CHAPTER 97-96

Senate Bill No. 422

An act relating to the Florida Statutes; amending ss. 17.03(2), 17.08, 39.402(6), 39.41(2)(a), 48.27(2), 61.13016(1)(c), 175.091(1)(b), 233.0664, 240.2995(4), 250.34(2), 253.787(4)(a), 320.0807(1), 322.264(1)(d), (f), 337.409, 364.509(3)(f), (k), 370.0805(1)(a), 375.314(3), 400.407(3)(b), 402.37(1), and 402.61(6)(g), Florida Statutes, and ss. 11.45(3)(a), 30.49(11), 39.01(59)(c), 39.0361(4)(a), 70.51(2)(e), (3), (15)(a), 112.181(1)(d), (2), (3), (5), 193.625(2), 212.05(1)(j), 218.503(3), 231.261(4), 250.482(2), 250.5204(2), 250.5205(3), 282.404(4), 320.771(1)(b), (4), 322.18(8)(c), 322.245(2), 322.2615(10), 322.2616(1)(b), (2)(b), (8)(b), (14), (15), (16), 327.25(6), 327.30(4), 327.54(4), 337.14(7), 370.0605(7)(b), 370.153(3)(f), 373.4211(10), 374.986(1), 376.306(1)(f), 377.075(4)(a), and 394.4598(1), (3), Florida Statutes (1996 Supplement), pursuant to the directive in s. 1, ch. 93-199, Laws of Florida; removing gender-specific references applicable to human beings from volumes 1 and 2 of the Florida Statutes without substantive changes in legal effect.

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

Section 1. Subsection (2) of section 17.03, Florida Statutes, is amended to read:

17.03 To audit claims against the state.—

(2) The Comptroller may establish dollar thresholds applicable to each invoice amount and other criteria for testing or sampling invoices on a preaudit and postaudit basis. The Comptroller may revise such thresholds and other criteria for an agency or the unit of any agency as he <u>or she</u> deems appropriate.

Section 2. Section 17.08, Florida Statutes, is amended to read:

17.08 Accounts, etc., on which warrants drawn, to be filed.—All accounts, vouchers, and evidence, upon which warrants have heretofore been, or shall hereafter be, drawn upon the treasury by the Comptroller shall be filed and deposited in the office of Comptroller or the office of <u>the Comptroller's</u> ~~his~~ designee, in accordance with requirements established by the Secretary of State.

Section 3. Subsection (6) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(6) A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child

shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

Section 4. Paragraph (a) of subsection (2) of section 39.41, Florida Statutes, is amended to read:

39.41 Powers of disposition.—

(2)(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power, by order, to:

1. Require the parent, guardian, or custodian, and the child when appropriate to participate in treatment and services identified as necessary.

2. Require the parent, guardian, or custodian, and the child when appropriate to participate in mediation if the parent, guardian, or custodian refused to participate in mediation under s. 39.4033.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of an adult nonrelative approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision may be terminated by the court whenever the court determines that the child's placement, whether with a parent, another relative, or a nonrelative, is stable and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the Department of Health and Rehabilitative Services shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified.

4. Place the child in the temporary legal custody of an adult relative or an adult nonrelative approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing held pursuant to s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or adult nonrelative approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or nonrelative, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative.

(III) The child and the relative or nonrelative custodian are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or nonrelative approved by the court until the order creating the long-term custodial relationship is modified by the court. The court may relieve the department of the responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the Department of Health and Rehabilitative Services shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term relative or nonrelative placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or nonrelative placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term foster care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term foster care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to s. 39.453(6)(a) recommends long-term foster care.

b. Long-term foster care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term foster care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he or she reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term foster care placements made pursuant to sub-subparagraph (2)(a)6.c. of this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term foster care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the permanency option of long-term foster care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.

8. Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section are also governed by part V of this chapter.

9.a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention

hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a nonrelative, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the well-being and safety of the child is not endangered by the return of the child to the home.

10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.

Section 5. Subsection (2) of section 48.27, Florida Statutes, is amended to read:

48.27 Certified process servers.—

(2) The addition of a person's name to the list authorizes him <u>or her</u> to serve initial nonenforceable civil process on a person found within the circuit when a civil action has been filed against such person in the circuit court or in a county court in the circuit. Upon filing an action in circuit or county court, a person may select from the list one or more certified process servers to serve initial nonenforceable civil process.

Section 6. Paragraph (c) of subsection (1) of section 61.13016, Florida Statutes, is amended to read:

61.13016 Suspension of driver's licenses and motor vehicle registrations.—

(1) The driver's license and motor vehicle registration of a child support obligor who is delinquent in payment may be suspended. Upon a delinquency in child support in IV-D cases, the Title IV-D agency may serve notice on the obligor of the delinquency and the intent to suspend as provided under s. 322.245. Upon a delinquency in child support in non-IV-D

cases, and upon the request of the obligee, the depository or the clerk of the court must serve notice by certified mail, return receipt requested, on the obligor of the delinquency and the intent to suspend as provided under s. 322.245. In either case, the notice must state:

(c) The intent of the Title IV-D agency in IV-D cases or the depository or clerk of the court in non-IV-D cases to notify the Department of Highway Safety and Motor Vehicles to suspend the driver's license and motor vehicle registration unless within 15 days after receipt of the notice the obligor:

1. Pays the delinquency in full;

2. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or

3. Files a petition with the circuit court to contest the delinquency action.

If the obligor in non-IV-D cases enters into a written agreement for payment prior to the expiration of the 15-day period, the obligor ~~he~~ must provide a copy of the signed written agreement to the depository or the clerk of the court.

Section 7. Paragraph (b) of subsection (1) of section 175.091, Florida Statutes, is amended to read:

175.091 Creation and maintenance of fund.—

(1) The firefighters' pension trust fund in each municipality and in each special fire control district shall be created and maintained in the following manner:

(b) By the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality or special fire control district, which 5 percent shall be deducted by the municipality or special fire control district from the compensation due to the firefighter and paid over to the board of trustees of the firefighters' pension trust fund wherein such firefighter is employed. A firefighter participating in the old age survivors insurance of the federal Social Security Law may limit his or her contribution to the firefighters' pension trust fund to 3 percent of his or her annual compensation and receive reduced benefits as set forth in ss. 175.191(5) and 175.211. No firefighter shall have any right to the money so paid into the fund except as provided in this chapter.

Section 8. Section 233.0664, Florida Statutes, is amended to read:

233.0664 Drug Abuse Resistance Education Board of Directors.—The Drug Abuse Resistance Education (D.A.R.E.) Board of Directors is created consisting of 11 residents of the state as follows: the Governor, or his or her designated appointee; the executive director of the Department of Law Enforcement, or his or her designated appointee; the Commissioner of Education, or his or her designated appointee; the Secretary of Juvenile Justice, or his or her designated appointee; the executive director of the Florida

Sheriffs Association, or his or her designated appointee; the executive director of the Florida Police Chiefs Association, or his or her designated appointee; the president of the Florida Teaching Profession-National Education Association, or his or her designated appointee; the President of the Florida Education Association/United or his or her designated appointee; the executive director of the Florida School Boards Association, or his or her designated appointee; the executive director of the Florida Alcohol and Drug Abuse Association, or his or her designated appointee; and the president of the Parent Teachers Association, or his or her designated appointee. Board members are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061. Each board member must be personally present to cast a vote or be counted toward a quorum at a meeting of the board.

Section 9. Subsection (4) of section 240.2995, Florida Statutes, is amended to read:

240.2995 University health services support organizations.—

(4) The chair ~~chairman~~ of the Board of Regents may appoint a representative to the board of directors and the executive committee of any university health services support organization established under this section. The president of the university for which the university health services support organization is established, or the president's designee, shall also serve on the board of directors and the executive committee of any university health services support organization established to benefit that university.

Section 10. Subsection (2) of section 250.34, Florida Statutes, is amended to read:

250.34 Injury or death in active service.—

(2) The pay such individual shall be entitled to during the period of 1 year from the date of injury or disability shall be either the full military pay and allowances to which such individual would be entitled if on full-time state active service or the amount of compensation provided under ss. 440.14 [F. S. 1973] and 440.15 [F. S. 1973], based on such individual's average weekly wages in his or her civilian occupation or employment at the time of entry into active service of the state during which such injury arose, whichever amount is greater. If a person receiving pay under this subsection obtains gainful employment, whether part time or full time, the pay that he or she is entitled to under this subsection shall be reduced during the duration of that gainful employment by an amount equal to the amount earned from that gainful employment.

Section 11. Paragraph (a) of subsection (4) of section 253.787, Florida Statutes, is amended to read:

253.787 Florida Greenways Coordinating Council; composition; duties.—

(4) The council is to be composed of 26 members, consisting of:

(a) Four members appointed by the Governor, four members appointed by the President of the Senate, and four members appointed by the Speaker

of the House of Representatives. Each appointing authority must consider ethnic and gender balance and appoint one member who is representative of:

1. Business interests;

2. The interests of landowners;

3. Conservation interests; and

4. Recreation interests.

The Governor shall designate one of his or her appointees as chair ~~chairman~~ of the council.

Section 12. Subsection (1) of section 320.0807, Florida Statutes, is amended to read:

320.0807 Special license plates for Governor and federal and state legislators.—

(1) Upon application by any member of the House of Representatives of Congress and payment of the fees prescribed by s. 320.0805, the department is authorized to issue to such Member of Congress ~~Congressman~~ a license plate stamped "Member of Congress" ~~"Congressman"~~ followed by the number of the appropriate congressional district. Upon application by a United States Senator and payment of the fees prescribed by s. 320.0805, the department is authorized to issue a license plate stamped "USS," followed by the numeral II in the case of the junior senator.

Section 13. Paragraphs (d) and (f) of subsection (1) of section 322.264, Florida Statutes, as amended by section 21 of chapter 89-282 and section 21 of chapter 91-255, Laws of Florida, are amended to read:

322.264 "Habitual traffic offender" defined.—A "habitual traffic offender" is any person whose record, as maintained by the Department of Highway Safety and Motor Vehicles, shows that such person has accumulated the specified number of convictions for offenses described in subsection (1) or subsection (2) within a 5-year period:

(1) Three or more convictions of any one or more of the following offenses arising out of separate acts:

(d) Driving a motor vehicle while his or her license is suspended or revoked;

(f) Driving a commercial motor vehicle while his or her privilege is disqualified.

Any violation of any federal law, any law of another state or country, or any valid ordinance of a municipality or county of another state similar to a statutory prohibition specified in subsection (1) or subsection (2) shall be counted as a violation of such prohibition. In computing the number of

convictions, all convictions during the 5 years previous to July 1, 1972, will be used, provided at least one conviction occurs after that date. The fact that previous convictions may have resulted in suspension, revocation, or disqualification under another section does not exempt them from being used for suspension or revocation under this section as a habitual offender.

Section 14. Section 337.409, Florida Statutes, is amended to read:

337.409 Willfully or maliciously removing, damaging, destroying, altering, or appropriating benches, transit shelters, waste receptacles, or advertising displayed thereon; penalty.—Any person who willfully or maliciously removes, damages, destroys, tampers with or alters in any way a bench, transit shelter, or waste receptacle, or advertising displayed thereon, when such structure and display has been installed and maintained pursuant to the provisions of s. 337.408, or any person who in any manner appropriates to her or his own use or to the use of another by painting, printing, placing, or affixing any advertisement or similar material upon any such structure, or upon advertising displayed thereon, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 15. Paragraphs (f) and (k) of subsection (3) of section 364.509, Florida Statutes, are amended to read:

364.509 The Florida Distance Learning Network; creation; membership; organization; meetings.—

(3) The Florida Distance Learning Network is established with the necessary powers to exercise responsibility for statewide leadership in coordinating, enhancing, and serving as a resource center for advanced telecommunications services and distance learning in all public education delivery systems. The Florida Distance Learning Network shall be governed by a board of directors which shall consist of the following members:

(f) The Public Counsel or the Public Counsel's ~~his~~ designee.

(k) The State Librarian or the State Librarian's ~~his~~ designee.

Section 16. Paragraph (a) of subsection (1) of section 370.0805, Florida Statutes, is amended to read:

370.0805 Net ban assistance program.—

(1) INTENT.—

(a) In response to the adoption of s. 16, Art. X of the State Constitution, it is the intent of this section to establish a program, which shall be administered and enforced by the Department of Labor and Employment Security, in accordance with the provisions of this section, to provide economic assistance to commercial saltwater products licensees suffering certain losses in income as a result of the amendment, to purchase commercial fishing gear rendered illegal or useless by the amendment, and to retrain commercial fishers ~~fishermen~~ economically displaced by the amendment.

Section 17. Subsection (3) of section 375.314, Florida Statutes, is amended to read:

375.314 Damage to public lands.—

(3) Any person who operates a motor vehicle on lands owned by the state or its agency shall be civilly liable for the actual damage to the lands by reason of his or her wrongful act, which damages may be recovered by suit and, when collected, shall go to the state or its agency to be used to restore or replace the damaged property.

Section 18. Paragraph (b) of subsection (3) of section 400.407, Florida Statutes, is amended to read:

400.407 License required; fee, display.—

(3) Any license granted by the agency shall state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the agency. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health services.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to chapter 464 by persons licensed thereunder, and supportive services which may be defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or biennial relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide extended congregate care services shall have maintained a standard license and shall not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations which were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium on admissions or initiation of injunctive proceedings.

2. Facilities which are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least three times a year to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with applicable provisions of this part and with related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that biennially inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the biennial inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency shall not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities which are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment which promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures which maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal

choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to chapter 464.

h. In addition to the training mandated in s. 400.452, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services shall be exempt from the criteria for continued residency as set forth in rule pursuant to s. 400.441(1)(h). Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities shall not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility and either:

a. Transfers from a facility with a standard license; or

b. Transfers from another facility licensed to provide extended congregate care services.

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 400.426(4) and the facility must develop a preliminary service plan for the individual.

7. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 400.428(1)(k).

8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs ~~chairmen~~ of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during biennial inspections.

e. The number of residents who required extended congregate care services at admission and the source of admission.

f. Recommendations for statutory or regulatory changes.

g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h. Such other information as the department considers appropriate.

Section 19. Subsection (1) of section 402.37, Florida Statutes, is amended to read:

402.37 Medical personnel ~~manpower~~ clearinghouse; grants.—

(1) The Department of Health and Rehabilitative Services shall function as a medical personnel ~~manpower~~ clearinghouse to assist in the placement of health care providers in medically underserved communities, and, in acting as such a clearinghouse, the department shall coordinate its efforts with the Community Hospital Education Council of the Board of Regents in such a manner as to avoid duplication of efforts. The department shall collect, store, classify, and distribute current information pertaining to the medical personnel ~~manpower~~ needs of communities and the availability of medical personnel ~~manpower~~ to serve in such communities. As part of its clearinghouse function, the department shall contract with an outside entity or entities to develop and operate programs to recruit individual health care providers for relocation in medically underserved communities.

Section 20. Paragraph (g) of subsection (6) of section 402.61, Florida Statutes, is amended to read:

402.61 Regulation of tanning facilities.—

(6) A tanning facility must:

(g) Each time a person uses a tanning facility or executes or renews a contract to use a tanning facility, have the person ~~him~~ sign a written statement acknowledging that he or she has read and understands the warnings before using the device and that he or she agrees to use the protective eyewear.

Section 21. Paragraph (a) of subsection (3) of section 11.45, Florida Statutes (1996 Supplement), is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards, and of all district boards of trustees of community colleges. This section does not limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 2. A district school board may select an independent auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section. In addition, a district school board may employ an internal auditor to perform ongoing financial verification of the financial records of a school district who must report directly to the district school board or its designee.

2. The Auditor General may at any time make financial audits and performance audits of the accounts and records of all governmental entities created pursuant to law. The audits referred to in this subparagraph must be made whenever determined by the Auditor General, whenever directed by the Legislative Auditing Committee, or whenever otherwise required by law or concurrent resolution. A district school board, expressway authority, or bridge authority may require that the annual financial audit of its accounts and records be completed within 12 months after the end of its fiscal year. If the Auditor General is unable to meet that requirement, the Auditor General shall notify the school board, the expressway authority, or the bridge authority pursuant to subparagraph 4.

3. The Office of Program Policy Analysis and Government Accountability within the Office of the Auditor General shall maintain a schedule of performance audits of state programs. In conducting a performance audit of a state program, the Office of Program Policy Analysis and Government Accountability, when appropriate, shall identify and comment upon alternatives for accomplishing the goals of the program being audited. Such alternatives may include funding techniques and, if appropriate, must describe how other states or governmental units accomplish similar goals.

4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 2., each municipality with either revenues or expenditures of more than $100,000, each special district with either revenues or expenditures of more than $50,000, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. An independent certified public accountant who is selected to perform an annual financial audit of a school district must report directly to the district school board or its designee. A management letter must be prepared and included as a part of each financial audit report. Each local government finance commission, board, or council, and each municipal power corporation, created as a separate legal or administrative entity by interlocal agreement under s. 163.01(7), shall provide the Auditor General, within 12 months after the end of its fiscal year, with an annual financial

audit report of its accounts and records and a written statement or explanation or rebuttal concerning the auditor's comments, including corrective action to be taken. The county audit shall be one document that includes a separate audit of each county agency. The county audit must include an audit of the deposits into and expenditures from the Public Records Modernization Trust Fund. The Auditor General shall tabulate the results of the audits of the Public Records Modernization Trust Fund and report a summary of the audits to the Legislature annually.

5. The governing body of a municipality or a special district must establish an auditor selection committee and competitive auditor selection procedures. The governing board may elect to use its own competitive auditor selection procedures or the procedures outlined in subparagraph 6.

6. The governing body of a noncharter county or district school board that elects to use a certified public accountant other than the Auditor General is responsible for selecting an independent certified public accountant to audit the county agencies of the county or district school board according to the following procedure:

a. For each noncharter county, an auditor selection committee must be established, consisting of the county officers elected pursuant to s. 1(d), Art. VIII of the State Constitution, and one member of the board of county commissioners or its designee.

b. The committee shall publicly announce, in a uniform and consistent manner, each occasion when auditing services are required to be purchased. Public notice must include a general description of the audit and must indicate how interested certified public accountants can apply for consideration.

c. The committee shall encourage firms engaged in the lawful practice of public accounting who desire to provide professional services to submit annually a statement of qualifications and performance data.

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

e. The committee shall adopt procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, results of recent external quality control reviews, and such other factors as may be determined by the committee to be applicable to its particular requirements.

f. The public must not be excluded from the proceedings under this subparagraph.

g. The committee shall evaluate current statements of qualifications and performance data on file with the committee, together with those that may

be submitted by other firms regarding the proposed audit, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the audit, and ability to furnish the required services.

h. The committee shall select no fewer than three firms deemed to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel; past performance; willingness to meet time requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. If fewer than three firms desire to perform the services, the committee shall recommend such firms as it determines to be qualified.

i. If the governing board receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract with the board giving, among other things, a basis of its fee for that engagement. If the board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over $50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract.

j. If the board is unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the board

shall continue negotiations in accordance with this subsection until an agreement is reached.

7. At the conclusion of the audit field work, the independent certified public accountant shall discuss with the head of each local governmental entity or the chair's designee or with the chair of the district school board or the chair's designee, as appropriate, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office.

8. The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be filed with the governing body of the local governmental entity or district school board within 30 days after the delivery of the financial audit report.

9. The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all local governmental entity audits. The rules must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergencies Act as stated in s. 218.501.

10. Any local governmental entity or district school board financial audit report required under subparagraph 4. and the officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be submitted to the Auditor General within 45 days after delivery of the audit report to the local governmental entity or district school board but no later than 12 months after the end of the fiscal year. If the Auditor General does not receive the financial audit report within the prescribed period, he or she must notify the Legislative Auditing Committee that the governmental entity has not complied with this subparagraph. Following notification of failure to submit the required audit report or items required by rule adopted by the Auditor General, a hearing must be scheduled by rule of the committee. After the hearing, the committee shall determine which local governmental entities will be subjected to further state action. If it finds that one or more local governmental entities should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required financial audit is received by the Auditor General.

b. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required audits. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

11.a. The Auditor General, in consultation with the Board of Accountancy, shall review all audit reports submitted by local governmental entities pursuant to subparagraph 9. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date

of the request. If the Auditor General does not receive the requested items, he or she shall notify the Joint Legislative Auditing Committee.

b. The Auditor General shall notify the Governor and the Joint Legislative Auditing Committee of any audit report reviewed by the Auditor General which contains a statement that the local governmental entity is in a state of financial emergency as provided in s. 218.503.

12. In conducting a performance audit of any agency, the Auditor General shall use the Agency Strategic Plan of the agency in evaluating the performance of the agency.

Section 22. Subsection (11) of section 30.49, Florida Statutes (1996 Supplement), is amended to read:

30.49 Budgets.—

(11) Notwithstanding any provision of law to the contrary, a sheriff may include a clothing and maintenance allowance for plainclothes deputies within his or her budget.

Section 23. Paragraph (c) of subsection (59) of section 39.01, Florida Statutes (1996 Supplement), is amended to read:

39.01 Definitions.—When used in this chapter:

(59) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 39.061 applies to children in moderate-risk residential programs.

Section 24. Paragraph (a) of subsection (4) of section 39.0361, Florida Statutes (1996 Supplement), is amended to read:

39.0361 Neighborhood Restorative Justice Act.—

(4) RESTORATIVE JUSTICE BOARD.—

(a) The state attorney may establish Restorative Justice Boards consisting of five volunteer members, of which: two are appointed by the state attorney; two are appointed by the public defender; and one is appointed by the chief judge of the circuit. The state attorney shall appoint a chair ~~chairman~~ for each board.

Section 25. Paragraph (e) of subsection (2), subsection (3), and paragraph (a) of subsection (15) of section 70.51, Florida Statutes (1996 Supplement), are amended to read:

70.51 Land use and environmental dispute resolution.—

(2) As used in this section, the term:

(e) "Proposed use of the property" means the proposal filed by the owner to develop his or her real property.

(3) Any owner who believes that a development order, either separately or in conjunction with other development orders, or an enforcement action of a governmental entity, is unreasonable or unfairly burdens the use of the owner's ~~his~~ real property, may apply within 30 days after receipt of the order or notice of the governmental action for relief under this section.

(15)(a) The special master shall hold a hearing within 45 days after his or her receipt of the request for relief unless a different date is agreed to by all the parties. The hearing must be held in the county in which the property is located.

Section 26. Paragraph (d) of subsection (1) and subsections (2), (3), and (5) of section 112.181, Florida Statutes (1996 Supplement), are amended to read:

112.181 Firefighters, paramedics, emergency medical technicians, law enforcement officers, correctional officers; special provisions relative to certain communicable diseases.—

(1) DEFINITIONS.—As used in this section, the term:

(d) "High risk of occupational exposure" means that risk that is incurred because a person subject to the provisions of this section, in performing the basic duties associated with his or her employment:

1. Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons;

2. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

3. Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

4. Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

(2) PRESUMPTION; ELIGIBILITY CONDITIONS.—Any emergency rescue or public safety worker who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the emergency rescue or public safety worker must, by written affidavit as provided in s. 92.50, verify by written declaration that, to the best of his or her knowledge and belief:

(a) In the case of a medical condition caused by or derived from hepatitis, he or she has not:

1. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his or her employment;

2. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his or her present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

3. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States, or had sexual relations with a person known to him or her to have engaged in such unsafe sexual practices or other high-risk behavior; or

4. Used intravenous drugs not prescribed by a physician.

(b) In the case of meningococcal meningitis, in the 10 days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

(c) In the case of tuberculosis, in the period of time since the worker's last negative tuberculosis skin test, he or she has not been exposed, outside the scope of his or her employment, to any person known by him or her to have tuberculosis.

(3) IMMUNIZATION.—Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, an emergency rescue or public safety worker may be required by his or her employer to

undergo the immunization or prophylaxis unless the worker's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the worker's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety worker to undergo such immunization or prophylaxis disqualifies the worker from the benefits of the presumption.

(5) RECORD OF EXPOSURES.—The employing agency shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety worker in its employ to the diseases described in this section and shall immediately notify the employee of such exposure. An emergency rescue or public safety worker shall file an incident or accident report with his or her employer of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

Section 27. Subsection (2) of section 193.625, Florida Statutes (1996 Supplement), is amended to read:

193.625 High-water recharge lands; classification and assessment.—

(2) Any landowner whose land is within a county that has a high-water recharge protection tax assessment program and whose land is denied high-water recharge classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of high-water recharge classification on or before July 1 of the year for which the application was filed. The notification must advise the landowner of a right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at her or his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

Section 28. Paragraph (j) of subsection (1) of section 212.05, Florida Statutes (1996 Supplement), is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(j)1. Beginning January 1, 1995, a tax is imposed at the rate of 4 percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this

subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor is equal to 1.04, except that for counties with a 6.5 percent sales tax rate the divisor shall be equal to 1.045, and for counties with a 7.0 percent sales tax rate the divisor shall be equal to 1.050. When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax is on the price paid by the user of the device for such device.

2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.

a. If the owner of the machine is also the operator of it, he or she shall be liable for payment of the tax without any deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.

b. If the owner or lessee of the machine is also its operator, he or she shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax on sales generated through the machine.

c. If the proprietor of the business where the machine is located does not own the machine, he <u>or she</u> shall be deemed to be the lessee and operator of the machine and is responsible for the payment of the tax on sales, unless such responsibility is otherwise provided for in a written agreement between him <u>or her</u> and the machine owner.

3.a. An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and has conspicuously displayed an identifying certificate issued by the department. The identifying certificate shall be issued by the department upon application from the operator. The identifying certificate shall include a unique number, and the certificate shall be permanently marked with the operator's name, the operator's sales tax number, and the maximum number of machines to be operated under the certificate. An identifying certificate shall not be transferred from one operator to another. The identifying certificate must be conspicuously displayed on the premises where the coin-operated amusement machines are being operated.

b. The operator of the machine must obtain an identifying certificate before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each certificate shall be based on the number of machines identified on the application times $30 and is due and payable upon application for the identifying device. The application shall contain the operator's name, sales tax number, business address where the machines are being operated, and the number of machines in operation at that place of business by the operator. No operator may operate more machines than are listed on the certificate. A new certificate is required if more machines are being operated at that location than are listed on the certificate. The fee for the new certificate shall be based on the number of additional machines identified on the application form times $30.

c. A penalty of $250 per machine is imposed on the operator for failing to properly obtain and display the required identifying certificate. A penalty of $250 is imposed on the lessee of any machine placed in a place of business without a proper current identifying certificate. Such penalties shall apply in addition to all other applicable taxes, interest, and penalties.

d. Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator's machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

Section 29. Subsection (3) of section 218.503, Florida Statutes (1996 Supplement), is amended to read:

218.503 Determination of financial emergency.—

(3) Upon notification that one or more of the conditions in subsection (1) exist, the Governor or his or her designee shall contact the local governmental entity to determine what actions have been taken by the local governmental entity to resolve the financial emergency. The Governor has the authority to implement measures as set forth in ss. 218.50-218.504 to resolve the financial emergency. Such measures may include, but are not limited to:

(a) Requiring approval of the local governmental entity's budget by the Governor.

(b) Authorizing a state loan to the local governmental entity and providing for repayment of same.

(c) Prohibiting a local governmental entity from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section.

(d) Making such inspections and reviews of records, information, reports, and assets of the local governmental entity, in which inspections and reviews the appropriate local officials shall cooperate.

(e) Consulting with the officials of the local governmental entity and the appropriate state agency regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local governmental entity.

(g)1. Establishing a financial emergencies board to oversee the activities of the local governmental entity. The board, if established, shall be appointed by the Governor. The Governor shall select a chair and such other officers as are necessary. The board shall adopt such rules as are necessary for conducting board business. The board may:

a. Make such reviews of records, reports, and assets of the local governmental entity as are needed.

b. Consult with the officials of the local governmental entity and appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity into compliance with state requirements.

c. Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity.

2. The recommendations and reports made by the board must be submitted to the Governor for appropriate action.

(h) Requiring and approving a plan, to be prepared by the appropriate state agency in conjunction with the local governmental entity, prescribing actions that will cause the local governmental entity to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of all payments due or to come due on debt obligations, pension payments, and all payments and charges imposed or mandated by federal or state law and for all judgments and past due accounts, as priority items of expenditures.

2. Establishment of a basis of priority budgeting or zero-based budgeting, so as to eliminate low-priority items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

Section 30. Subsection (4) of section 231.261, Florida Statutes (1996 Supplement), is amended to read:

231.261 Education Practices Commission; organization.—

(4) From among its members, the commission shall elect a <u>chair</u> ~~chairman~~ who shall preside over meetings of the commission and perform other duties directed by the commission or required by its duly adopted rules or operating procedures. School districts shall be reimbursed for substitute teachers required to replace commission members, when they are carrying out their official duties, at a rate established by the school district for substitute teachers. The department is authorized to reimburse local school districts for substitutes.

Section 31. Subsection (2) of section 250.482, Florida Statutes (1996 Supplement), is amended to read:

250.482 Troops ordered into state active service; not to be penalized by employers and postsecondary institutions.—

(2) If the Adjutant General certifies that there is probable cause to believe there has been a violation of this section, an employee who has been employed for a period of at least 1 year prior to being ordered into active service so injured by a violation of this section may bring civil action against an employer violating the provisions of this section in a court of competent jurisdiction of the county in which the alleged violator resides or has his or her principal place of business, or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or $500, whichever is greater. The prevailing party in any litigation proceedings shall be entitled to recover their reasonable attorney's fees and reasonable court costs.

Section 32. Subsection (2) of section 250.5204, Florida Statutes (1996 Supplement), is amended to read:

250.5204 Installment contracts for purchase of property; penalty.—

(2) Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, on application to it by such person in state active duty or some person on his or her behalf, order a stay of proceedings, unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service. Alternatively, the court may otherwise dispose of the case as is in the interest of all parties.

Section 33. Subsection (3) of section 250.5205, Florida Statutes (1996 Supplement), is amended to read:

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

(3) This section applies only to obligations secured by a mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in state active service at the commencement of the period of state active service and still owed by her or him, which obligation originated prior to such person's period of state active service.

Section 34. Subsection (4) of section 282.404, Florida Statutes (1996 Supplement), is amended to read:

282.404 Geographic information board; definition; membership; creation; duties; advisory council; membership; duties.—

(4) The Director of Planning and Budgeting of the Executive Office of the Governor, or his or her designee, shall serve as the chair of the board. A majority of the membership of the board constitutes a quorum for the conduct of business. The board shall meet at least twice each year, and the chair may call a meeting of the board as often as necessary to transact business. Administrative and clerical support to the board shall be provided by the Information Resource Commission.

Section 35. Paragraph (b) of subsection (1) and subsection (4) of section 320.771, Florida Statutes (1996 Supplement), are amended to read:

320.771 License required of recreational vehicle dealers.—

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

(b) "Recreational vehicle broker" means any person who is engaged in the business of offering to procure or procuring used recreational vehicles for the general public; who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures used recreational vehicles for the general public; or who acts as the agent or intermediary ~~middleman~~ on behalf of the owner or seller of a used recreational vehicle which is for sale or who assists or represents the seller in finding a buyer for the recreational vehicle.

(4) FEES.—Upon making initial application, the applicant shall pay to the department a fee of $300 in addition to any other fees now required by law. The fee for renewal application shall be $100. The fee for application for change of location shall be $25. Any applicant for renewal who has failed to submit his or her renewal application by October 1 shall pay a renewal application fee equal to the original application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

Section 36. Paragraph (c) of subsection (8) of section 322.18, Florida Statutes (1996 Supplement), is amended to read:

322.18 Original applications, licenses, and renewals; expiration of licenses; delinquent licenses.—

(8) The department shall issue 4-year and 6-year license extensions by mail, electronic, or telephonic means without reexamination.

(c) The department shall issue license extensions for two consecutive license expirations only. Upon expiration of two consecutive license extension periods, in-person renewal with reexamination as provided in s. 322.121 shall be required. A person who is out of this state when his or her license expires may be issued a 90-day temporary driving permit without reexamination. At the end of the 90-day period, the person must either return to this state or apply for a license where the person is located, except for a member of the Armed Forces as provided in s. 322.121(6).

Section 37. Subsection (2) of section 322.245, Florida Statutes (1996 Supplement), is amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61.—

(2) In non-IV-D cases, if a person fails to pay child support under chapter 61 and the obligee so requests, the depository or the clerk of the court shall mail to the person, at the last address of record as maintained by the local

depository, the notice specified in s. 61.13016 notifying him or her that if he or she does not comply with the requirements of that section and pay a delinquency fee of $10 to the depository or the clerk, his or her driver's license and motor vehicle registration will be suspended. The delinquency fee may be retained by the depository or the office of the clerk to defray the operating costs of the office.

Section 38. Subsection (10) of section 322.2615, Florida Statutes (1996 Supplement), is amended to read:

322.2615 Suspension of license; right to review.—

(10) A person whose driver's license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver's license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only, pursuant to s. 322.271, until 90 days have elapsed after the expiration of the 30-day temporary permit issued pursuant to this section or s. 322.64. If the driver is not issued a 30-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver's license of the person arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level, is sustained, the person is not eligible to receive a license for business or employment purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the 30-day temporary permit issued pursuant to this section or s. 322.64. If the driver is not issued a 30-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for a violation of s. 316.193, relating to unlawful blood-alcohol level, is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 30 days have elapsed from the date of the arrest.

Section 39. Paragraph (b) of subsection (1), paragraph (b) of subsection (2), paragraph (b) of subsection (8), and subsections (14), (15), and (16) of section 322.2616, Florida Statutes (1996 Supplement), are amended to read:

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

(1)

(b) A law enforcement officer who has probable cause to believe that a motor vehicle is being driven by or is in the actual physical control of a person who is under the age of 21 while under the influence of alcoholic beverages or who has any breath-alcohol level may lawfully detain such a

person and may request that person to submit to a test to determine his or her breath-alcohol level.

(2)

(b) The suspension under paragraph (a) must be pursuant to, and the notice of suspension must inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath test and his or her driving privilege is suspended for a period of 1 year for a first refusal or for a period of 18 months if his or her driving privilege has been previously suspended as provided in this section as a result of a refusal to submit to a test; or

b. The driver was under the age of 21 and was driving or in actual physical control of a motor vehicle while having a blood-alcohol or breath-alcohol level of 0.02 percent or higher; and the person's driving privilege is suspended for a period of 6 months for a first violation, or for a period of 1 year if his or her driving privilege has been previously suspended as provided in this section for driving or being in actual physical control of a motor vehicle with a blood-alcohol or breath-alcohol level of 0.02 percent or higher.

2. The suspension period commences on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the issuance of the notice of suspension.

4. A temporary permit issued at the time of the issuance of the notice of suspension will expire at midnight of the 10th day following the date of issuance.

5. The driver may submit to the department any materials relevant to the suspension of his or her license.

(8) In a formal review hearing under subsection (7) or an informal review hearing under subsection (5), the hearing officer shall determine by a preponderance of the evidence whether sufficient cause exists to sustain, amend, or invalidate the suspension. The scope of the review is limited to the following issues:

(b) If the license was suspended because of the individual's refusal to submit to a breath test:

1. Whether the law enforcement officer had probable cause to believe that the person was under the age of 21 and was driving or in actual physical control of a motor vehicle in this state with any blood-alcohol or breath-alcohol level or while under the influence of alcoholic beverages.

2. Whether the person was under the age of 21.

3. Whether the person refused to submit to a breath test after being requested to do so by a law enforcement officer or correctional officer.

4. Whether the person was told that if he or she refused to submit to a breath test his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months.

(14) A person may appeal any decision of the department sustaining a suspension of his or her driver's license by a petition for writ of certiorari to the circuit court in the county wherein such person resides or wherein a formal or informal review was conducted under s. 322.31. However, an appeal does not stay the suspension. This subsection does not provide for a de novo appeal.

(15) The decision of the department under this section shall not be considered in any trial for a violation of s. 316.193, nor shall any written statement submitted by a person in his or her request for departmental review under this section be admissible into evidence against him or her in any such trial. The disposition of any related criminal proceedings shall not affect a suspension imposed under this section.

(16) By applying for and accepting and using a driver's license, a person under the age of 21 years who holds the driver's license is deemed to have expressed his or her consent to the provisions of this section.

Section 40. Subsection (6) of section 327.25, Florida Statutes (1996 Supplement), is amended to read:

327.25 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(6) CHANGE OF CLASSIFICATION.—If the classification of a vessel changes from noncommercial to commercial, or from commercial to noncommercial, and a current registration certificate has been issued to the owner, the owner shall forward his or her certificate to the county tax collector with a fee of $2.25 and a new certificate shall be issued.

Section 41. Subsection (4) of section 327.30, Florida Statutes (1996 Supplement), is amended to read:

327.30 Collisions, accidents, and casualties.—

(4) Each coroner or other official performing like functions, upon learning of the death of a person in his or her jurisdiction as a result of a boating accident, shall immediately notify the nearest office of the Department of Law Enforcement.

Section 42. Subsection (4) of section 327.54, Florida Statutes (1996 Supplement), is amended to read:

327.54 Liveries; safety regulations; penalty.—

(4) A livery may not lease, hire, or rent a personal watercraft to any person who is under 16 years of age, nor may it lease, hire, or rent such watercraft or other vessel to any other person, unless the livery displays boating safety information about the safe and proper operation of vessels

and requires a signature by the lessee that he or she has received instruction in the safe handling of the personal watercraft in compliance with standards established by the department.

Section 43. Subsection (7) of section 337.14, Florida Statutes (1996 Supplement), is amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(7) No "contractor" as defined in s. 337.165(1)(d) or his or her "affiliate" as defined in s. 337.165(1)(a) qualified with the department under this section may also qualify under s. 287.055 or s. 337.105 to provide construction, engineering, and inspection services to the department. This limitation shall not apply to any design-build prequalification under s. 337.11(7).

Section 44. Paragraph (b) of subsection (7) of section 370.0605, Florida Statutes (1996 Supplement), is amended to read:

370.0605 Saltwater fishing license required; fees.—

(7)

(b) By March 15, 1997, each county tax collector shall provide the department with a written report, on forms provided by the department, of the audit numbers of all unissued licenses and permits for the period of June 1, 1996, to December 31, 1996. Within 30 days after the submission of the annual audit report, each county tax collector shall provide the department with a written audit report of unissued, sold, and voided licenses, permits, and stamps, together with a certified reconciliation statement prepared by a certified public accountant. Concurrent with the submission of the certification, the county tax collector shall remit to the department the monetary value of all licenses, permits, and stamps that are unaccounted for. Each tax collector is also responsible for fees for all licenses, permits, and stamps distributed by him or her to subagents, sold by him or her, or reported by him or her as lost.

Section 45. Paragraph (f) of subsection (3) of section 370.153, Florida Statutes (1996 Supplement), is amended to read:

370.153 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—

(3) LIVE BAIT SHRIMP PRODUCTION.—

(f) A live shrimp producer must also be a licensed wholesale dealer. Such person shall not sell live bait shrimp unless he or she produces a live bait shrimp production license at the time of sale.

Section 46. Subsection (10) of section 373.4211, Florida Statutes (1996 Supplement), is amended to read:

373.4211 Ratification of chapter 17-340, Florida Administrative Code, on the delineation of the landward extent of wetlands and surface waters.—

Pursuant to s. 373.421, the Legislature ratifies chapter 17-340, Florida Administrative Code, approved on January 13, 1994, by the Environmental Regulation Commission, with the following changes:

(10) Rule 17-340.300(3), Florida Administrative Code, is added to read:

"(3)(a) If the vegetation or soils of an upland or wetland area have been altered by natural or human-induced ~~man-induced~~ factors such that the boundary between wetlands and uplands cannot be delineated reliably by use of the methodology in subsection 17-340.300(2), F.A.C., as determined by the regulating agency, and the area has hydric soils or riverwash, as identified using standard U.S.D.A.-S.C.S. practices for Florida, including the approved hydric soil indicators, except where the hydric soil is disturbed by a nonhydrologic mechanical mixing of the upper soil profile and the regulating agency establishes through data or evidence that hydric soil indicators would be present but for the disturbance, then the most reliable available information shall be used with reasonable scientific judgment to determine where the methodology in subsection 17-340.300(2), F.A.C., would have delineated the boundary between wetlands and uplands. Reliable available information may include, but is not limited to, aerial photographs, remaining vegetation, authoritative site-specific documents, or topographical consistencies.

"(b) This subsection shall not apply to any area where regional or site-specific permitted activities, or activities which did not require a permit, under sections 253.123 and 253.124, F.S. (1957), as subsequently amended, the provisions of Chapter 403, F.S. (1983), relating to dredging and filling activities, Chapter 84-79, Laws of Florida, and Part IV of Chapter 373, F.S., have altered the hydrology of the area to the extent that reasonable scientific judgment, or application of the provisions of section 17-340.550, F.A.C., indicate that under normal circumstances the area no longer inundates or saturates at a frequency and duration sufficient to meet the wetland definition in subsection 17-340.200(19), F.A.C.

"(c) This subsection shall not be construed to limit the type of evidence which may be used to delineate the landward extent of a wetland under this chapter when an activity violating the regulatory requirements of sections 253.123 and 253.124, F.S. (1957), as subsequently amended, the provisions of Chapter 403, F.S. (1983), relating to dredging and filling activities, Chapter 84-79, Laws of Florida, and Part IV of Chapter 373, F.S., has disturbed the vegetation or soils of an area."

Section 47. Subsection (1) of section 374.986, Florida Statutes (1996 Supplement), is amended to read:

374.986 Taxing authority.—

(1) The tax assessor, tax collector, and board of county commissioners of each and every county in said district, shall, when requested by the board, prepare from their official records and deliver any and all information that may be from time to time requested from him or her or them or either of them by the board regarding the tax valuation, assessments, collection, and any other information regarding the levy, assessment, and collection of taxes in each of said counties.

Section 48. Paragraph (f) of subsection (1) of section 376.306, Florida Statutes (1996 Supplement), is amended to read:

376.306 Cattle-dipping vats; legislative findings; liability.—

(1) The Legislature finds that:

(f) Participation in the cattle fever tick eradication program was mandated by state law. Livestock owners who failed to participate were subjected to criminal penalties, including fines and imprisonment, and civil penalties, including, but not limited to, condemnation and killing of their livestock, payment of costs for the killing and disposal of carcasses by the sheriff or her or his deputies, and payment of fees for dipping performed by the state.

Section 49. Paragraph (a) of subsection (4) of section 377.075, Florida Statutes (1996 Supplement), is amended to read:

377.075 Division of Technical Services; geological functions.—

(4) DUTIES.—The Florida Geological Survey shall make periodic reports of the progress of its surveys and explorations of minerals, water supply, and other natural resources of the state and shall include in such reports a full description of such surveys and explorations, occurrences and location of mineral and other deposits of value, surface and subterranean water supply, and the best and most economical method of development, together with analyses of sediments, minerals, and mineral waters, with maps, charts, and drawings of the same.

(a) The State Geologist and his or her professional staff shall conduct field and laboratory investigations of the geologic structure of this state; the nature and composition of the igneous, metamorphic, and sedimentary rocks and economic minerals; the nature of physiographic features; and other aspects of geology and hydrology which may lead to a better understanding of the geology of this state, with special reference to the practical bearing of the subjects of such investigations on the well-being of this state and the citizens of this state.

Section 50. Subsections (1) and (3) of section 394.4598, Florida Statutes (1996 Supplement), are amended to read:

394.4598 Guardian advocate.—

(1) The administrator may petition the court for the appointment of a guardian advocate based upon the opinion of a psychiatrist that the patient is incompetent to consent to treatment. If the court finds that a patient is incompetent to consent to treatment and has not been adjudicated incapacitated and a guardian with the authority to consent to mental health treatment appointed, it shall appoint a guardian advocate. The patient has the right to have an attorney represent him or her at the hearing. If the person is indigent, the court shall appoint the office of the public defender to represent him or her at the hearing. The patient has the right to testify, cross-examine witnesses, and present witnesses. The proceeding shall be recorded

either electronically or stenographically, and testimony shall be provided under oath. One of the professionals authorized to give an opinion in support of a petition for involuntary placement, as described in s. 394.467(2), must testify. A guardian advocate must meet the qualifications of a guardian contained in part IV of chapter 744, except that a professional referred to in this part, an employee of the facility providing direct services to the patient under this part, a departmental employee, a facility administrator, or member of the district human rights advocacy committee shall not be appointed. A person who is appointed as a guardian advocate must agree to the appointment.

(3) Prior to a guardian advocate exercising his or her authority, the guardian advocate shall attend a training course approved by the court. This training course, of not less than 4 hours, must include, at minimum, information about the patient rights, psychotropic medications, diagnosis of mental illness, the ethics of medical decisionmaking, and duties of guardian advocates. This training course shall take the place of the training required for guardians appointed pursuant to chapter 744.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.

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

Filed in Office Secretary of State May 23, 1997.