified under

the criteria above. Vacancies may be filled by appointment of the secretary, in the manner of the original appointment.

Reviser's note.—Amended to conform to the complete title of the board as created in s. 288.707.

Section 40. Subsection (2) of section 288.1221, Florida Statutes (1996 Supplement), is amended to read:

288.1221 Legislative intent.—

(2) Further, it is the intent of the Legislature to mobilize all the available resources of Florida's vital tourism industry in a state-sponsored public-private partnership to promote and enhance Florida tourism. The state's consistent, clearly articulated, and long-standing policy has been to promote collective action by state and local government authorities and the various representatives of the tourist industry to upgrade the image of Florida as a quality destination and to assure, to the maximum extent possible, that the benefits of such collective action are extended equitably throughout the state. To carry out the implementation of this policy, the Legislature finds that it is in the public interest to maintain the Florida Commission on Tourism under the aegis of the Executive Office of the Governor to focus and provide state supervision of ongoing collective action to promote Florida tourism. The Legislature further finds that it is in the public interest for activities in promotion and support of Florida tourism to be carried out by a private sector, direct-support organization created expressly for such purpose as the Florida Tourism Industry Marketing Corporation. By creating this public-private partnership, it is the intent of the Legislature to coordinate existing private and public-funded tourism promotional activities in a cost-effective manner to avoid waste and duplication in these activities while achieving the maximum public benefit from all expenditures that directly and indirectly support Florida tourism.

Reviser's note.—Amended to improve clarity.

Section 41. Paragraph (c) of subsection (5) of section 288.1226, Florida Statutes (1996 Supplement), is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(5) POWERS AND DUTIES.—The corporation, in the performance of its duties:

(c) May commission and adopt, in cooperation with the commission, an official tourism logo to be used in all promotional materials directly produced by the corporation. The corporation may establish a cooperative marketing program with other public and private entities which allows the use of this logo in tourism promotion campaigns which meet the standards of the commission and the Office of Tourism, Trade, and Economic Development for which the corporation may charge a reasonable fee.

Reviser's note.—Amended to improve clarity.

Section 42. Paragraph (c) of subsection (3) of section 288.905, Florida Statutes (1996 Supplement), is amended to read:



288.905 Duties of the board of directors of Enterprise Florida, Inc.—

(3)

(c) Prior to the 2003 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability, shall conduct another review of Enterprise Florida, Inc., and its boards using the criteria in paragraph (b). The report shall be submitted by January 1, 2003, to the President of the Senate, the Speaker of the House of Representatives, the ~~and~~ Senate Minority Leader, and the House Minority Leader.

Reviser's note.—Amended to improve clarity.

Section 43. Subsection (2) of section 288.9604, Florida Statutes (1996 Supplement), is amended to read:

288.9604 Creation of the authority.—

(2) A city or county of Florida shall be selected by a search committee of the capital development board ~~Capital Partnership Board~~. This city or county shall be authorized to activate the corporation. The search committee shall be composed of two commercial banking representatives, the Senate member of the partnership, the House of Representatives member of the partnership, and a member who is an industry or economic development professional.

Reviser's note.—Amended to conform to s. 107, ch. 96-320, Laws of Florida, which amended s. 288.9613 to redesignate references to the Enterprise Florida Capital Partnership Board as the capital development board, and to s. 105, ch. 96-320, Laws of Florida, which substituted the capital development board for the Enterprise Florida Capital Partnership in s. 288.9611.

Section 44. Paragraph (f) of subsection (1) of section 288.973, Florida Statutes (1996 Supplement), is amended to read:

288.973 Florida Defense Conversion and Transition Commission.—

(1)

(f) A vacancy on the commission shall be filled for the remainder of the unexpired ~~expired~~ term.

Reviser's note.—Amended to facilitate correct interpretation.

Section 45. Subsection (11) of section 288.975, Florida Statutes (1996 Supplement), is amended to read:

288.975 Military base reuse plans.—

(11) Copies of the adopted military base reuse plan shall be forwarded within 10 days after its adoption to any affected local governments and regional and state agencies that submitted comments on the proposed military base reuse plan. In addition, notice shall be published in newspapers of general circulation in the host and any affected local governments. The notice shall state how and where a copy of the plan may be obtained or

inspected. Within 45 days after receipt of the adopted military base reuse plan, or 45 days after the publication of the notice of the availability of the adopted plan for review, whichever is later, an affected person who submitted comments on the proposed plan may petition the host local government, challenging that the military base reuse plan as not being in compliance with this act or any rule adopted pursuant to this act. The petition shall state each objection, identify its source, and provide a recommended action.

Reviser's note.—Amended to improve clarity.

Section 46. Subsection (10) of section 290.0065, Florida Statutes (1996 Supplement), is amended to read:

290.0065 State designation of enterprise zones.—

(10) The Office of Tourism, Trade, and Economic Development may amend the boundaries of any enterprise zone designated by the state pursuant to this section, consistent with the categories, criteria, and limitations imposed in this section upon the establishment of such enterprise zone and only if consistent with the determinations made in ~~paragraph~~ s. 290.0058(2)(e).

Reviser's note.—Amended to conform to the citation style used in the Florida Statutes.

Section 47. Subsection (1) of section 290.009, Florida Statutes (1996 Supplement), is amended to read:

290.009 Enterprise Zone Interagency Coordinating Council.—

(1) There is created within the Office of Tourism, Trade, and Economic Development the Enterprise Zone Interagency Coordinating Council. The council shall be composed of the secretaries or executive directors, or their designees, of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, the Department of State, the Department of Transportation, the Department of Environmental Protection, the Department of Law Enforcement, and the Department of Revenue; the Attorney General or his or her designee; and the executive directors or their designees of the State Community College System, the Florida Black Business Investment Board, and the Florida State Rural Development Council.

Reviser's note.—Amended to conform to the title of the board as created in s. 288.707.

Section 48. Paragraph (c) of subsection (3) of section 316.193, Florida Statutes (1996 Supplement), is amended to read:

316.193 Driving under the influence; penalties.—

(3) Any person:

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits a felony of the first degree, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

Reviser's note.—Amended to improve clarity.

Section 49. Paragraph (j) of subsection (4) of section 320.08056, Florida Statutes (1996 Supplement), is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(j) Florida Indian River Lagoon license plate, \$15.

Reviser's note.—Amended to conform to the title of the license plate as referenced in s. 320.08058(10).

Section 50. Paragraph (c) of subsection (10) of section 320.08058, Florida Statutes (1996 Supplement), is amended to read:

320.08058 Specialty license plates.—

(10) FLORIDA INDIAN RIVER LAGOON LICENSE PLATES.—

(c) The application of Florida Indian River Lagoon license plate annual use fees is to be administered by the St. Johns River and South Florida Water Management Districts for Indian River Lagoon projects and in accordance with their contracting and purchasing policies and procedures, with the following restrictions:

1. An annual amount of the total license plate use fees must be earmarked for each of the six lagoon basin counties, as determined in sub-subparagraph (b)1.a., to be expended in those counties on habitat restoration, including water quality improvement, and environmental education projects. At least 80 percent of the use fees must be used for restoration projects, and not more than 20 percent may be used for environmental

education in each county. These project funds may serve as matching funds for other local, state, or federal funds or grants. Unencumbered funds from one year may be carried over to the following year but must be dedicated to a project within 2 years in the form of a contract, an interlocal agreement, or an approved plan by the governing board of the respective district.

2. Florida Indian River Lagoon license plate annual use fees may not be used for administrative salaries or overhead within the water management districts, nor for any general coordination fees or overhead outside of the districts which is not specifically related to a project, nor for any projects which are considered to be research, studies, inventories, or evaluations, nor for administrative salaries or overhead related to environmental education or ongoing regular maintenance. Annual use fees may be used for acquisition of rights-of-way specific to the implementation of restoration or improvement projects, if acquisition expenditures do not exceed 20 percent of a county's appropriation.

3. In Volusia County, project implementation may occur in all estuarine waters extending north to and including the Tomoka ~~Tomaka~~ Basin.

4. In Palm Beach County, first priority must be given to projects within the Indian River Lagoon. Second priority must be given to projects within adjacent estuarine waters.

Reviser's note.—Amended to conform to the correct name of the basin.

Section 51. Paragraph (d) of subsection (1) and paragraph (c) of subsection (2) of section 320.0848, Florida Statutes (1996 Supplement), are amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(1)

(d) The Department of Highway Safety and Motor Vehicles shall, in consultation with the Commission for the Transportation Disadvantaged ~~Commission~~, adopt rules, in accordance with chapter 120, for the issuance of a disabled parking permit to any organization that can adequately demonstrate a bona fide need for such a permit because the organization provides regular transportation services to persons who have disabilities and are certified as provided in paragraph (a).

(2) DISABLED PARKING PERMIT; PERSONS WITH PERMANENT MOBILITY PROBLEMS.—

(c)1. Except as provided in subparagraph 2., the fee for a disabled parking permit shall be:

a. Twenty-two dollars and fifty cents for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$20.25 and the tax collector of the county in which the fee was collected shall receive \$2.25.

b. One dollar and fifty cents for each additional or additional renewal 6-year permit, of which the State Transportation Trust Fund shall receive all funds collected.

c. Fifteen dollars for each initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$13.50 and the tax collector of the county in which the fee was collected shall receive \$1.50.

d. One dollar for each additional or additional renewal 4-year permit, of which the State Transportation Trust Fund shall receive all funds collected.

The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic.

2. If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the United States Department of Veterans Affairs or its predecessor ~~Veterans Administration of the Federal Government~~ to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the United States Department of Veterans Affairs ~~Veterans Administration~~ and has a signed physician's statement of qualification for the disabled parking permits, the fee for a disabled parking permit shall be:

a. Two dollars and twenty-five cents for the initial 6-year permit or renewal permit.

b. One dollar and fifty cents for the additional or additional renewal 6-year permit.

c. One dollar and fifty cents for the initial 4-year permit or renewal permit.

d. One dollar for each additional or additional renewal 4-year permit.

The tax collector of the county in which the fee was collected shall retain all funds received pursuant to this subparagraph.

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of supplemental security income, the fee for the disabled parking permit shall be:

a. Twelve dollars and seventy-five cents for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$10.15 and the tax collector of the county in which the fee was collected shall receive \$2.60.

b. Nine dollars for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$6.75 and the tax collector of the county in which the fee was collected shall receive \$2.25.

The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(d). Subsections (1), (5), (6), and (7) apply to this subsection.

Reviser's note.—Paragraph (1)(d) is amended to conform to the redesignation of the Transportation Disadvantaged Commission as the Commission for the Transportation Disadvantaged by s. 64, ch. 94-237, Laws of Florida. Paragraph (2)(c) is amended to conform to the redesignation of the United States Veterans' Administration as the United States Department of Veterans Affairs by s. 2, Pub. L. No. 100-527.

Section 52. Subsection (2) of section 320.27, Florida Statutes (1996 Supplement), is amended to read:

320.27 Motor vehicle dealers.—

(2) LICENSE REQUIRED.—No person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a license therefor in the appropriate classification as provided in this section. With the exception of transactions with motor vehicle auctions, no person other than a licensed motor vehicle dealer may advertise for sale any motor vehicle belonging to another party unless as a direct result of a bona fide legal proceeding, court order, settlement of an estate, or by operation of law. However, owners of motor vehicles titled in their names may advertise and offer vehicles for sale on their own behalf. It shall be unlawful for a licensed motor vehicle dealer to allow any person other than a bona fide employee to use the ~~their~~ motor vehicle dealer license for the purpose of acting in the capacity of or conducting motor vehicle sales transactions as a motor vehicle dealer. Any person selling or offering a motor vehicle for sale in violation of the licensing requirements of this subsection, or who misrepresents to any person its relationship with any manufacturer, importer, or distributor, in addition to the penalties provided herein, shall be deemed guilty of an unfair and deceptive trade practice as defined in part II of chapter 501 and shall be subject to the provisions of subsections (8) and (9).

Reviser's note.—Amended to improve clarity.

Section 53. Effective July 1, 1997, section 320.827, Florida Statutes (1996 Supplement), as amended by section 3, chapter 96-358, Laws of Florida, is amended to read:

320.827 Label; procedures for issuance; certification; requirements.—No dealer shall sell or offer for sale in this state any new mobile home manufactured after January 1, 1968, unless the mobile home bears a label and the certification by the manufacturer that the mobile home to which the label is attached meets or exceeds the appropriate code. Any mobile home bearing the insignia of approval pursuant to this section shall be deemed to comply with the requirements of all local government ordinances or rules which govern construction, and no mobile home bearing the department insignia of approval shall be in any way modified except in compliance with this chapter. Labels may be issued by the department when applied for with an affidavit certifying that the dealer or manufacturer applying will not attach

a label to any new mobile home ~~or~~ that does not meet or exceed the appropriate code. No mobile home may be manufactured in this state unless it bears a label and certification that the mobile home meets or exceeds the code. The label for each mobile home shall be displayed in a manner to be prescribed by the department.

Reviser's note.—Amended to improve clarity.

Section 54. Subsection (18) of section 322.2616, Florida Statutes (1996 Supplement), is amended to read:

322.2616 Suspension of license; persons under 21 years of age; right to review.—

(18) A violation of this section is neither a traffic infraction nor a criminal offense, nor does being detained pursuant to this section constitute an arrest. A violation of this section is subject to the administrative action provisions of this section, which are administered by the department through its administrative processes. Administrative actions taken pursuant to this section shall be recorded in the motor vehicle records maintained by the department. This section does not bar prosecution under s. 316.193. However, if the department suspends a person's license under s. 322.2615 for a violation of s. 316.193, it may not also suspend the person's license under this section for the same episode that was the basis for the suspension under s. 322.2615.

Reviser's note.—Amended to improve clarity.

Section 55. Subsection (2) of section 338.155, Florida Statutes (1996 Supplement), is amended to read:

338.155 Payment of toll on toll facilities required; exemptions.—

(2) Any person driving an automobile or other vehicle belonging to the ~~military~~ Department of Military Affairs ~~the state~~ used for transporting military personnel, stores, and property, when properly identified, shall, together with any such conveyance and military personnel and property of the state in his or her charge, be allowed to pass free through all tollgates and over all toll bridges and ferries in this state.

Reviser's note.—Amended to conform to the redesignation of the Military Department as the Department of Military Affairs by s. 2, ch. 73-93, Laws of Florida.

Section 56. Section 341.501, Florida Statutes (1996 Supplement), is amended to read:

341.501 High-technology transportation systems; joint project agreement or assistance.—Notwithstanding any other provision of law, the Department of Transportation may enter into a joint project agreement with, or otherwise assist, private or public entities, or consortia thereof, to facilitate the research, development, and demonstration of high-technology transportation systems, including, but not limited to, systems using magnetic levitation technology. The provisions of the Florida High-Speed Rail Transportation Act, ss. 341.3201-341.386, do not apply to actions taken

under this section, and the department may, subject to s. 339.135, provide funds to match any available federal aid for effectuating the research, development, and demonstration of high-technology transportation systems.

Reviser's note.—Amended to conform to the complete title of the act as referenced in s. 341.3201.

Section 57. Paragraph (d) of subsection (2) of section 370.021, Florida Statutes (1996 Supplement), is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(2) PENALTY FOR VIOLATION.—Unless otherwise provided by law, any person, firm, or corporation who is convicted for violating any provision of this chapter, any rule of the department adopted pursuant to this chapter, or any rule of the Marine Fisheries Commission, shall be punished:

(d) The proceeds from the penalties assessed pursuant to paragraph (c) shall be deposited into the Marine Resources Conservation ~~Marine~~ Trust Fund to be used for marine fisheries research.

Reviser's note.—Amended to conform to the name of the fund as provided in s. 370.0603.

Section 58. Subsection (9) of section 370.0615, Florida Statutes (1996 Supplement), is amended to read:

370.0615 Lifetime licenses.—

(9) All license fees collected pursuant to ~~s. ss. 370.0605 and this section 370.0610~~ for the sale of or replacement of lifetime saltwater licenses and 30 percent of the fee collected pursuant to s. 372.57 for the sale of lifetime sportsman's licenses shall be transferred to the Marine Resources Conservation Trust Fund within 30 days following the last day of the month in which the license fees were received by the commission. The following limitations and restrictions are placed on expenditures from the funds:

(a) No expenditure or disbursement shall be made from the principal of the lifetime saltwater license funds.

(b) The interest income received and accruing from the investments of the lifetime saltwater license funds shall be allocated by the Legislature for marine law enforcement, marine research, and marine fishery enhancement.

(c) No expenditures or disbursements from the interest income derived from the sale of lifetime licenses shall be made for any purpose until the respective holders of such licenses attain the age of 16 years. The commission shall provide the department data which shall indicate the amounts of interest income within the fund which may be disbursed pursuant to this paragraph. The commission shall furnish the department data which shall cause the deposits of proceeds from the sale of lifetime licenses to be identifiable by the ages of the license recipients.



Reviser's note.—Amended to correct an apparent error. Section 370.0610 does not exist, while this section does provide for the sale and replacement of lifetime saltwater licenses.

Section 59. Subsection (2) of section 370.092, Florida Statutes (1996 Supplement), is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(2) Every vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net and every vessel containing or otherwise transporting in or on nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall proceed as directly, continuously, and expeditiously as possible from the place where the vessel is regularly docked, moored, or otherwise stored to waters where the use of said nets is lawful and from waters where the use of said nets is lawful back to the place where the vessel is if regularly docked, moored, or otherwise stored or back to the licensed wholesale dealer where the catch is to be sold. Exceptions shall be provided for docked vessels, for vessels which utilize nets in a licensed aquaculture operation, and for vessels containing trawl nets as long as the trawl's doors or frame are not deployed in the water. Otherwise, hovering, drifting, and other similar activities inconsistent with the direct, continuous, and expeditious transit of such vessels shall be evidence of the unlawful use of such nets. The presence of fish in such a net is not evidence of the unlawful use of the net if the vessel is otherwise in compliance with this section.

Reviser's note.—Amended to correct an apparent error.

Section 60. Paragraph (c) of subsection (1) of section 370.1111, Florida Statutes (1996 Supplement), is amended to read:

370.1111 Snook; regulation.—

(1)

(c) All permit fees collected by the Game and Fresh Water Fish Commission shall be transferred to the Marine Resources Conservation Trust Fund within ~~with~~ 7 days following the last business day of the week in which the fees were received by the Game and Fresh Water Fish Commission.

Reviser's note.—Amended to improve clarity.

Section 61. Paragraph (b) of subsection (1) of section 376.30711, Florida Statutes (1996 Supplement), is amended to read:

376.30711 Preapproved site rehabilitation, effective March 29, 1995.—

(1)

(b) Site rehabilitation work on sites eligible for state-funded cleanup from the Inland Protection Trust Fund and pursuant to ss. 376.305(6), 376.3071, 376.3072, and 376.3073, shall only be eligible for site rehabilitation funding under this section. After March 29, 1995, only persons who have received prior written approval from the department of the scope of

work and costs may continue site rehabilitation work. In the event of a new release, the facility operator shall be required to abate the source of the discharge. If free product is present, the operator shall notify the department, which may direct the removal of the free product as a preapproved expense pursuant to this section. The department shall grant approval to continue site rehabilitation based on ~~the~~ this section and s. 376.3071(5).

Reviser's note.—Amended to improve clarity.

Section 62. Paragraph (b) of subsection (4) of section 378.101, Florida Statutes (1996 Supplement), is amended to read:

378.101 Florida Institute of Phosphate Research.—

(4)

(b) Members of the board of directors shall serve 3-year terms, or serve until successors are appointed; ~~except that, of those members first appointed following October 1, 1983, one member shall be appointed for a term of 1 year; two members shall be appointed for terms of 2 years; and two members shall be appointed for terms of 3 years in order to achieve staggering of terms.~~ A member of the board of directors shall be eligible for reappointment.

Reviser's note.—Amended to delete provisions that have served their purpose.

Section 63. Section 381.00315, Florida Statutes (1996 Supplement), is amended to read:

381.00315 Public health advisories.—The State Health Officer is responsible ~~for~~ ~~of~~ declaring public health emergencies and issuing public health advisories. Prior to issuing any health advisory, the State Health Officer must consult with any state or local agency regarding areas of responsibility which may be affected by such advisory. Upon determining that issuing a health advisory is necessary to protect the public health and safety, and prior to issuing the advisory, the State Health Officer must notify each county health department within the area which is affected by the advisory of the State Health Officer's intent to issue the advisory. The State Health Officer is authorized to take any action appropriate to enforce any health advisory.

Reviser's note.—Amended to improve clarity and correct an apparent error.

Section 64. Paragraph (c) of subsection (2) of section 381.004, Florida Statutes (1996 Supplement), is amended to read:

381.004 Testing for human immunodeficiency virus.—

(2) DEFINITIONS.—As used in this section:

(c) "Significant exposure" means:

1. Exposure to blood or body fluids through needlestick, instruments, or sharps;

2. Exposure of mucous membranes to visible blood or body fluids, to which universal precautions apply according to the National Centers for Disease Control and Prevention, including, without limitations, the following body fluids:

- a. Blood.
- b. Semen.
- c. Vaginal secretions.
- d. Cerebro-spinal fluid (CSF).
- e. Synovial fluid.
- f. Pleural fluid.
- g. Peritoneal fluid.
- h. Pericardial fluid.
- i. Amniotic fluid.
- j. Laboratory specimens that contain HIV (e.g., suspensions of concentrated virus); or

3. Exposure of skin to visible blood or body fluids, especially when the exposed skin is chapped, abraded, or afflicted with dermatitis or the contact is prolonged or involving an extensive area.

Reviser's note.—Amended to conform to Pub. L. No. 102-531, which renamed the Centers for Disease Control as the Centers for Disease Control and Prevention.

Section 65. Paragraph (b) of subsection (5) of section 394.90, Florida Statutes (1996 Supplement), is amended to read:

394.90 Inspection; right of entry; records.—

(5)

(b) The department shall conduct compliance ~~compliant~~ investigations and sample validation inspections to evaluate the inspection process of accrediting organizations to ensure minimum standards are maintained as provided in Florida Statute and rule. The department may conduct a life-safety inspection in calendar years in which an accrediting organization survey is not conducted and shall conduct a full state inspection, including a lifesafety inspection, if an accrediting organization survey has not been conducted within the previous 36 months. The department, by accepting the survey or inspection of an accrediting organization, does not forfeit its right to perform inspections.

Reviser's note.—Amended to improve clarity.

Section 66. Subsections (5) and (6) of section 400.4075, Florida Statutes (1996 Supplement), are amended to read:

400.4075 Limited mental health license.—A limited mental health license shall be issued to facilities that provide services to mental health residents who meet the criteria of s. 400.402(15).

(5) A mental health resident who receives services under this part shall meet the admission criteria established by the department for ~~assisted adult congregate~~ assisted adult living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.428(1)(k).

(6) An ~~assisted adult congregate~~ living facility serving mental health residents under this part shall have on file for each mental health resident a written mental health plan. The plan shall be open and available for inspection by the resident, the resident's legal guardian, if any, the resident's health care surrogate, if any, and all other entities or individuals having lawful access to such records. The department shall establish standards regarding the format and content of such plans.

Reviser's note.—Amended to conform to s. 3, ch. 95-209, Laws of Florida, which redesignated the term "Adult Congregate Living Facility" as "Assisted Living Facility."

Section 67. Paragraph (b) of subsection (10) of section 402.33, Florida Statutes (1996 Supplement), is amended to read:

402.33 Department authority to charge fees for services provided.—

(10)

(b) Unless otherwise specified by the Legislature, fee collections, including third-party reimbursements, in excess of fee-supported appropriations may be used in conformance with the provisions of chapter 216 to fund nonrecurring expenditures for direct client services and to fund administrative costs of improving the fee collection program of the department. No more than one-sixth of the amount of collections in excess of the amount of appropriations may be used to fund such improvements to the program. Priority consideration for the expenditure of excess collections shall be given to those districts and programs most responsible for the excess. A plan for the use of excess collections not spent in the fiscal year in which collected shall be subject to approval by the Executive Office of the Governor within 90 days from the end of the state fiscal year in which the excess occurs. ~~For the first 2 years after August 12, 1983, the department shall submit quarterly reports to the Legislature and to the Executive Office of the Governor on excess fee collections and expenditures therefrom.~~

Reviser's note.—Amended to delete a provision that has served its purpose.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.