# CHAPTER 99-13

## House Bill No. 1039

An act relating to the Florida Statutes; amending ss. 238.06, 240.1161, 240.1201, 240.147, 240.156, 240.20941, 240.2605, 240.275, 240.283, 240.285, 240.311, 240.319, 240.3195, 240.324, 240.331, 240.3315, 240.383, 240.4063, 240.408, 240.414, 240.4145, 240.498, 240.514, 240.551, 240.6054, 240.632, 242.3305, 246.041, 250.46, 252.939, 253.025, 255.05, 259.032, 259.101, 260.016, 270.10, 280.09, 280.11, 281.05, 281.06, 281.07, 281.08, 282.003, 282.005, 282.101, 282.20, 282.22, 282.3031, 282.3041, 282.310, 284.31, 287.059, 287.0595, 287.064, 287.09431, 287.133, 287.151, 287.16, 288.039, 288.041, 288.052, 288.1066, 288.108, 288.1169, 288.1185, 288.770, 288.776, 288.853, 288.905, 288.9512, 288.9605, 288.9607, 288.9620, 290.0058, 290.0065, 290.009, 295.07, 295.085, 295.09, 295.14, 296.33, 298.225, 316.003, 316.072, 316.0747, 316.1955, 316.2126, 316.2399, 316.302, 318.13, 318.14, 318.21, 319.33, 320.03, 320.055, 320.08056, 320.08058, 320.0848, 320.1325, 322.12, 322.121, 322.292, 322.34, 322.57, 323.001, 325.202, 325.212, 327.25, 327.28, 331.303, 331.305, 331.308, 334.03, 336.01, 337.023, 337.407, 338.22, 338.221, 338.222, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.0805, 339.135, 341.321, 348.0005, 348.242, 349.21, 350.031, 350.0605, 354.01, 364.509, 368.061, 370.06, 370.0605, 370.063, 370.0821, 370.12, 370.14, 370.142, 370.1535, 370.154, 372.023, 372.561, 372.57, 372.573, 372.661, 373.036, 373.0691, 373.213, 373.246, 373.414, 373.421, 373.4592, 373.59, 373.591, 374.976, 374.983, 375.041, 376.3071, 376.3072, 376.3078, 376.30781, 376.82, 378.901, 380.0555, 380.20, 380.205, 380.22, 381.0014, 381.0035, 381.004, 381.0065, 381.0068, 381.0203, 381.732, 381.733, 382.003, 382.356, 388.4111, 388.46, 390.0111, 390.0112, 393.063, 393.067, 394.4787, 395.002, 395.605, 400.0067, 400.051, 400.063, 400.417, 400.4174, 400.4256, 400.426, 400.427, 400.447, 400.471, 400.6085, 400.618, 400.6196, 402.161, 402.3055, 402.3057, 402.308, and 402.3115, Florida Statutes; reenacting and amending ss. 341.051(5) and 397.405, Florida Statutes; and reenacting ss. 240.2011, 266.0016, 295.11(2), 320.0848(9) and (10), 320.20(2), 328.17(1), 351.03, 351.034, 351.35, 351.36, 351.37, 354.01, 354.02, 354.03, 354.04, 354.05, 354.07, 361.025, 373.197(2), (3), 376.30711(2)(b), (c), and 377.703(3)(b), (c), (d), (e), (h), (i), (j), (k), (l), and (m), Florida Statutes, pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Subsection (10) of section 238.06, Florida Statutes, is amended to read:

238.06 Membership application, creditable service, and time for making contributions.—

(10) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon his or her return to active employment with a covered employer for 1 calendar month or upon his or her approval for disability retirement in accordance with s. 238.07, receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, no member may receive retirement credit for any such period occurring after the earlier of the date maximum medical improvement has been attained as defined in s. 440.02(9) ~~440.02(8)~~ or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required employee and employer retirement contributions based on the member's rate of monthly compensation immediately prior to his or her receiving workers' compensation payments.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 440.02 by s. 1, ch. 98-174, Laws of Florida.

Section 2. Subsection (5) of section 240.1161, Florida Statutes, is amended to read:

240.1161 District interinstitutional articulation agreements.—

(5) School districts and community colleges may enter into additional interinstitutional articulation agreements with state universities for the purposes of this section. School districts may also enter into interinstitutional articulation agreements with eligible independent colleges and universities pursuant to s. 236.081(1)(g) ~~236.081(1)(j)~~. State universities and community colleges may enter into interinstitutional articulation agreements with nonpublic secondary schools pursuant to s. 240.116.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 236.081(1) by s. 43, ch. 97-307, Laws of Florida.

Section 3. Paragraph (b) of subsection (1) of section 240.1201, Florida Statutes, 1998 Supplement, is amended to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(1) As defined under this section:

(b) The term "institution of higher education" means any of the constituent institutions under the jurisdiction of the State University System or the Florida ~~State~~ Community College System.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 4. Subsections (15) and (16) of section 240.147, Florida Statutes, 1998 Supplement, are amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(15) In consultation with the Independent Colleges and Universities of Florida, recommend to the Legislature accountability measures and an accountability process for independent institutions that participate in the William L. Boyd, IV, Florida Resident Access Grant Program. The process shall make use of existing information submitted to the federal and state governments. The process shall provide for an assessment of the benefits and cost-effectiveness of the William L. Boyd, IV, Florida Resident Access Grant Program in providing state residents with access to 4-year college programs and with the successful completion of a baccalaureate degree. The commission shall provide oversight of this accountability process.

(16) Periodically review the design and implementation of the accountability processes and reports of the State University System, Florida ~~State~~ Community College System, and public and independent postsecondary institutions. At least every 5 years, evaluate the extent to which each plan is contributing to the achievement of state goals for postsecondary education and report to the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives with recommendations on any changes needed in the accountability process or plans.

Reviser's note.—Subsection (15) is amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida. Subsection (16) is amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 5. Section 240.156, Florida Statutes, is amended to read:

240.156 State University System Concurrency Trust Fund.—Notwithstanding any other provision of law, the general revenue service charge deducted pursuant to s. 215.20 on revenues raised by any local option motor fuel tax levied pursuant to s. 336.025(1)(b), as created by chapter 93-206, Laws of Florida, ~~CS/CS/HB 2315 (1993) or similar legislation,~~ shall be deposited in the State University System Concurrency Trust Fund, which is hereby created. Moneys in such trust fund shall be for the purpose of funding State University System offsite improvements required to meet concurrency standards adopted under part II of chapter 163.

Reviser's note.—Amended to conform to the chapter law designation of C.S. for C.S. for H.B. 2315, 1993 regular legislative session.

Section 6. Section 240.2011, Florida Statutes, is reenacted to read:

240.2011 State University System defined.—The State University System shall consist of the following:

(1) The Board of Regents of the Division of Universities of the Department of Education, with a central office located in Leon County.

(2) The University of Florida, with a main campus located in Alachua County.

(3) The Florida State University, with a main campus located in Leon County.

(4) The Florida Agricultural and Mechanical University, with a main campus located in Leon County.

(5) The University of South Florida, with a main campus located in Hillsborough County.

(6) The Florida Atlantic University, with partner campuses located in Palm Beach County and Broward County.

(7) The University of West Florida, with a main campus located in Escambia County.

(8) The University of Central Florida, with a main campus located in Orange County.

(9) The University of North Florida, with a main campus located in Duval County.

(10) The Florida International University, with a main campus located in Dade County.

(11) The Florida Gulf Coast University, with a main campus located in Fort Myers.

Reviser's note.—Section 1, ch. 94-248, Laws of Florida, purported to amend subsection (11) of s. 240.2011, but failed to republish the introductory paragraph to the section. In the absence of affirmative evidence that the Legislature intended to repeal the introductory paragraph, s. 240.2011 is reenacted to confirm that the omission was not intended.

Section 7. Section 240.20941, Florida Statutes, is amended to read:

240.20941 Vacant faculty positions.—Notwithstanding the provisions of s. 216.181(7), (8), and (9) ~~216.181(3), (4), and (5)~~, and pursuant to the provisions of s. 216.351, actions to reduce positions, rate, or salaries and benefits, excluding salary lapse calculations, taken by the Legislature, by the Executive Office of the Governor, or by the Administration Commission which relate specifically to vacant positions, and which are applied on a uniform basis to all state employee positions, may affect the positions within the faculty pay plan approved and administered by the Board of Regents only to the extent that they do so by express reference to this section.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 216.181 by s. 60, ch. 92-142, Laws of Florida, and s. 6, ch. 97-286, Laws of Florida.

Section 8. Subsection (1) of section 240.2605, Florida Statutes, 1998 Supplement, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(1) There is established a Trust Fund for Major Gifts. The purpose of the trust fund is to enable the Board of Regents Foundation, each university, and New College to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments, which must be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by procedure of the Board of Regents. All funds appropriated for the challenge grants, new donors, major gifts, or eminent scholars program must be deposited into the trust fund and invested pursuant to s. 18.125 until the Board of Regents allocates the funds to universities to match private donations. Notwithstanding s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to the portion of the trust fund which is not matched and distributed to universities must remain in the trust fund and <u>be</u> used to increase the total funds available for challenge grants. The Board of Regents may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 240.272.

Reviser's note.—Amended to improve clarity.

Section 9. Subsection (4) of section 240.275, Florida Statutes, is amended to read:

240.275 Law libraries of certain institutions of higher learning designated as state legal depositories.—

(4) The libraries of all community colleges in the <u>Florida</u> ~~state~~ Community College System as defined in s. 240.301 are designated as state depositories for the Florida Statutes and supplements published by or under the authority of the state; these depositories each may receive upon request one copy of each volume without charge, except for payment of shipping costs.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 10. Section 240.283, Florida Statutes, is amended to read:

240.283 Extra compensation for State University System employees.—Notwithstanding the provisions of s. <u>216.262(1)(e)</u> ~~216.262(1)(d)~~, the presidents of the several universities and the Chancellor are authorized to approve additional compensation for university employees and employees of the Board of Regents, respectively, as provided by rules adopted by the Board of Regents.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 216.262(1) by s. 68, ch. 92-142, Laws of Florida.

Section 11. Section 240.285, Florida Statutes, is amended to read:

240.285 Transfer of funds.—Notwithstanding the limitations of s. 216.292(3)(a) ~~216.292(2)(a)~~, the State University System is authorized to transfer up to 15 percent from salaries to other personal services; however, such actions shall be shown in the legislative budget request which includes actual expenditures for the preceding fiscal year.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 216.292 by s. 14, ch. 94-249, Laws of Florida.

Section 12. Subsections (4) and (7) of section 240.311, Florida Statutes, 1998 Supplement, are amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(4) The State Board of Community Colleges shall appoint, and may suspend or dismiss, an executive director of the community college system. The board shall fix the compensation for the executive director and for all other professional, administrative, and clerical employees necessary to assist the board and the executive director in the performance of their duties. The executive director shall serve as executive officer and as secretary to the board; shall attend, but not vote at, all meetings of the board except when on authorized leave; shall be in charge of the offices of the board, including appointment and termination of staff; and shall be responsible for the preparation of reports and the collection and dissemination of data and other public information relating to the Florida ~~State~~ Community College System. The executive director shall conduct systemwide program reviews for board approval; prepare the legislative budget request for the system; and, upon the request of the board, represent the system before the Legislature and the State Board of Education, including representation in the presentation of proposed rules to the State Board of Education. The board may, by rule, delegate to the executive director any of the powers and duties vested in or imposed upon it by this part. Under the supervision of the board, the executive director shall administer the provisions of this part and the rules established hereunder and all other applicable laws of the state.

(7) The State Board of Community Colleges shall adopt rules and procedures to be followed by district boards of trustees for the recruitment, consideration, and selection process for presidents of the community colleges. The rules or procedures shall address, at a minimum, the following: the composition of a search committee that provides for membership representing the gender and ethnic diversity of the community, faculty, students, and staff; the program mix of the community college and priorities of the community and board of trustees; and a recruitment and consideration process that provides a candidate pool with ethnic and gender diversity appropriate for the community college district. The district board of trustees is responsible for the appointment of the community college president, pursuant to s. 240.319(4)(a) ~~240.319(3)(a)~~. Upon selection of a president by a board of

trustees, the board of trustees shall submit a report to the State Board of Community Colleges documenting compliance with this subsection.

Reviser's note.—Subsection (4) is amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida. Subsection (7) is amended to conform to the redesignation of subunits of s. 240.319 by s. 12, ch. 97-246, Laws of Florida.

Section 13. Subsection (2) and paragraph (t) of subsection (4) of section 240.319, Florida Statutes, 1998 Supplement, are amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(2) The board of trustees, after considering recommendations submitted by the community college president, has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it. These rules may supplement those prescribed by the State Board of Education and the State Board of Community Colleges if they will contribute to the more orderly and efficient operation of the Florida ~~State~~ Community College System.

(4) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(t) Each board of trustees is authorized to borrow funds and incur debt, including the issuance of revenue bonds as specifically authorized in ss. 239.117(17) and 240.35(14) ~~240.35(13)~~, only for the new construction and equipment, renovation, or remodeling of educational facilities. At the option of the board of trustees, bonds may be issued which are secured by a combination of revenues authorized to be pledged to bonds pursuant to ss. 239.117(17) and 240.35(14) ~~240.35(13)~~.

Reviser's note.—Subsection (2) is amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida. Paragraph (4)(t) is amended to conform to the redesignation of subunits of s. 240.35 by s. 10, ch. 98-421, Laws of Florida.

Section 14. Section 240.3195, Florida Statutes, is amended to read:

240.3195 State Community College System Optional Retirement Program.—Each community college may implement an optional retirement program, if such program is established therefor pursuant to s. 240.319(4)(r) ~~240.319(3)(r)~~, under which annuity contracts providing retirement and death benefits may be purchased by, and on behalf of, eligible employees who participate in the program. Except as otherwise provided herein, this retirement program, which shall be known as the State Community College System Optional Retirement Program, may be implemented and administered only by an individual community college or by a consortium of community colleges.

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

(a) "Activation" means the date upon which an optional retirement program is first made available by the program administrator to eligible employees.

(b) "College" means public community colleges that are members of the Florida ~~State~~ Community College System.

(c) "Division" means the Division of Retirement of the Department of Management Services.

(d) "Program administrator" means the individual college or consortium of colleges responsible for implementing and administering an optional retirement program.

(e) "Program participant" means an eligible employee who has elected to participate in an available optional retirement program as authorized by this section.

(2) Participation in the optional retirement program provided by this section is limited to employees who satisfy the criteria set forth in s. 121.051(2)(c).

(3)(a) With respect to any employee who is eligible to participate in the optional retirement program by reason of qualifying employment commencing before the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 60 days after the program's activation, both a written election on a form provided by the division and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the division. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after its activation has elected to retain membership in the Florida Retirement System.

(b) With respect to any employee who becomes eligible to participate in an optional retirement program by reason of qualifying employment commencing on or after the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 60 days after commencing qualifying employment, both

a written election on a form provided by the division and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the division. An employee's membership in the Florida Retirement System terminates on this same date.

3. If the employee makes an election to participate in the optional retirement program before the community college submits its initial payroll for the employee, participation in the optional retirement program commences on the first date of employment.

4. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after commencing qualifying employment has elected to retain membership in the Florida Retirement System.

(c) Any employee who, on or after an optional retirement program's activation, becomes eligible to participate in the program by reason of a change in status due to the subsequent designation of the employee's position as one of those referenced in subsection (2), or due to the employee's appointment, promotion, transfer, or reclassification to a position referenced in subsection (2), must be notified by the community college of the employee's eligibility to participate in the optional retirement program in lieu of participation in the Florida Retirement System. These eligible employees are subject to the provisions of paragraph (b) and may elect to participate in the optional retirement program in the same manner as those employees described in paragraph (b), except that the 60-day election period commences upon the date notice of eligibility is received by the employee.

(d) Program participants must be fully and immediately vested in the optional retirement program.

(e) The election by an eligible employee to participate in the optional retirement program is irrevocable for so long as the employee continues to meet the eligibility requirements set forth in this section and in s. 121.051(2)(c), except as provided in paragraph (i).

(f) If a program participant becomes ineligible to continue participating in the optional retirement program pursuant to the criteria referenced in subsection (2), the employee becomes a member of the Florida Retirement System if eligible. The college must notify the Division of Retirement of an employee's change in eligibility status within 30 days after the event that makes the employee ineligible to continue participation in the optional retirement program.

(g) An eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program retains all retirement service credit earned under the Florida Retirement System at the rate earned. Additional service credit in the Florida Retirement System may not be earned while the employee participates in

the optional retirement program, nor is the employee eligible for disability retirement under the Florida Retirement System.

(h) A program participant may not simultaneously participate in any other state-administered retirement system, plan, or class.

(i) Except as provided in s. 121.052(6)(d), a program participant who is or who becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for an optional retirement program pursuant to this section and one of which is not, is subject to the dual employment provisions of chapter 121.

(4)(a) Each college must contribute on behalf of each program participant an amount equal to the normal cost portion of the employer retirement contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System as provided in s. 121.071, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the community college to provide for the administration of the optional retirement program. Payment of this contribution must be made either directly by the community college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(b) Each community college must contribute on behalf of each program participant an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System. Payment of this contribution must be made directly by the college to the division for deposit in the Florida Retirement System Trust Fund.

(c) Each program participant who has executed an annuity contract may contribute by way of salary reduction or deduction a percentage of the program participant's gross compensation, but this percentage may not exceed the corresponding percentage contributed by the community college to the optional retirement program. Payment of this contribution may be made either directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(d) Contributions to an optional retirement program by a college or a program participant are in addition to, and have no effect upon, contributions required now or in future by the federal Social Security Act.

(5)(a) The benefits to be provided to program participants must be provided through individual contracts or group annuity contracts, which may be fixed, variable, or both. Each individual contract or certificate must state the type of annuity contract on its face page, and must include at least a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any.

(b) Benefits are payable under the optional retirement program to program participants or their beneficiaries, and the benefits must be paid only

by the designated company in accordance with the terms of the annuity contracts applicable to the program participant, provided that benefits funded by employer contributions are payable only as a lifetime annuity to the program participant, except for:

1. A lump-sum payment to the program participant's beneficiary or estate upon the death of the program participant; or

2. A cash-out of a de minimis account upon the request of a former program participant who has been terminated for a minimum of 6 months from the employment that caused the participant to be eligible for participation. A de minimis account is an account with a designated company containing employer contributions and accumulated earnings of not more than $3,500. The cash-out must be a complete liquidation of the account balance with that designated company and is subject to the provisions of the Internal Revenue Code.

(c) The benefits payable to any person under the optional retirement program, and any contribution accumulated under the program, are not subject to assignment, execution, attachment, or to any legal process whatsoever.

(6)(a) The optional retirement program authorized by this section must be implemented and administered by the program administrator under s. 403(b) of the Internal Revenue Code. The program administrator has the express authority to contract with a third party to fulfill any of the program administrator's duties.

(b) The program administrator shall solicit competitive bids or issue a request for proposal and select no more than four companies from which annuity contracts may be purchased under the optional retirement program. In making these selections, the program administrator shall consider the following factors:

1. The financial soundness of the company.

2. The extent of the company's experience in providing annuity contracts to fund retirement programs.

3. The nature and extent of the rights and benefits provided to program participants in relation to the premiums paid.

4. The suitability of the rights and benefits provided to the needs of eligible employees and the interests of the college in the recruitment and retention of employees.

In lieu of soliciting competitive bids or issuing a request for proposals, the program administrator may authorize the purchase of annuity contracts under the optional retirement program from those companies currently selected by the Division of Retirement to offer such contracts through the State University System Optional Retirement Program, as set forth in s. 121.35.

(c) Optional retirement program annuity contracts must be approved in form and content by the program administrator in order to qualify. The

program administrator may use the same annuity contracts currently used within the State University System Optional Retirement Program, as set forth in s. 121.35.

(d) The provision of each annuity contract applicable to a program participant must be contained in a written program description that includes a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the program participant. The company must furnish the description annually to the program administrator, and to each program participant upon commencement of participation in the program and annually thereafter.

(e) The program administrator must ensure that each program participant is provided annually with an accounting of the total contributions and the annual contributions made by and on the behalf of the program participant.

Reviser's note.—Section 240.3195 is amended to conform to the redesignation of subunits of s. 240.319 by s. 12, ch. 97-246, Laws of Florida. Paragraph (1)(b) was amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 15. Subsection (1) of section 240.324, Florida Statutes, 1998 Supplement, is amended to read:

240.324 Community college accountability process.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the Florida ~~State~~ Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement an accountability plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the Florida ~~State~~ Community College System. This plan shall be designed in consultation with staff of the Governor and the Legislature and must address the following issues:

(a) Graduation rates of A.A. and A.S. degree-seeking students compared to first-time-enrolled students seeking the associate degree.

(b) Minority student enrollment and retention rates.

(c) Student performance, including student performance in college-level academic skills, mean grade point averages for community college A.A. transfer students, and community college student performance on state licensure examinations.

(d) Job placement rates of community college vocational students.

(e) Student progression by admission status and program.

(f) Vocational accountability standards identified in s. 239.229.

(g) Institutional assessment efforts related to the requirements of s. III in the Criteria for Accreditation of the Commission on Colleges of the Southern Association of Colleges and Schools.

(h) Other measures as identified by the Postsecondary Education Planning Commission and approved by the State Board of Community Colleges.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 16. Subsection (2) of section 240.331, Florida Statutes, 1998 Supplement, is amended to read:

240.331 Community college direct-support organizations.—

(2) BOARD OF DIRECTORS.—The chair ~~chairperson~~ of the board of trustees shall appoint a representative to the board of directors and the executive committee of each direct-support organization established under this section, including those established before July 1, 1998. The president of the community college for which the direct-support organization is established, or the president's designee, shall also serve on the board of directors and the executive committee of the direct-support organization, including any direct-support organization established before July 1, 1998.

Reviser's note.—Amended to conform to the title of the position as provided in s. 240.313(5).

Section 17. Subsection (2) of section 240.3315, Florida Statutes, 1998 Supplement, is amended to read:

240.3315 Statewide community college direct-support organizations.—

(2) BOARD OF DIRECTORS.—The chair ~~chairperson~~ of the State Board of Community Colleges may appoint a representative to the board of directors and the executive committee of any statewide, direct-support organization established under this section or s. 240.331. The chair ~~chairperson~~ of the State Board of Community Colleges, or the chair's ~~chairperson's~~ designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit the Florida ~~State~~ Community College System.

Reviser's note.—Amended to conform to the title of the chair of the State Board of Community Colleges as provided in s. 240.309(1) and to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 18. Subsections (1), (2), (3), (4), and (11) of section 240.383, Florida Statutes, are amended to read:

240.383 State Community College System Facility Enhancement Challenge Grant Program.—

(1) The Legislature recognizes that the State Community College System does not have sufficient physical facilities to meet the current demands of its instructional and community programs. It further recognizes that, to strengthen and enhance the Florida ~~State~~ Community College System, it is necessary to provide facilities in addition to those currently available from existing revenue sources. It further recognizes that there are sources of private support that, if matched with state support, can assist in constructing much needed facilities and strengthen the commitment of citizens and organizations in promoting excellence throughout the state community colleges. Therefore, it is the intent of the Legislature to establish a program to provide the opportunity for each community college through its direct-support organization to receive and match challenge grants for instructional and community-related capital facilities within the community college.

(2) There is established the State Community College System Facility Enhancement Challenge Grant Program for the purpose of assisting the Florida ~~State~~ Community College System in building high priority instructional and community-related capital facilities consistent with s. 240.301, including common areas connecting such facilities. The direct-support organizations that serve the community colleges shall solicit gifts from private sources to provide matching funds for capital facilities. For the purposes of this section, private sources of funds shall not include any federal or state government funds that a community college may receive.

(3) The Community College Capital Facilities Matching Trust Fund~~, if created by law, otherwise the General Revenue Fund,~~ shall provide funds to match private contributions for the development of high priority instructional and community-related capital facilities, including common areas connecting such facilities, within the Florida ~~State~~ Community College System. All appropriated funds deposited in the trust fund~~, if created by law, otherwise the General Revenue Fund,~~ shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to that portion of the trust fund~~, if created by law, otherwise the General Revenue Fund,~~ shall increase the total funds available for the challenge grant program. Interest income accruing from the private donations shall be returned to the participating direct-support organization upon completion of the project.

(4) Within the direct-support organization of each community college there must be established a separate capital facilities matching account for the purpose of providing matching funds from the direct-support organization's unrestricted donations or other private contributions for the development of high priority instructional and community-related capital facilities, including common areas connecting such facilities. The Legislature shall appropriate funds to be transferred to the Community College Capital Facilities Matching Trust Fund~~, if created by law, otherwise the General Revenue Fund,~~ for distribution to a community college after matching funds are certified by the direct-support organization and community college. The Public Education Capital Outlay and Debt Service Trust Fund shall not be used as the source of the state match for private contributions.

(11) Any project funds that are unexpended after a project is completed shall revert to the community college's direct-support organization capital

facilities matching account. Fifty percent of such unexpended funds shall be reserved for the community college which originally received the private contribution for the purpose of providing private matching funds for future facility construction projects as provided in this section. The balance of such unexpended funds shall be returned to the Community College Capital Facilities Matching Trust Fund~~, if created by law, otherwise the General Revenue Fund,~~ and be available to any community college for future facility construction projects conducted pursuant to this section.

Reviser's note.—Subsections (1), (2), and (3) are amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida. Subsections (3), (4), and (11) are amended to conform to the creation of the Community College Capital Facilities Matching Trust Fund in s. 240.3835.

Section 19. Paragraph (c) of subsection (3) of section 240.4063, Florida Statutes, is amended to read:

240.4063 Florida Teacher Scholarship and Forgivable Loan Program.—

(3)

(c) A graduate forgivable loan may be awarded for 2 graduate years, not to exceed $8,000 per year. In addition to meeting criteria specified in paragraph (a), a loan recipient at the graduate level shall:

1. Hold a bachelor's degree from any college or university accredited by a regional accrediting association as defined by State Board of Education rule 6A-4003 ~~6A-4.003~~.

2. Not already hold a teaching certificate resulting from an undergraduate degree in education in an area of critical teacher shortage as designated by the State Board of Education.

3. Not have received an undergraduate forgivable loan as provided for in paragraph (b).

Reviser's note.—Amended to conform to the citation of the rule as it appears in the Florida Administrative Code.

Section 20. Subsections (1) and (2) of section 240.408, Florida Statutes, are amended to read:

240.408 Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund.—

(1) There is created the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund which shall receive distributions as provided by s. 320.08058. The Comptroller shall authorize expenditures from this fund for Challenger Astronauts Memorial awards ~~pursuant to s. 240.402~~, and any remaining balances may be expended for education/business partnership programs which involve teacher development strategies pursuant to s. 229.602, upon receipt of vouchers approved by the Department of Education.

The Comptroller shall also authorize expenditures from this fund for Challenger Astronauts Memorial Undergraduate Scholarships for students who participated in this program prior to July 1, 1993, provided that such students continue to meet the renewal eligibility requirements that were in effect at the time that their original awards were made. Any balance therein at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of these programs.

(2) Matching scholarships may be awarded to math, science, and computer education teachers chosen to participate in the Teacher/Quest Scholarship Program ~~as provided for in the K through 12 Mathematics, Science, and Computer Education Quality Improvement Act~~.

Reviser's note.—Subsection (1) is amended to conform to the repeal of s. 240.402 by s. 11, ch. 97-77, Laws of Florida. Subsection (2) is amended to conform to the repeal of the K through 12 Mathematics, Science, and Computer Education Quality Improvement Act by s. 49, ch. 94-232, Laws of Florida.

Section 21. Subsection (2) of section 240.414, Florida Statutes, is amended to read:

240.414 Latin American and Caribbean Basin Scholarship Program.—

(2) The institutions that are eligible to participate in the scholarship program include the state universities and community colleges authorized by Florida law and any independent institutions eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program pursuant to s. 240.605. No college or university may receive more than 25 percent of the funds appropriated in any year. Institutions and the appropriate administrative agency shall seek matching funds from private businesses, public foundations, and other agencies.

Reviser's note.—Amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida.

Section 22. Paragraph (a) of subsection (5) of section 240.4145, Florida Statutes, is amended to read:

240.4145 African and Afro-Caribbean Scholarship Program.—

(5)(a) An institution is eligible to participate under this section if it is located in this state and is either a state university, a community college, or an independent institution eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

Reviser's note.—Amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida.

Section 23. Paragraph (a) of subsection (4) of section 240.498, Florida Statutes, is amended to read:

240.498 Florida Education Fund.—

(4) The Florida Education Fund shall be administered by a board of directors, which is hereby established.

(a) The board of directors shall consist of 12 members, to be appointed as follows:

1. Two laypersons appointed by the Governor;

2. Two laypersons appointed by the President of the Senate;

3. Two laypersons appointed by the Speaker of the House of Representatives;

4. Two representatives of the State University System appointed by the Board of Regents;

5. Two representatives of the Florida ~~State~~ Community College System appointed by the State Board of Community Colleges; and

6. Two representatives of independent colleges or universities appointed by the State Board of Independent Colleges and Universities.

The board of directors may appoint to the board an additional five members from the private sector for the purpose of assisting in the procurement of private contributions. Such members shall serve as voting members of the board.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 24. Section 240.514, Florida Statutes, is amended to read:

240.514 Louis de la Parte Florida Mental Health Institute.—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(1) The purpose of the institute is to strengthen mental health services throughout the state by providing technical assistance and support services to mental health agencies and mental health professionals. Such assistance and services shall include:

(a) Technical training and specialized education.

(b) Development, implementation, and evaluation of mental health service programs.

(c) Evaluation of availability and effectiveness of existing mental health services.

(d) Analysis of factors that influence the incidence and prevalence of mental and emotional disorders.

(e) Dissemination of information about innovations in mental health services.

(f) Consultation on all aspects of program development and implementation.

(g) Provisions for direct client services, provided for a limited period of time either in the institute facility or in other facilities within the state, and limited to purposes of research or training.

(2) The Department of Health and Rehabilitative Services is authorized to designate the Louis de la Parte Florida Mental Health Institute a treatment facility for the purpose of accepting voluntary and involuntary clients in accordance with institute programs. Clients to be admitted are exempted from prior screening by a community mental health center.

(3) The institute may provide direct services in coordination with other agencies. The institute may also provide support services to state agencies through joint programs, collaborative agreements, contracts, and grants.

(4) The institute shall operate under the authority of the President of the University of South Florida and shall employ a mental health professional as director. The director shall hold a faculty appointment in a college or department related to mental health within the university. The director has primary responsibility for establishing active liaisons with the community of mental health professionals and other related constituencies in the state and may, with approval of the university president, establish appropriate statewide advisory groups to assist in developing these communication links.

(5) The Louis de la Parte Florida Mental Health Institute is authorized to utilize the pay plan of the State University System.

Reviser's note.—Amended to conform to the redesignation of the Florida Mental Health Institute as the Louis de la Parte Florida Mental Health Institute by s. 3, ch. 96-196, Laws of Florida.

Section 25. Paragraph (a) of subsection (9) of section 240.551, Florida Statutes, 1998 Supplement, is amended to read:

240.551 Florida Prepaid College Program.—

(9) PREPAID COLLEGE PLANS.—At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan.

(a)1. Through the community college plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of an associate degree. The cost of participation in

the community college plan shall be based primarily on the average current and projected registration fees within the Florida ~~State~~ Community College System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes, pursuant to s. 240.1201, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 240.35, not to exceed the average number of hours required for the conference of an associate degree, in conjunction with advance payment contracts for registration fees. The cost of purchasing such fees shall be based primarily on the average current and projected fees within the Florida ~~State~~ Community College System and the number of years expected to elapse between the purchase of the plan on behalf of the beneficiary and the exercise of benefits provided in the plan by such beneficiary. Community college plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in subsection (2).

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 26. Section 240.6054, Florida Statutes, 1998 Supplement, is amended to read:

240.6054 Ethics in Business scholarships.—When the Department of Insurance receives a $6 million settlement as specified in the Consent Order of the Treasurer and Insurance Commissioner, case number 18900-96-c, that portion of the $6 million not used to satisfy the requirements of section 18 of the Consent Order must be transferred from the Insurance Commissioner's Regulatory Trust Fund to the State Student Financial Assistance Trust Fund is appropriated from the State Student Financial Assistance Trust Fund to provide Ethics in Business scholarships to students enrolled in public community colleges and independent postsecondary education institutions eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program under section 240.605. The funds shall be allocated to institutions for scholarships in the following ratio: Two-thirds for community colleges and one-third for eligible independent institutions. The Department of Education shall administer the scholarship program for students attending community colleges and independent institutions. These funds must be allocated to institutions that provide an equal amount of matching funds generated by private donors for the purpose of providing Ethics in Business scholarships. Public funds may not be used to provide the match, nor may funds collected for other purposes. Notwithstanding any other provision of law, the State Board of Administration shall have the authority to invest the funds appropriated under this section. The Department of Education may adopt rules for administration of the program.

Reviser's note.—Amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida.

Section 27. Subsection (1) of section 240.632, Florida Statutes, is amended to read:

240.632 Creation of institute.—

(1) There is hereby created the Florida Martin Luther King, Jr., Institute for Nonviolence to be established at Miami-Dade Community College by the Florida ~~State~~ Community College System in conjunction with the State University System. The institute shall have an advisory board consisting of 13 members as follows: the Attorney General, the Chancellor of the State University System, the Commissioner of Education, and 10 members to be appointed by the Governor, such members to represent the population of the state based on its ethnic, gender, and socioeconomic diversity. Of the members appointed by the Governor, one shall be a member of the Senate appointed by the Governor on the recommendation of the President of the Senate; one shall be a member of the Senate appointed by the Governor on the recommendation of the minority leader; one shall be a member of the House of Representatives appointed by the Governor on the recommendation of the Speaker of the House of Representatives; one shall be a member of the House of Representatives appointed by the Governor on the recommendation of the minority leader; and six shall be members appointed by the Governor, no more than three of whom shall be members of the same political party. The following groups shall be represented by the six members: the Florida Sheriffs Association; the Florida Association of Counties; the Florida League of Cities; human services agencies; community relations or human relations councils; and youth. A chairperson shall be elected by the members and shall serve for a term of 3 years. Members of the board shall serve the following terms of office which shall be staggered:

(a) A member of the Legislature appointed to the board shall serve for a single term not to exceed 5 years and shall serve as a member only while he or she is a member of the Legislature.

(b) Of the six members who are not members of the Legislature, three shall serve for terms of 4 years, two shall serve for terms of 3 years, and one shall serve for a term of 1 year. Thereafter, each member, except for a member appointed to fill an unexpired term, shall serve for a 5-year term. No member shall serve on the board for more than 10 years.

In the event of a vacancy occurring in the office of a member of the board by death, resignation, or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 28. Subsection (1) of section 242.3305, Florida Statutes, is amended to read:

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

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

Reviser's note.—Amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida.

Section 29. Paragraph (r) of subsection (1) of section 246.041, Florida Statutes, 1998 Supplement, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(r) Provide information and documentation on an annual basis to the Office of Student Financial Assistance of the Department of Education regarding the requirements set forth for nonpublic colleges in s. 240.605, relating to William L. Boyd, IV, Florida resident access grants, s. 240.6055, relating to access grants for community college graduates, and s. 240.609, relating to Florida postsecondary endowment grants.

Reviser's note.—Amended to conform to the redesignation of the Florida Resident Access Grant Program as the William L. Boyd, IV, Florida Resident Access Grant Program by s. 9, ch. 98-71, Laws of Florida, and s. 14, ch. 98-398, Laws of Florida.

Section 30. Section 250.46, Florida Statutes, is amended to read:

250.46 Salaried employees not entitled to additional pay.—Officers and enlisted personnel of the militia employed by the ~~military~~ Department of Military Affairs ~~of the state~~, who receive monthly salaries from the state for military duties, shall not be entitled to any other pay from the state for military service of any character; provided, that the provisions of this section shall not prohibit any officer or enlisted person from receiving pay from the United States for participation in maneuvers, camps, field service, or other service or duty.

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

Section 31. Subsection (4) of section 252.939, Florida Statutes, 1998 Supplement, is amended to read:

252.939 Fees.—

(4) If the Legislature directs the department to seek authority to implement and enforce s. 112(r)(7) of the Clean Air Act for additional stationary sources, the department shall, with the advice ~~advise~~ of the commission, review and suggest revisions, if necessary and appropriate, to the fees specified in this section.

Reviser's note.—Amended to improve clarity.

Section 32. Subsection (15) of section 253.025, Florida Statutes, 1998 Supplement, is amended to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

(15) Pursuant to s. 944.10, the Department of Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the Board of Trustees of the Internal Improvement Trust Fund. The provisions of paragraphs (6)(b) ~~(7)(b)~~, (c), and (d) and (7)(b) ~~(8)(b)~~, (c), and (d) apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 253.025 by s. 2, ch. 94-240, Laws of Florida.

Section 33. Paragraph (a) of subsection (1) of section 255.05, Florida Statutes, 1998 Supplement, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the

contracting public entity; and a description of the project sufficient to identify it, including, if applicable, a legal description and the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned that the contractor perform the contract in the time and manner prescribed in the contract and promptly make payments to all persons defined in s. 713.01 whose claims derive directly or indirectly from the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for $100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for $200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the Secretary ~~director~~ of the Department of Management Services may delegate to state agencies the authority to exempt any person entering into such a contract amounting to more than $100,000 but less than $200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall maintain information on the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and whether any request for delegation was denied and the justification for the denial.

The state shall not be held liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

Reviser's note.—Amended to conform to the title of the head of the Department of Management Services as provided in s. 20.22.

Section 34. Subsection (10) of section 259.032, Florida Statutes, 1998 Supplement, is amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(10) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process. Beginning fiscal year 1998-1999, individual management plans required by s. 253.034(5) ~~253.034(4)~~ shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property

owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (9)(b) shall be available to the public for a period of 30 days prior to the public hearing. Once a plan is adopted, the managing agency or entity shall update the plan at least every 5 years in a form and manner prescribed by rule of the board of trustees. Such plans may include transfers of leasehold interests to appropriate conservation organizations designated by the Land Management Advisory Council for uses consistent with the purposes of the organizations and the protection, preservation, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults. For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the annual Conservation and Recreation Lands report prepared pursuant to s. 259.035(2)(a) have been acquired. Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled from the Preservation 2000 Trust Fund to any budget entity or any water management district that has more than one-third of its management plans overdue.

(a) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to preserve and protect natural resources and restore habitat, and for controlling the spread of nonnative plants and animals, and for prescribed fire and other appropriate resource management activities.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities, based on the purposes for which the lands were acquired.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses that would be consistent with the purposes for which the lands were acquired.

(b) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the Land Management Advisory Council. The council shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council shall also consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(c) The board of trustees shall consider the individual management plan submitted by each state agency and the recommendations of the Land Management Advisory Council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board of trustees which is not in accordance with an approved individual management plan is subject to termination by the board of trustees.

By July 1 of each year, each governmental agency, including the water management districts, and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

Reviser's note.—Amended to conform to the location of provisions requiring submittal of land management plans in s. 253.034(5). Section 253.034(4) provides for limitation to reasonable use for management agreements, leases, and other instruments authorizing the use of board lands.

Section 35. Paragraphs (a) and (b) of subsection (6) and paragraph (f) of subsection (9) of section 259.101, Florida Statutes, 1998 Supplement, are amended to read:

259.101 Florida Preservation 2000 Act.—

(6) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to paragraph (3)(a), paragraph (3)(c), paragraph (3)(d), paragraph (3)(e), paragraph (3)(f), or paragraph (3)(g), if title to such lands is vested in the Board of Trustees of the Internal Improvement Trust Fund, may be disposed of by the Board of Trustees of the Internal Improvement Trust Fund in accordance with the provisions and proce-

dures set forth in s. 253.034(6) ~~253.034(5)~~, and lands acquired pursuant to paragraph (3)(b) may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land can be determined to be of no further benefit to the public as required by s. 253.034(6) ~~253.034(5)~~, or to be no longer required for its purposes under s. 373.056(4), whichever may be applicable, there shall first be a determination by the Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands, provided such lands obtained in an exchange are described in the same paragraph of subsection (3) as the lands disposed.

(9)

(f)1. Pursuant to subsection (3) and beginning in fiscal year 1999-2000, that portion of the unencumbered balances of each program described in paragraphs (3)(c), (d), (e), (f), and (g) which has been on deposit in such program's Preservation 2000 account for more than two fiscal years shall be redistributed equally to the Department of Environmental Protection, Division of State Lands P2000 sub account for the purchase of State Lands as described in s. 259.032 and Water Management District P2000 sub account for the purchase of Water Management Lands pursuant to ss. 373.456, 373.4592 and 373.59. For the purposes of this subsection, the term "unencumbered balances" means the portion of Preservation 2000 bond proceeds which is not obligated through the signing of a purchase contract between a public agency and a private landowner, except that the program described in paragraph (3)(c) may not lose any portion of its unencumbered funds which remain unobligated because of extraordinary circumstances that hampered the affected local governments' abilities to close on land acquisition projects approved through the Florida Communities Trust program. Extraordinary circumstances shall be determined by the Florida Communities Trust governing body and may include such things as death or bankruptcy of the owner of property; a change in the land use designation of the property; natural disasters that affected a local government's ability to consummate the sales contract on such property; or any other condition that the Florida Communities Trust governing board determined to be extraordinary. The portion of the funds deposited in the Water Management Lands Trust Fund shall be distributed to the water management districts as provided in s. 373.59(8) ~~373.59(7)~~.

2. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

Reviser's note.—Paragraphs (6)(a) and (b) are amended to conform to the redesignation of s. 253.034(5) as s. 253.034(6) by s. 3, ch. 97-164, Laws of

Florida. Paragraph (9)(f) is amended to conform to the location of provisions allocating moneys from the Water Management Lands Trust Fund to the districts in s. 373.59(8). Section 373.59(7) provides for accumulation of a district's unused funds.

Section 36. Paragraph (d) of subsection (3) of section 260.016, Florida Statutes, 1998 Supplement, is amended to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(d) At the option of the landowner, acceleration of the acquisition process or higher consideration in the ranking process when any lands owned ~~owed~~ by the landowner are under consideration for acquisition by the state or other unit of government.

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

Section 37. Section 266.0016, Florida Statutes, is reenacted to read:

266.0016 Powers of the board.—The department shall monitor the effectiveness of all programs of the board and oversee the board to ensure that it complies with state laws and rules. The board is the governing body and shall exercise those powers delegated to it by the department. These delegated powers shall include, but not be limited to, the power to:

(1) Select and hire a manager, subject to final approval of the department, who shall report to the board and who shall be a member of Selected Exempt Service.

(2) Recommend to the department the salary of the manager within the range permissible under Department of Management Services guidelines.

(3) Adopt a seal and alter it at its pleasure.

(4) Contract and be contracted with, sue and be sued, and plead and be impleaded in all courts, with the approval of the department and the Department of Legal Affairs.

(5) Establish an office in or near the City of Pensacola for the conduct of its affairs.

(6) Acquire, hold, lease, and dispose of personal property or any interest therein for its authorized purpose.

(7) Plan buildings and improvements; demolish existing structures; and construct, reconstruct, alter, repair, and improve its facilities wherever located.

(8) Employ, subject to the provisions of the Career Service System, employees as may be necessary.

(9) Contract with consulting engineers, architects, accountants, inspectors, attorneys, and such other consultants as may be necessary. However, consultants must be retained in the manner provided by ss. 287.055, 287.057, and 287.058.

(10) Draft a historical plan of development for the City of Pensacola and Escambia County; and the board may recommend to the governing body of the City of Pensacola the creation of a historical district or districts that include any section or sections of the city containing buildings, landmarks, sites, or facilities of historical value and having an overall atmosphere of architectural or historical distinction, or both. Such facilities having historical value must be designated by the board based on criteria of historical evaluation established by the National Trust for Historic Preservation or another recognized professional historical group.

(11) Contract with any agency of the state, the Federal Government, the City of Pensacola, the County of Escambia, or any firm or corporation with respect to the establishment, construction, and operation of the facilities of the board in or near the City of Pensacola.

(12) Make and enter into all contracts or agreements with private individuals, corporations, organizations, historical societies, and others with reference to facilities and enter into contracts and agreements which are necessary to the performance of its duties or the execution of its powers under ss. 266.0011-266.0018.

(13) Engage in any lawful business or activity to establish, maintain, and operate the facilities contemplated by ss. 266.0011-266.0018, including:

(a) The renting or leasing for revenue of any land, improved or restored real estate, or personal property directly related to carrying out the purposes for which the board is created, under terms and conditions deemed by the board to be in the best interest of the state.

(b) The selling of craft products created through the operation and demonstration of historical museums, craft shops, and other facilities.

(c) The limited selling of merchandise relating to the historical and antiquarian period of Pensacola and its surrounding territory.

(14) Fix and collect charges for admission to any of the facilities operated and maintained by the board under the provisions of ss. 266.0011-266.0018 and adopt and enforce reasonable rules to govern the conduct of the visiting public.

(15) Cooperate and coordinate all its activities with any statewide commission and participate in any overall statewide plan of historical development.

(16) Cooperate and coordinate its activities with any national project of historical development and with any other agency, state, local, or national, undertaking historical objectives if they are not in conflict with the objectives of the board.

(17) Research, prepare, publish, and procure books, reports, articles, pamphlets, brochures, documents, maps, photographs, films, sound recordings, and other products of a similar nature in fulfillment of its purpose and function for use by the board or for use by or distribution to any person or entity, public or private, with or without charge or profit.

(18) Perform all lawful acts necessary and convenient and incident to the effectuating of its function and purpose.

Any power delegated by the department pursuant to this section may be revoked by the department at any time if, in the department's determination, the board is not exercising a delegated power in accordance with department rules and policies or in the best interest of the state.

Reviser's note.—Section 105, ch. 92-279, Laws of Florida, purported to amend subsection (2) of s. 266.0016, but did not set out in full the amended subsection to include the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, s. 266.0016 is reenacted to confirm that the omission was not intended.

Section 38. Section 270.10, Florida Statutes, is amended to read:

270.10 Sections not to impair law relative to homesteads, preemptions, or grants of lands for certain purposes.—Sections 270.07 and 270.08 ~~270.07-270.09~~ shall in nowise impair the law of the state relative to homesteads or preemptions, or the law relative to the granting of lands for the construction of highways, public roads and canals.

Reviser's note.—Amended to conform to the repeal of s. 270.09 by s. 513, ch. 94-356, Laws of Florida.

Section 39. Subsection (2) of section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(2) The Treasurer is authorized to pay any losses to public depositors from the fund, and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission Regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Treasurer pursuant to s. 280.05(20) ~~280.05(3)~~ or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Treasurer is authorized to assess against the suspended, disqualified, or withdrawing

public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 18.125.

Reviser's note.—Amended to conform to the redesignation of s. 280.05(3) as s. 280.05(20) by s. 14, ch. 98-409, Laws of Florida.

Section 40. Subsection (3) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(3) A qualified public depository which is required to withdraw from the public deposits program pursuant to s. 280.05(1)(b) ~~280.05(6)(b)~~ shall not receive or retain public deposits after the effective date of withdrawal. The contingent liability, required collateral, and reporting requirements of the withdrawing depository shall continue until the effective date of withdrawal. Notice of withdrawal (order of discontinuance) from the Treasurer shall be mailed to the qualified public depository by registered or certified mail. Penalties incurred because of withdrawal from the public deposits program shall be the responsibility of the withdrawing depository.

Reviser's note.—Amended to conform to the redesignation of s. 280.05(6)(b) as s. 280.05(1)(b) by s. 14, ch. 98-409, Laws of Florida.

Section 41. Section 281.05, Florida Statutes, 1998 Supplement, is amended to read:

281.05 Ex officio agents.—The Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, and law enforcement officers of counties and municipalities are ex officio agents of the Department of Management Services and may, when authorized by the department, enforce rules and laws applicable to the powers and duties of the department to provide and maintain the security required by ss. 281.02-281.08 ~~281.02-281.09~~.

Reviser's note.—Amended to conform to the repeal of s. 281.09 by s. 45, ch. 98-34, Laws of Florida.

Section 42. Section 281.06, Florida Statutes, 1998 Supplement, is amended to read:

281.06 Contracts with counties, municipalities, or licensed private security agencies.—The Department of Management Services may contract with any county, municipality, or licensed private security agency to provide and maintain the security of state-owned or state-leased property required by ss. 281.02-281.08 ~~281.02-281.09~~ upon such terms as the department may deem to be in the best interest of the state.

Reviser's note.—Amended to conform to the repeal of s. 281.09 by s. 45, ch. 98-34, Laws of Florida.

Section 43. Section 281.07, Florida Statutes, is amended to read:

281.07 Rules; ~~Division of Capitol Police;~~ traffic regulation.—

(1) The Department of Management Services shall adopt and promulgate rules ~~to govern the administration, operation, and management of the Division of Capitol Police and~~ to regulate traffic and parking on state-owned or state-leased property, which rules are not in conflict with any state law or county or municipal ordinance, and to carry out the provisions of ss. 281.02-281.08 ~~281.02-281.09~~.

Reviser's note.—Amended to conform to the deletion of the Division of Capitol Police in the reorganization of the Department of Management Services by s. 3, ch. 97-296, Laws of Florida, and to conform to the repeal of s. 281.09 by s. 45, ch. 98-34, Laws of Florida.

Section 44. Subsection (1) of section 281.08, Florida Statutes, 1998 Supplement, is amended to read:

281.08 Equipment.—

(1) The Department of Management Services is specifically authorized to purchase, sell, trade, rent, lease, and maintain all necessary equipment, uniforms, motor vehicles, communication systems, housing facilities, and office space, and perform any other acts necessary for the proper administration and enforcement of ss. 281.02-281.08 ~~281.02-281.09~~, pursuant to part I of chapter 287. The department may prescribe a distinctive uniform to be worn by personnel in the performance of their duties pursuant to s. 281.02(7) ~~281.02(3)~~. The department may prescribe a distinctive emblem to be worn by all agents or guards.

Reviser's note.—Amended to conform to the repeal of s. 281.09 by s. 45, ch. 98-34, Laws of Florida, and the redesignation of s. 281.02(3) as s. 281.02(7) by s. 6, ch. 84-143, Laws of Florida.

Section 45. Section 282.003, Florida Statutes, is amended to read:

282.003 Short title.—This part ~~chapter~~ may be cited as the "Information Resources Management Act of 1997."

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of the Florida Statutes 1997.

Section 46. Subsection (8) of section 282.005, Florida Statutes, is amended to read:

282.005 Legislative findings and intent.—The Legislature finds that:

(8) To ensure the best management of the state's information technology resources, and notwithstanding other provisions of law to the contrary, the functions of information resources management are hereby assigned to the

Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida ~~State~~ Community College System; to the Supreme Court, for the judicial branch; and to each state attorney and public defender.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 47. Section 282.101, Florida Statutes, is amended to read:

282.101 Construction of terms, "communications" or "communications system."—Any reference in this part ~~chapter~~ to "communications" or "communications system" means any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by all agencies and political subdivisions of state government.

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of the Florida Statutes 1997.

Section 48. Paragraph (b) of subsection (1) of section 282.20, Florida Statutes, is amended to read:

282.20 Technology Resource Center.—

(1)

(b) For the purposes of this section, the term:

1. "Department" means the Department of Management Services.

2. "Division" means the Division of Information Services of the Department of Management Services.

3. "Information-system utility" means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

4. "Customer" means a state agency or other entity which is authorized to utilize the SUNCOM Network pursuant to this part ~~chapter~~.

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of the Florida Statutes 1997.

Section 49. Subsection (2) of section 282.22, Florida Statutes, is amended to read:

282.22 Department of Management Services production and dissemination of materials and products.—

(2) To accomplish this objective the department is authorized to publish, produce, or have produced materials and products and to make them readily available for appropriate use. The department is authorized to charge an amount adequate to cover the essential cost of producing and disseminating such materials and products and is authorized to sell copies for use to any entity who is authorized to utilize the SUNCOM Network pursuant to this part ~~chapter~~ and to the public.

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of the Florida Statutes 1997.

Section 50. Section 282.3031, Florida Statutes, is amended to read:

282.3031 Assignment of information resources management responsibilities.—For purposes of ss. 282.303-282.322, to ensure the best management of state information technology resources, and notwithstanding other provisions of law to the contrary, the functions of information resources management are hereby assigned to the Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida ~~State~~ Community College System; to the Supreme Court for the judicial branch; and to each state attorney and public defender.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 51. Section 282.3041, Florida Statutes, is amended to read:

282.3041 State agency responsibilities.—The head of each state agency is responsible and accountable for information resources management within the agency in accordance with legislative intent and as defined in this part ~~chapter~~.

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of the Florida Statutes 1997.

Section 52. Subsection (2) of section 282.310, Florida Statutes, 1998 Supplement, is amended to read:

282.310 State Annual Report on Information Resources Management.—

(2) The State Annual Report on Information Resources Management shall contain, at a minimum, the following:

(a) The state vision for information resources management.

(b) A forecast of the state information resources management priorities and initiatives for the ensuing 2 years.

(c) A summary of major statewide policies recommended by the State Technology Council for information resources management.

(d) A summary of memoranda issued by the Executive Office of the Governor.

(e) An assessment of the overall progress on state information resources management initiatives and priorities for the past fiscal year.

(f) A summary of major statewide issues related to improving information resources management by the state.

(g) An inventory list, by major categories, of state information technology resources.

(h) A summary of the total expenditures for information resources management by each state agency.

(i) A summary of the opportunities for government agencies or entities to share information resources management projects or initiatives with other governmental or private sector entities.

(j) A list of the information resources management issues that have been identified as statewide or critical issues for which the State Technology Council could provide leadership or assistance.

The state annual report shall also include information resources management information from the annual reports prepared by the Board of Regents for the State University System, from the State Board of Community Colleges for the Florida ~~State~~ Community College System, from the Supreme Court for the judicial branch, and from the Justice Administrative Commission on behalf of the state attorneys and public defenders. Expenditure information shall be taken from each agency's annual report as well as the annual reports of the Board of Regents, the State Board of Community Colleges, the Supreme Court, and the Justice Administrative Commission.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 53. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. Unless specifically excluded by the Department of Insurance, the insurance risk management trust fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by ~~coordinated~~ community transportation coordinators ~~providers~~ performing, under contract to the appropriate department of

the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Insurance.

Reviser's note.—Amended to conform to the redesignation of coordinated community transportation providers as community transportation coordinators by s. 1, ch. 89-376, Laws of Florida.

Section 54. Subsections (3) and (5) of section 287.059, Florida Statutes, are amended to read:

287.059 Private attorney services.—

(3) An agency requesting approval for the use of private attorney services shall first offer to contract with the Department of Legal Affairs for such attorney services at a cost pursuant to mutual agreement. The Attorney General shall decide on a case-by-case basis to accept or decline to provide such attorney services as staffing, expertise, or other legal or economic considerations warrant. If the Attorney General declines to provide the requested attorney services, the Attorney General's written approval shall include a statement that the private attorney services requested cannot be provided by the office of the Attorney General or that such private attorney services are cost-effective in the opinion of the Attorney General. The Attorney General shall not consider political affiliation in making such decision. The office of the Attorney General shall respond to the request of an agency for prior written approval within 10 working days after receiving such request. The Attorney General may request additional information necessary for evaluation of a request. The Attorney General shall respond to the request within 10 working days after receipt of the requested information. Those agencies exempt from written approval from the Attorney General, as described in paragraphs (2)(a)-(e) ~~(2)(a)-(f)~~, may contract with the Department of Legal Affairs for attorney services. The Attorney General shall determine on a case-by-case basis whether to provide such attorney services as staffing, expertise, or other legal considerations warrant. The Attorney General may adopt, by rule, a form on which agencies requesting written approval for private attorney services shall provide information concerning:

(a) The nature of the attorney services to be provided and the issues involved.

(b) The need for use of private attorneys, rather than agency staff attorneys, utilizing the criteria provided in subsection (8).

(c) The criteria by which the agency selected the private attorney or law firm it proposes to employ, utilizing the criteria provided in subsection (9).

(d) Competitive fees for similar attorney services.

(e) The agency's analysis estimating the number of hours for attorney services, the costs, the total contract amount, and, when appropriate, a risk or cost-benefit analysis.

(f) Which partners, associates, paralegals, research associates, or other personnel will be used, and how their time will be billed to the agency.

(g) Any other information which the Attorney General deems appropriate for the proper evaluation of the need for such private attorney services.

(5) The agency head or a designee shall give written approval prior to contracting for private attorney services for all agencies exempt from written approval of the Attorney General as described in paragraphs (2)(a)-(e) ~~(2)(a)-(f)~~.

Reviser's note.—Amended to conform to the redesignation of paragraphs (2)(a)-(f) as paragraphs (2)(a)-(e) by ss. 10 and 11, ch. 95-222, Laws of Florida.

Section 55. Paragraph (a) of subsection (1) of section 287.0595, Florida Statutes, 1998 Supplement, is amended to read:

287.0595 Pollution response action contracts; department rules.—

(1) The Department of Environmental Protection shall establish, through the promulgation of administrative rules as provided in chapter 120:

(a) Procedures for determining the qualifications of responsible potential bidders prior to advertisement for and receipt of bids for pollution response action contracts, including procedures for the rejection of unqualified bidders. Response actions are those activities described in s. 376.301(37) ~~376.301(35)~~.

Reviser's note.—Amended to conform to the redesignation of the provision containing the definition of "response action" as s. 376.301(37) by s. 8, ch. 98-189, Laws of Florida.

Section 56. Subsection (1) of section 287.064, Florida Statutes, 1998 Supplement, is amended to read:

287.064 Consolidated financing of deferred-payment purchases.—

(1) The Division of Bond Finance of the State Board of Administration and the Comptroller shall plan and coordinate deferred-payment purchases made by or on behalf of the state or its agencies or by or on behalf of state community colleges participating under this section pursuant to s. 240.319(4)(p) ~~240.319(3)(p)~~. The Division of Bond Finance shall negotiate and the Comptroller shall execute agreements and contracts to establish master equipment financing agreements for consolidated financing of deferred-payment, installment sale, or lease purchases with a financial institution or a consortium of financial institutions. As used in this act, the term "deferred-payment" includes installment sale and lease-purchase.

(a) The period during which equipment may be acquired under any one master equipment financing agreement shall be limited to not more than 3 years.

(b) Repayment of the whole or a part of the funds drawn pursuant to the master equipment financing agreement may continue beyond the period established pursuant to paragraph (a).

(c) The interest rate component of any master equipment financing agreement shall be deemed to comply with the interest rate limitation imposed in s. 287.063 so long as the interest rate component of every interagency or community college agreement entered into under such master equipment financing agreement complies with the interest rate limitation imposed in s. 287.063. Such interest rate limitation does not apply when the payment obligation under the master equipment financing agreement is rated by a nationally recognized rating service in any one of the three highest classifications, which rating services and classifications are determined pursuant to rules adopted by the Comptroller.

Reviser's note.—Amended to conform to the redesignation of s. 240.319(3)(p) as s. 240.319(4)(p) by ch. 97-246, Laws of Florida.

Section 57. Section 287.09431, Florida Statutes, is amended to read:

287.09431 Statewide and interlocal agreement on certification of business concerns for the status of minority business enterprise.—The statewide and interlocal agreement on certification of business concerns for the status of minority business enterprise is hereby enacted and entered into with all jurisdictions or organizations legally joining therein. If, within 2 years from the date that the certification core criteria are approved by the Department of Labor and Employment Security, the agreement included herein is not executed by a majority of county and municipal governing bodies that administer a minority business assistance program on the effective date of this act, then the Legislature shall review this agreement. It is the intent of the Legislature that if the agreement is not executed by a majority of the requisite governing bodies, then a statewide uniform certification process should be adopted, and that said agreement should be repealed and replaced by a mandatory state government certification process.

ARTICLE I

PURPOSE, FINDINGS, AND POLICY.—

(1) The parties to this agreement, desiring by common action to establish a uniform certification process in order to reduce the multiplicity of applications by business concerns to state and local governmental programs for minority business assistance, declare that it is the policy of each of them, on the basis of cooperation with one another, to remedy social and economic disadvantage suffered by certain groups, resulting in their being historically underutilized in ownership and control of commercial enterprises. Thus, the parties seek to address this history by increasing the participation of the identified groups in opportunities afforded by government procurement.

(2) The parties find that the State of Florida presently certifies firms for participation in the minority business assistance programs of the state. The parties find further that some counties, municipalities, school boards, special districts, and other divisions of local government require a separate, yet similar, and in most cases redundant certification in order for businesses to participate in the programs sponsored by each government entity.

(3) The parties find further that this redundant certification has proven to be unduly burdensome to the minority-owned firms intended to benefit from the underlying purchasing incentives.

(4) The parties agree that:

(a) They will facilitate integrity, stability, and cooperation in the statewide and interlocal certification process, and in other elements of programs established to assist minority-owned businesses.

(b) They shall cooperate with agencies, organizations, and associations interested in certification and other elements of minority business assistance.

(c) It is the purpose of this agreement to provide for a uniform process whereby the status of a business concern may be determined in a singular review of the business information for these purposes, in order to eliminate any undue expense, delay, or confusion to the minority-owned businesses in seeking to participate in the minority business assistance programs of state and local jurisdictions.

ARTICLE II

DEFINITIONS.—As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) "Awarding organization" means any political subdivision or organization authorized by law, ordinance, or agreement to enter into contracts and for which the governing body has entered into this agreement.

(2) "Department" means the Department of Labor and Employment Security.

(3) "Minority" means a person who is a lawful, permanent resident of the state, having origins in one of the minority groups as described and adopted by the Department of Labor and Employment Security, hereby incorporated by reference.

(4) "Minority business enterprise" means any small business concern as defined in subsection (6) ~~(5)~~ that meets all of the criteria described and adopted by the Department of Labor and Employment Security, hereby incorporated by reference.

(5) "Participating state or local organization" means any political subdivision of the state or organization designated by such that elects to participate in the certification process pursuant to this agreement, which has been approved according to s. 287.0943(2) and has legally entered into this agreement.

(6) "Small business concern" means an independently owned and operated business concern which is of a size and type as described and adopted by vote related to this agreement of the commission, hereby incorporated by reference.

ARTICLE III

STATEWIDE AND INTERLOCAL CERTIFICATIONS.—

(1) All awarding organizations shall accept a certification granted by any participating organization which has been approved according to s. 287.0943(2) and has entered into this agreement, as valid status of minority business enterprise.

(2) A participating organization shall certify a business concern that meets the definition of minority business enterprise in this agreement, in accordance with the duly adopted eligibility criteria.

(3) All participating organizations shall issue notice of certification decisions granting or denying certification to all other participating organizations within 14 days of the decision. Such notice may be made through electronic media.

(4) No certification will be granted without an onsite visit to verify ownership and control of the prospective minority business enterprise, unless verification can be accomplished by other methods of adequate verification or assessment of ownership and control.

(5) The certification of a minority business enterprise pursuant to the terms of this agreement shall not be suspended, revoked, or otherwise impaired except on any grounds which would be sufficient for revocation or suspension of a certification in the jurisdiction of the participating organization.

(6) The certification determination of a party may be challenged by any other participating organization by the issuance of a timely written notice by the challenging organization to the certifying organization's determination within 10 days of receiving notice of the certification decision, stating the grounds therefor.

(7) The sole accepted grounds for challenge shall be the failure of the certifying organization to adhere to the adopted criteria or the certifying organization's rules or procedures, or the perpetuation of a misrepresentation or fraud by the firm.

(8) The certifying organization shall reexamine its certification determination and submit written notice to the applicant and the challenging organization of its findings within 30 days after the receipt of the notice of challenge.

(9) If the certification determination is affirmed, the challenging agency may subsequently submit timely written notice to the firm of its intent to revoke certification of the firm.

ARTICLE IV

APPROVED AND ACCEPTED PROGRAMS.—Nothing in this agreement shall be construed to repeal or otherwise modify any ordinance, law, or regulation of a party relating to the existing minority business assistance provisions and procedures by which minority business enterprises participate therein.

ARTICLE V

TERM.—The term of the agreement shall be 5 years, after which it may be reexecuted by the parties.

ARTICLE VI

AGREEMENT EVALUATION.—The designated state and local officials may meet from time to time as a group to evaluate progress under the agreement, to formulate recommendations for changes, or to propose a new agreement.

ARTICLE VII

OTHER ARRANGEMENTS.—Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party in order to comply with federal law.

ARTICLE VIII

EFFECT AND WITHDRAWAL.—

(1) This agreement shall become effective when properly executed by a legal representative of the participating organization, when enacted into the law of the state and after an ordinance or other legislation is enacted into law by the governing body of each participating organization. Thereafter it shall become effective as to any participating organization upon the enactment of this agreement by the governing body of that organization.

(2) Any party may withdraw from this agreement by enacting legislation repealing the same, but no such withdrawal shall take effect until one year after the governing body of the withdrawing party has given notice in writing of the withdrawal to the other parties.

(3) No withdrawal shall relieve the withdrawing party of any obligations imposed upon it by law.

ARTICLE IX

FINANCIAL RESPONSIBILITY.—

(1) A participating organization shall not be financially responsible or liable for the obligations of any other participating organization related to this agreement.

(2) The provisions of this agreement shall constitute neither a waiver of any governmental immunity under Florida law nor a waiver of any defenses of the parties under Florida law. The provisions of this agreement are solely for the benefit of its executors and not intended to create or grant any rights, contractual or otherwise, to any person or entity.

ARTICLE X

VENUE AND GOVERNING LAW.—The obligations of the parties to this agreement are performable only within the county where the participating organization is located, and statewide for the Minority Business Advocacy and Assistance Office, and venue for any legal action in connection with this agreement shall lie, for any participating organization except the Minority Business Advocacy and Assistance Office, exclusively in the county where

the participating organization is located. This agreement shall be governed by and construed in accordance with the laws and court decisions of the state.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY.—This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the State Constitution or the United States Constitution, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the State Constitution, the agreement shall remain in full force and effect as to all severable matters.

Reviser's note.—Amended to conform to the correct location of the definition of "small business concern."

Section 58. Paragraph (c) of subsection (1), paragraph (b) of subsection (2), paragraphs (a), (e), and (f) of subsection (3), and subsection (4) of section 287.133, Florida Statutes, are amended to read:

287.133 Public entity crime; denial or revocation of the right to transact business with public entities.—

(1) As used in this section:

(c) "Convicted vendor list" means the list required to be kept by the department pursuant to paragraph (3)(d) ~~(3)(c)~~.

(2)

(b) No public entity shall accept any bid from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months from the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f) ~~(3)(e)~~. No public entity which was transacting business with a person at the time of the commission of a public entity crime which resulted in that person being placed on the convicted vendor list shall accept any bid from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

(3)(a) All invitations to bid as defined by s. 287.012(11), requests for proposals as defined by s. 287.012(15) ~~287.012(16)~~, and any contract document described by s. 287.058 shall contain a statement informing persons of the provisions of paragraph (2)(a).

(e)1. Upon receiving reasonable information from any source that a person has been convicted, the department shall investigate the information

and determine whether good cause exists to place that person or an affiliate of that person on the convicted vendor list. If good cause exists, the department shall notify the person or affiliate in writing of its intent to place the name of that person or affiliate on the convicted vendor list, and of the person's or affiliate's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person or affiliate does not request a hearing, the department shall enter a final order placing the name of the person or affiliate on the convicted vendor list. No person or affiliate may be placed on the convicted vendor list without receiving an individual notice of intent from the department.

2. Within 21 days of receipt of the notice of intent, the person or affiliate may file a petition for a formal hearing pursuant to ss. 120.569 and 120.57(1) to determine whether it is in the public interest for that person or affiliate to be placed on the convicted vendor list. A person or affiliate may not file a petition for an informal hearing under s. 120.57(2). The procedures of chapter 120 shall apply to any formal hearing under this section except where they are in conflict with the following provisions:

a. The petition shall be filed with the department. The department shall be a party to the proceeding for all purposes.

b. Within 5 days after the filing of the petition, the department shall notify the Division of Administrative Hearings of the request for a formal hearing. The director of the Division of Administrative Hearings shall, within 5 days after receipt of notice from the department, assign an administrative law judge to preside over the proceeding. The administrative law judge, upon request by a party, may consolidate related proceedings.

c. The administrative law judge shall conduct the formal hearing within 30 days after being assigned, unless otherwise stipulated by the parties.

d. Within 30 days after the formal hearing or receipt of the hearing transcript, whichever is later, the administrative law judge shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. Such final order shall place or not place the person or affiliate on the convicted vendor list.

e. The final order of the administrative law judge shall be final agency action for purposes of s. 120.68.

f. At any time after the filing of the petition, informal disposition may be made pursuant to s. 120.57(4). In that event, the administrative law judge shall enter a final order adopting the stipulation, agreed settlement, or consent order.

3. In determining whether it is in the public interest to place a person or affiliate on the convicted vendor list, the administrative law judge shall consider the following factors:

a. Whether the person or affiliate committed a public entity crime.

b. The nature and details of the public entity crime.

c. The degree of culpability of the person or affiliate proposed to be placed on the convicted vendor list.

d. Prompt or voluntary payment of any damages or penalty as a result of the conviction.

e. Cooperation with state or federal investigation or prosecution of any public entity crime, provided that a good faith exercise of any constitutional, statutory, or other right during any portion of the investigation or prosecution of any public entity crime shall not be considered a lack of cooperation.

f. Disassociation from any other persons or affiliates convicted of the public entity crime.

g. Prior or future self-policing by the person or affiliate to prevent public entity crimes.

h. Reinstatement or clemency in any jurisdiction in relation to the public entity crime at issue in the proceeding.

i. Compliance by the person or affiliate with the notification provisions of paragraph (b) ~~(a)~~.

j. The needs of public entities for additional competition in the procurement of goods and services in their respective markets.

k. Mitigation based upon any demonstration of good citizenship by the person or affiliate.

4. In any proceeding under this section, the department shall be required to prove that it is in the public interest for the person to whom it has given notice under this section to be placed on the convicted vendor list. Proof of a conviction of the person or that one is an affiliate of such person shall constitute a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list. Prompt payment of damages or posting of a bond, cooperation with investigation, and termination of the employment or other relationship with the employee or other natural person responsible for the public entity crime shall create a rebuttable presumption that it is not in the public interest to place a person or affiliate on the convicted vendor list. Status as an affiliate must be proven by clear and convincing evidence. If the administrative law judge determines that the person was not convicted or is not an affiliate of such person, that person or affiliate shall not be placed on the convicted vendor list.

5. Any person or affiliate who has been notified by the department of its intent to place his or her name on the convicted vendor list may offer evidence on any relevant issue. An affidavit alone shall not constitute competent substantial evidence that the person has not been convicted or is not an affiliate of a person so convicted. Upon establishment of a prima facie case that it is in the public interest for the person or affiliate to whom the

department has given notice to be put on the convicted vendor list, that person or affiliate may prove by a preponderance of the evidence that it would not be in the public interest to put him or her on the convicted vendor list, based upon evidence addressing the factors in subparagraph 3.

(f)1. A person on the convicted vendor list may petition for removal from the list no sooner than 6 months from the date a final order is entered disqualifying that person from the public purchasing and contracting process pursuant to this section, but may petition for removal at any time if the petition is based upon a reversal of the conviction on appellate review or pardon. The petition shall be filed with the department, and the proceeding shall be conducted pursuant to the procedures and requirements of this subsection.

2. A person may be removed from the convicted vendor list subject to such terms and conditions as may be prescribed by the administrative law judge upon a determination that removal is in the public interest. In determining whether removal would be in the public interest, the administrative law judge shall give consideration to any relevant factors, including, but not limited to, the factors identified in subparagraph (e)3. ~~(d)3.~~ Upon proof that a person's conviction has been reversed on appellate review or that he or she has been pardoned, the administrative law judge shall determine that removal of the person or an affiliate of that person from the convicted vendor list is in the public interest.

3. If a petition for removal is denied, the person or affiliate may not petition for another hearing on removal for a period of 9 months after the date of denial, unless the petition is based upon a reversal of the conviction on appellate review or a pardon. The department may petition for removal prior to the expiration of such period if, in its discretion, it determines that removal would be in the public interest.

(4) The conviction of a person for a public entity crime, or placement on the convicted vendor list, shall not affect any rights or obligations under any contract, franchise, or other binding agreement which predates such conviction or placement on the convicted vendor list. However, the administrative law judge in a proceeding instituted under this section may declare voidable any specific contract, franchise, or other binding agreement entered into after July 1, 1989, by a person placed on the convicted vendor list and a public entity, but only if the administrative law judge finds as fact that the person to be placed on the list has not satisfied the criteria set forth in sub-subparagraphs (3)(e)3.d. ~~(3)(d)3.d.~~, f., and g.

Reviser's note.—Paragraphs (1)(c), (2)(b), and (3)(e) and (f) and subsection (4) are amended to conform to the redesignation of subunits of subsection (3) by the reviser incident to the compilation of the Florida Statutes 1995. Paragraph (3)(a) is amended to conform to the redesignation of subunits necessitated by the repeal of former s. 287.012(12) by s. 8, ch. 96-236, Laws of Florida.

Section 59. Subsection (2) of section 287.151, Florida Statutes, is amended to read:

287.151 Limitation on classes of motor vehicles procured.—

(2) No funds in the General Appropriations Act shall be used to purchase any vehicle at prices in excess of the standard prices negotiated by the ~~Division of Purchasing of the~~ Department of Management Services.

Reviser's note.—Amended to conform to the deletion of the Division of Purchasing in the reorganization of the Department of Management Services by s. 3, ch. 97-296, Laws of Florida.

Section 60. Subsection (8) of section 287.16, Florida Statutes, 1998 Supplement, is amended to read:

287.16 Powers and duties of department.—The Department of Management Services shall have the following powers, duties, and responsibilities:

(8) To require any state agency to keep records and make reports regarding aircraft and motor vehicles to the department as may be required. ~~The Department of Highway Safety and Motor Vehicles may use the reporting system in effect on October 1, 1983, until July 1, 1984. Beginning July 1, 1984,~~ The Department of Highway Safety and Motor Vehicles shall use a reporting system approved by the department. ~~The division shall assist the Department of Highway Safety and Motor Vehicles in developing or implementing a reporting system prior to July 1, 1984, which shall specifically address the needs and requirements of the division and the Department of Highway Safety and Motor Vehicles.~~

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

Section 61. Paragraph (b) of subsection (2) of section 288.039, Florida Statutes, is amended to read:

288.039 Employing and Training our Youths (ENTRY).—

(2) TAX REFUND; ELIGIBLE AMOUNTS.—

(b) After entering into an employment/tax refund agreement under subsection (3), an eligible business may receive refunds for the following taxes or fees due and paid by that business:

1. Taxes on sales, use, and other transactions under ~~part I of~~ chapter 212.

2. Corporate income taxes under chapter 220.

3. Intangible personal property taxes under chapter 199.

4. Emergency excise taxes under chapter 221.

5. Excise taxes on documents under chapter 201.

6. Ad valorem taxes paid, as defined in s. 220.03(1).

7. Insurance premium taxes under s. 624.509.

8. Occupational license fees under chapter 205.

However, an eligible business may not receive a refund under this section for any amount of credit, refund, or exemption granted to that business for any of such taxes or fees. If a refund for such taxes or fees is provided by the office, which taxes or fees are subsequently adjusted by the application of any credit, refund, or exemption granted to the eligible business other than as provided in this section, the business shall reimburse the office for the amount of that credit, refund, or exemption. An eligible business shall notify and tender payment to the office within 20 days after receiving any credit, refund, or exemption other than the one provided in this section.

Reviser's note.—Amended to conform to the removal of part designations from chapter 212 following the repeal of the provisions of former part II of that chapter by s. 4, ch. 97-94, Laws of Florida.

Section 62. Subsection (5) of section 288.041, Florida Statutes, is amended to read:

288.041 Solar energy industry; legislative findings and policy; promotional activities.—

(5) By January 15 of each year, the Department of Community Affairs shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the impact of the solar energy industry on the economy of this state and shall make any recommendations on initiatives to further promote the solar energy industry as the department deems appropriate. ~~For purposes of the 1997 legislative session, the department's report shall specifically address the job creation and export potential of an expanded solar energy industry in Florida.~~

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

Section 63. Section 288.052, Florida Statutes, is amended to read:

288.052 Legislative findings.—~~In addition to the findings contained in s. 288.045,~~ The Legislature finds that the production of motion picture, video, and television projects in Florida is an emerging industry, experiencing a growth rate of 20 percent over the last calendar year and employing increasing numbers of Florida residents. The Legislature also finds that, with the development of necessary support services, including in-state financing of projects, the motion picture, television, and video recording industry has the potential to generate over $1 billion annually in direct investments within the state during the early part of the 21st century. One means of increasing the amount of film and television investment in the state is to assist in financing the distribution and marketing of films through the provision of print and advertising funds contingent upon the expenditure of production dollars within the state. Therefore, the Legislature finds and declares that the creation of a Florida Film and Television Investment Board and financing program is in the public interest and that the creation of the Florida Film and Television Investment Board and Trust Fund will serve a public purpose.

Reviser's note.—Amended to conform to the repeal of s. 288.045 by s. 154, ch. 96-320, Laws of Florida.

Section 64. Subsection (1) of section 288.1066, Florida Statutes, is amended to read:

288.1066 Confidentiality of records.—

(1) The following information when received by the Department of Commerce; the Office of Tourism, Trade, and Economic Development; Enterprise Florida, Inc.; or county or municipal governmental entities and their employees pursuant to the qualified defense contractor tax refund program as required by s. 288.1045 ~~288.104~~ is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period not to exceed the duration of the tax refund agreement or 10 years, whichever is earlier:

(a) The applicant's federal employer identification number and Florida sales tax registration number.

(b) The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

(c) The amount of:

1. Taxes on sales, use, and other transactions paid pursuant to chapter 212;

2. Corporate income taxes paid pursuant to chapter 220;

3. Intangible personal property taxes paid pursuant to chapter 199;

4. Emergency excise taxes paid pursuant to chapter 221; and

5. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

(d) Any trade secret information as defined in s. 812.081 contained within any statement concerning the applicant's need for tax refunds or concerning the proposed uses of such refunds by the applicant.

Reviser's note.—Amended to conform to the repeal of s. 288.104 by s. 8, ch. 96-348, Laws of Florida, and the enactment of similar provisions in s. 1, ch. 96-348. Both ss. 288.104 and 288.1045 created the qualified defense contractor tax refund program.

Section 65. Paragraphs (c) and (e) of subsection (6) of section 288.108, Florida Statutes, are amended to read:

288.108 High-impact business.—

(6) SELECTION AND DESIGNATION OF HIGH-IMPACT SECTORS.—

(c) To begin the process of selecting and designating a new high-impact sector, Enterprise Florida, Inc., shall undertake a thorough study of the proposed sector. This study must consider the definition of the sector, including the types of facilities which characterize the sector that might qualify for a high-impact performance grant and whether a powerful incentive like the high-impact performance grant is needed to induce major facilities in the sector to locate or grow in this state; the benefits that major facilities in the sector have or could have on the state's economy and the relative significance of those benefits; the needs of the sector and major sector facilities, including natural, public, and human resources and benefits and costs with regard to these resources; the sector's current and future markets; the current fiscal and potential fiscal impacts of the sector, to both the state and its communities; any geographic opportunities or limitations with regard to the sector, including areas of ~~for~~ the state most likely to benefit from the sector and areas unlikely to benefit from the sector; the state's advantages or disadvantages with regard to the sector; and the long-term expectations for the industry on a global level and in the state. If Enterprise Florida, Inc., finds favorable conditions for the designation of the sector as a high-impact sector, it shall include in the study recommendations for a complete and comprehensive sector strategy, including appropriate marketing and workforce strategies for the entire sector and any recommendations that Enterprise Florida, Inc., may have for statutory or policy changes needed to improve the state's business climate and to attract and grow Florida businesses, particularly small businesses, in the proposed sector. The study shall reflect the finding of the sector-business network specified in paragraph (d).

(e) The study and its findings and recommendations and the recommendations gathered from the sector-business network must be discussed and considered during at least one of the quarterly meetings required in s. 14.2015(2)(f) ~~14.2015(2)(h)~~.

Reviser's note.—Paragraph (6)(c) is amended to improve clarity. Paragraph (6)(e) is amended to conform to the redesignation of subunits of s. 14.2015(2) by s. 3, ch. 97-278, Laws of Florida.

Section 66. Subsection (6) of section 288.1169, Florida Statutes, is amended to read:

288.1169 International Game Fish Association World Center facility; department duties.—

(6) The Department of Commerce must recertify every 10 years that the facility is open, that the International Game Fish Association World Center continues to be the only international administrative headquarters, fishing museum, and Hall of Fame in the United States recognized by the International Game Fish Association, and that the project is meeting the minimum projections for attendance or sales tax revenues as required at the time of

original certification. If the facility is not recertified during this 10-year review as meeting the minimum projections, then funding will be abated until certification criteria are met. If the project fails to generate $1 million of annual revenues pursuant to paragraph (2)(e), the distribution of revenues pursuant to s. 212.20(6)(f)5.c. ~~212.20(6)(g)5.c.~~ shall be reduced to an amount equal to $83,333 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is $1 million. Such reduction shall remain in effect until revenues generated by the project in a 12-month period equal or exceed $1 million.

Reviser's note.—Amended to conform to the redesignation of s. 212.20(6)(g)5.c., as enacted by s. 1, ch. 96-415, Laws of Florida, necessitated by the repeal of former s. 212.20(6)(c) by s. 23, ch. 96-397, Laws of Florida.

Section 67. Paragraph (b) of subsection (3) of section 288.1185, Florida Statutes, is amended to read:

288.1185 Recycling Markets Advisory Committee.—

(3)

(b) ~~Within 60 days of May 12, 1993, and~~ Whenever it is necessary to change the designee, the head of each agency shall notify the Governor in writing of the person designated as the recycling market development liaison for such agency.

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

Section 68. Section 288.770, Florida Statutes, is amended to read:

288.770 Short title.—Sections 288.771-288.778 ~~288.771-288.779~~ may be cited as the "Florida Export Finance Corporation Act."

Reviser's note.—Amended to conform to the repeal of s. 288.779 by s. 154, ch. 96-320, Laws of Florida.

Section 69. Paragraph (a) of subsection (1) of section 288.776, Florida Statutes, is amended to read:

288.776 Board of directors; powers and duties.—

(1)(a) The corporation shall have a board of directors consisting of 15 members representing all geographic areas of the state. Minority and gender representation must be considered when making appointments to the board. The board membership must include:

1. A representative of the following businesses, all of which must be registered to do business in this state: a foreign bank, a state bank, a federal bank, an insurance company involved in covering trade financing risks, and a small or medium-sized exporter.

2. The following persons or their designee: the President of Enterprise Florida, Inc., the Comptroller, the Secretary of State, a senior official of the

United States Department of Commerce, and the chair of the Florida Black Business Investment Board.

Reviser's note.—Amended to conform to the title of the Florida Black Business Investment Board as created in s. 288.707.

Section 70. Subsection (5) of section 288.853, Florida Statutes, is amended to read:

288.853 International sanctions against Castro government.—

(5) Furthermore, contingent upon annual appropriation, to the extent covered by the report submitted by the President according to s. 108 of the Cuban Liberty and Democratic Solidarity Act of 1996 ~~1966~~, and until such time as the President submits a determination under s. 203(c)(1) of the Cuban Liberty and Democratic Solidarity Act of 1996, the Governor shall submit an annual report to the President of the Senate and the Speaker of the House of Representatives on assistance to and commerce with Cuba by citizens and legal residents of Florida. Each report shall contain:

(a) Identification of Cuba's trading partners and the extent of such trade.

(b) A description of joint ventures completed or under consideration by foreign nationals and business firms located in or doing business in Florida involving facilities in Cuba.

(c) A determination as to whether any facilities are claimed by a citizen of Florida.

(d) Steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving Cuban and/or foreign nationals or businesses are not entering the Florida market.

Reviser's note.—Amended to conform to the correct title of the Cuban Liberty and Democratic Solidarity Act of 1996 as provided in Pub. L. No. 104-114.

Section 71. Subsection (6) of section 288.905, Florida Statutes, is amended to read:

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

(6) Any employee leased by Enterprise Florida, Inc., from the state, or any employee who derives his or her ~~their~~ salary from funds appropriated by the Legislature, may not receive a pay raise or bonus in excess of a pay raise or bonus that is received by similarly situated state employees. However, this subsection does not prohibit the payment of a pay raise or bonus from funds received from sources other than the Florida Legislature.

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

Section 72. Paragraph (b) of subsection (2) of section 288.9512, Florida Statutes, is amended to read:

288.9512 Technology development board; creation; purpose; membership.—

(2) The board shall be governed by a board of directors. The board of directors shall consist of the following members:

(b) The executive director of the Florida ~~State~~ Community College System or the executive director's designee.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 73. Paragraph (f) of subsection (2) of section 288.9605, Florida Statutes, 1998 Supplement, is amended to read:

288.9605 Exercise of powers by the corporation.—

(2) The corporation is authorized and empowered to:

(f) Issue, from time to time, revenue bonds, including, but not limited to, bonds the interest on which is exempt from federal income taxation, for the purpose of financing and refinancing any capital projects for applicants and exercise all powers in connection with the authorization, issuance, and sale of bonds, subject to the provisions of s. 288.9606 ~~section 6~~.

Reviser's note.—Amended to facilitate correct interpretation. The reference to section 6 appears to have been erroneously retained from C.S. for H.B. 2263, 1993, when that material was incorporated into C.S. for S.B. 2382, 1993, which became ch. 93-187, Laws of Florida. The referenced material is codified as s. 288.9606.

Section 74. Paragraph (a) of subsection (7) of section 288.9607, Florida Statutes, is amended to read:

288.9607 Guaranty of bond issues.—

(7)(a) The corporation is authorized to enter into an investment agreement with the Department of Transportation and the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(6)(b) ~~339.135(7)(b)~~. Such investment shall be limited as follows:

1. Not more than $4 million of the investment earnings earned on the investment of the minimum balance of the State Transportation Trust Fund in a fiscal year shall be at risk at any time on one or more bonds or series of bonds issued by the corporation.

2. The investment earnings shall not be used to guarantee any bonds issued after June 30, 1998, and in no event shall the investment earnings be used to guarantee any bond issued for a maturity longer than 15 years.

3. The corporation shall pay a reasonable fee, set by the State Board of Administration, in return for the investment of such funds. The fee shall not

be less than the comparable rate for similar investments in terms of size and risk.

4. The proceeds of bonds, or portions thereof, issued by the corporation for which a guaranty has been or will be issued pursuant to s. 288.9606, s. 288.9608, or this section used to make loans to any one person, including any related interests, as defined in s. 658.48, of such person, shall not exceed 20 percent of the principal of all such outstanding bonds of the corporation issued prior to the first composite bond issue of the corporation, or December 31, 1995, whichever comes first, and shall not exceed 15 percent of the principal of all such outstanding bonds of the corporation issued thereafter, in each case determined as of the date of issuance of the bonds for which such determination is being made and taking into account the principal amount of such bonds to be issued. The provisions of this subparagraph shall not apply when the total amount of all such outstanding bonds issued by the corporation is less than $10 million. For the purpose of calculating the limits imposed by the provisions of this subparagraph, the first $10 million of bonds issued by the corporation shall be taken into account.

5. The corporation shall establish a debt service reserve account which contains not less than 6 months' debt service reserves from the proceeds of the sale of any bonds, or portions thereof, guaranteed by the corporation.

6. The corporation shall establish an account known as the Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The corporation shall deposit a sum of money or other cash equivalents into this fund and maintain a balance of money or cash equivalents in this fund, from sources other than the investment of earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund, not less than a sum equal to 1 year of maximum debt service on all outstanding bonds, or portions thereof, of the corporation for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In the event the corporation fails to maintain the balance required pursuant to this subparagraph for any reason other than a default on a bond issue of the corporation guaranteed pursuant to this section or because of the use by the corporation of any such funds to pay insurance, maintenance, or other costs which may be required for the preservation of any project or other collateral security for any bond issued by the corporation, or to otherwise protect the Revenue Bond Guaranty Reserve Account from loss while the applicant is in default on amortization payments, or to minimize losses to the reserve account in each case in such manner as may be deemed necessary or advisable by the corporation, the corporation shall immediately notify the Department of Transportation of such deficiency. Any supplemental funding authorized by an investment agreement entered into with the Department of Transportation and the State Board of Administration concerning the use of investment earnings of the minimum balance of funds is void unless such deficiency of funds is cured by the corporation within 90 days after the corporation has notified the Department of Transportation of such deficiency.

The corporation shall include, as part of the annual report prepared pursuant to s. 288.9610, a detailed report concerning the use of guaranteed bond

proceeds for loans guaranteed or issued pursuant to any agreement with the Florida Black Business Investment Board, including the percentage of such loans guaranteed or issued and the total volume of such loans guaranteed or issued.

Reviser's note.—Amended to facilitate correct interpretation. Material relating to the minimum balance to be maintained in the State Transportation Trust Fund is in s. 339.135(6)(b).

Section 75. Paragraph (f) of subsection (3) of section 288.9620, Florida Statutes, as amended by section 112 of chapter 96-320, Laws of Florida, is amended to read:

288.9620 Workforce development board.—

(3) The workforce development board shall be governed by a board of directors. The board of directors is to consist of the following members:

(f) The executive director of the Florida ~~State~~ Community College System or the executive director's designee.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 76. Subsection (2) of section 290.0058, Florida Statutes, is amended to read:

290.0058 Tests of pervasive poverty, unemployment, and general distress.—

(2) Pervasive poverty shall be evidenced by a showing that poverty is widespread throughout the nominated area. The poverty rate of the nominated area shall be established using the following criteria:

(a) In each census geographic block group within a nominated area, the poverty rate shall be not less than 20 percent.

(b) In at least 50 percent of the census geographic block groups within the nominated area, the poverty rate shall not be less than 30 percent.

(c) Census geographic block groups with no population shall be treated as having a poverty rate which meets the standards of paragraph (a), but shall be treated as having a zero poverty rate for purposes of applying paragraph (b).

(d) A nominated area may not contain a noncontiguous parcel unless such parcel separately meets the criteria set forth under paragraphs (a) and (b).

~~For purposes of this subsection, pervasive poverty within a noncontiguous area of an enterprise zone containing two or more noncontiguous areas that was nominated by a county and one or more municipalities together shall be presumed within the noncontiguous area if such area encompasses only~~

~~one municipality and has fewer than three contiguous census geographic block groups, provided at least one such group has a poverty level of more than 20 percent. The provisions of this paragraph shall stand repealed on July 1, 1997.~~

Reviser's note.—The flush left language in subsection (2) was expressly repealed by s. 123, ch. 96-320, Laws of Florida, effective July 1, 1997. Since the language was not repealed by a "current session" of the Legislature, it may be omitted from the Florida Statutes 1999 only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 77. Subsection (10) of section 290.0065, Florida Statutes, 1998 Supplement, is amended to read:

290.0065 State designation of enterprise zones.—

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

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 290.0058(2)(e) does not exist.

Section 78. Subsection (1) of section 290.009, Florida Statutes, is amended to read:

290.009 Enterprise Zone Interagency Coordinating Council.—

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

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 79. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, 1998 Supplement, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. 110.205(2); however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida ~~State~~ Community College System and the School for the Deaf and the Blind are included.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 80. Section 295.085, Florida Statutes, 1998 Supplement, is amended to read:

295.085 Positions for which a numerically based selection process is not used.—In all positions in which the appointment or employment of persons is not subject to a written examination, with the exception of positions that are exempt under s. 295.07(4) ~~295.07(2)~~, first preference in appointment, employment, and retention shall be given by the state and political subdivisions in the state to persons included under s. 295.07(1)(a) and (b), and second preference shall be given to persons included under s. 295.07(1)(c) and (d) who possess the minimum qualifications necessary to discharge the duties of the position involved.

Reviser's note.—Amended to conform to the redesignation of s. 295.07(2) as s. 295.07(4) by s. 2, ch. 98-33, Laws of Florida.

Section 81. Paragraph (a) of subsection (1) of section 295.09, Florida Statutes, is amended to read:

295.09 Reinstatement or reemployment; promotion preference.—

(1)(a) When an employee of the state or any of its political subdivisions employed in a position subject or not subject to a career service system or other merit-type system, with the exception of those positions which are exempt pursuant to s. 295.07(4) ~~295.07(2)~~, has served in the Armed Forces of the United States and is discharged or separated therefrom with an honorable discharge, the state or its political subdivision shall reemploy or reinstate such person to the same position that he or she held prior to such service in the armed forces, or to an equivalent position, provided such person returns to the position within 1 year of his or her date of separation or, in cases of extended active duty, within 1 year of the date of discharge or separation subsequent to the extension. Such person shall also be awarded preference in promotion and shall be promoted ahead of all others who are as well qualified or less qualified for the position. When an examination for promotion is utilized, such person shall be awarded preference points, as provided in s. 295.08, and shall be promoted ahead of all those who appear in an equal or lesser position on the promotional register, provided he or she first successfully passes the examination for the promotional position.

Reviser's note.—Amended to conform to the redesignation of s. 295.07(2) as s. 295.07(4) by s. 2, ch. 98-33, Laws of Florida.

Section 82. Subsection (2) of section 295.11, Florida Statutes, 1998 Supplement, is reenacted to read:

295.11 Investigation; administrative hearing for not employing preferred applicant.—

(2) Upon completion of the investigation, the department shall furnish a copy of the investigative findings to the complainant and to the agency involved.

Reviser's note.—Section 6, ch. 98-33, Laws of Florida, purported to amend s. 295.11, but failed to publish subsection (2). In the absence of affirmative evidence that the Legislature intended to repeal the subsection, coupled with the fact that the form of the amendment affirmatively evidences an intent to preserve the existing subsection structure, subsection (2) is reenacted to confirm that the omission was not intended.

Section 83. Subsection (1) of section 295.14, Florida Statutes, 1998 Supplement, is amended to read:

295.14 Penalties.—

(1) When the Public Employees Relations Commission, after a hearing on notice conducted according to rules adopted by the commission, determines that a violation of s. 295.07, s. 295.08, s. 295.085 ~~295.085(1)~~, or s. 295.09(1)(a) or (b) has occurred and sustains the veteran seeking redress, the commission shall order the offending agency, employee, or officer of the state to comply with the provisions of s. 295.07, s. 295.08, s. 295.085 ~~295.085(1)~~, or s. 295.09(1)(a) or (b); and, in the event of a violation of s. 295.07, s. 295.08, s. 295.085 ~~295.085(1)~~ or s. 295.09(1)(a) or (b), the commission may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours worked, and costs of all work, including litigation, incurred as a result of such violation, which order shall be conclusive on the agency, employee, or officer concerned. The attorney's fees and costs may not exceed $10,000. The action of the commission shall be in writing and shall be served on the parties concerned by certified mail with return receipt requested.

Reviser's note.—Amended to conform to the elimination of subunit designations in s. 295.085 following the repeal of s. 295.085(2) by s. 4, ch. 98-33, Laws of Florida.

Section 84. Subsection (6) of section 296.33, Florida Statutes, is amended to read:

296.33 Definitions.—When used in this part, unless the context clearly indicates otherwise, the term:

(6) "Veterans' Nursing Home of Florida," hereinafter referred to as the "home," means a licensed health care facility operated by the department pursuant to the provisions of part II ~~I~~ of chapter 400.

Reviser's note.—Amended to conform to the redesignation of part I of chapter 400 as part II incident to the compilation of ch. 93-177, Laws of Florida.

Section 85. Subsection (8) of section 298.225, Florida Statutes, 1998 Supplement, is amended to read:

298.225 Water control plan; plan development and amendment.—

(8) If the preparation of a water control plan or amendment under this section does not result in revision of the district's current plan or require the alteration or increase of any levy of assessments or taxes beyond the maximum amount previously authorized by general law, special law, or judicial proceeding, a change in the use of said assessments or taxes, or substantial change to district facilities, the provisions of s. 298.301(2)-(9) do not apply to the plan adoption process. This section and s. 298.301 ~~298.301(1)-(9)~~ do not apply to minor, insubstantial amendments to district plans authorized by special law.

Reviser's note.—Amended to conform to the fact that s. 298.301 only has nine subsections.

Section 86. Subsection (69) of section 316.003, Florida Statutes, 1998 Supplement, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(69) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(21) ~~403.703(23)~~.

Reviser's note.—Amended to conform to the redesignation of s. 403.703(23) as s. 403.703(21) to conform to the repeal of former ss. 403.703(18) and (19) by s. 8, ch. 93-207, Laws of Florida.

Section 87. Subsection (3) of section 316.072, Florida Statutes, is amended to read:

316.072 Obedience to and effect of traffic laws.—

(3) OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.—It is unlawful and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully to fail or refuse to comply with any lawful order or direction of any law enforcement officer, traffic accident investigation officer as described in s. 316.640, traffic infraction enforcement officer as described in s. 316.640 ~~318.141~~, or member of the fire department at the scene of a fire, rescue operation, or other emergency. Notwithstanding the provisions of this subsection, certified emergency medical technicians or paramedics may respond to the scene of emergencies and may provide emergency medical treatment on the scene and provide transport of patients in the performance of their duties for an emergency medical services provider licensed under chapter 401 and in accordance with any local emergency medical response protocols.

Reviser's note.—Amended to conform to the repeal of s. 318.141 by s. 44, ch. 96-350, Laws of Florida, and the addition of a description of traffic infraction enforcement officers to s. 316.640 by s. 37, ch. 96-350.

Section 88. Subsection (3) of section 316.0747, Florida Statutes, is amended to read:

316.0747 Sale or purchase of traffic control devices by nongovernmental entities; prohibitions.—

(3) Nongovernmental entities to which the general public is invited to travel shall install and maintain uniform traffic control devices at appropriate locations pursuant to the standards set forth by the Manual on Uniform Traffic Control Devices as adopted by the Department of Transportation pursuant to s. 316.0745. ~~Such traffic control devices shall be installed no later than January 1, 1992.~~ Businesses the parking lots of which do not provide intersecting lanes of traffic and businesses having fewer than 25 parking spaces are exempt from the provisions of this subsection. The Department of Transportation shall adopt rules to implement this section.

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

Section 89. Paragraph (a) of subsection (10) of section 316.1955, Florida Statutes, 1998 Supplement, is amended to read:

316.1955 Parking spaces for persons who have disabilities.—

(10)(a) A vehicle that is transporting a person who has a disability and that has been granted a permit under s. 320.0848(1)(e) ~~320.0848(1)(d)~~ may be parked for a maximum of 30 minutes in any parking space reserved for persons who have disabilities.

Reviser's note.—Amended to conform to the redesignation of s. 320.0848(1)(d) as s. 320.0848(1)(e) by s. 7, ch. 98-202, Laws of Florida.

Section 90. Subsection (2) of section 316.2126, Florida Statutes, is amended to read:

316.2126 Use of golf carts by certain municipalities.—In addition to the powers granted by ss. 316.212 and 316.2125, municipalities older than 400 years old are hereby authorized to utilize golf carts, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities, subject to the following conditions:

(2) In addition to the safety equipment required in s. 316.212(5) ~~316.212(6)~~, such golf carts must be equipped with sufficient lighting and turn signal equipment.

Reviser's note.—Amended to conform to the redesignation of s. 316.212(6) as s. 316.212(5) by s. 4, ch. 96-413, Laws of Florida.

Section 91. Section 316.2399, Florida Statutes, is amended to read:

316.2399 Special warning lights for buses or taxicabs.—The provisions of s. 316.2397(7) ~~316.2397(6)~~ to the contrary notwithstanding, a bus or taxicab may be equipped with two flashing devices for the purpose of warning the operators of other vehicles and law enforcement agents that an emergency situation exists within the bus or taxicab. Such devices shall be capable of activation by the operator of the bus or taxicab and shall be of a type approved by the Department of Highway Safety and Motor Vehicles. Such devices shall be mounted one at the front and one at the rear of the bus or taxicab and shall display flashing red lights which shine on the roadway under the vehicle.

Reviser's note.—Amended to conform to the redesignation of s. 316.2397(6) as s. 316.2397(7) by s. 58, ch. 93-164, Laws of Florida.

Section 92. Paragraph (f) of subsection (2) of section 316.302, Florida Statutes, 1998 Supplement, is amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(2)

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds solely in intrastate commerce and who is not transporting hazardous materials, or who is transporting petroleum products as defined in s. 376.301(31) ~~376.301(29)~~, is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, 393, and 49 C.F.R. s. 396.9.

Reviser's note.—Amended to facilitate correct interpretation. "Petroleum product" is defined in s. 376.301(31).

Section 93. Subsection (5) of section 318.13, Florida Statutes, is amended to read:

318.13 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(5) "Officer" means any law enforcement officer charged with and acting under his or her authority to arrest persons suspected of, or known to be, violating statutes or ordinances regulating traffic or the operation or equipment of vehicles. "Officer" includes any individual employed by a sheriff's department or the police department of a chartered municipality who is acting as a traffic infraction enforcement officer as provided in s. 316.640 ~~318.141~~.

Reviser's note.—Amended to conform to the repeal of s. 318.141 by s. 44, ch. 96-350, Laws of Florida, and the addition of a description of traffic infraction enforcement officers to s. 316.640 by s. 37, ch. 96-350.

Section 94. Subsections (1), (4), and (9) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(1) Except as provided in ss. 318.17 and 320.07(3)(c) ~~320.07(3)(b)~~, any person cited for a violation of s. 240.265, chapter 316, s. 320.0605 ~~320.0605(1)~~, s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.16(2) or (3), s. 322.1615(4) ~~322.161(4)~~, or s. 322.19 is charged with a noncriminal infraction and must be cited for such an infraction and cited to appear before an official. If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. 316.027(4), in addition to any other penalties.

(4) Any person charged with a noncriminal infraction under this section who does not elect to appear shall pay the civil penalty and delinquent fee, if applicable, either by mail or in person, within 30 days of the date of receiving the citation. If the person cited follows the above procedure, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. Any person who is cited for a violation of s. 320.0605 ~~320.0605(1)~~ or s. 322.15(1), or subject to a penalty under s. 320.07(3)(a) or s. 322.065, and who makes an election under this subsection shall submit proof of compliance with the applicable section to the clerk of the court. For the purposes of this subsection, proof of compliance consists of a valid driver's license or a valid registration certificate.

(9) Any person who is cited for an infraction under this section other than a violation of s. 320.0605 ~~320.0605(1)~~, s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld; points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections under this subsection. The requirement for community service under s. 318.18(7) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

Reviser's note.—Subsection (1) is amended to conform to the redesignation of s. 320.07(3)(b) as s. 320.07(3)(c) by s. 7, ch. 98-223, Laws of Florida; the deletion of subunits from s. 320.0605 to conform to the repeal of former s. 320.0605(2) by s. 50, ch. 96-350, Laws of Florida; and the redesignation of the referenced s. 322.161(4) as s. 322.1615(4) by the reviser incident to the compilation of the 1996 Supplement to the Florida Statutes 1995. Subsections (4) and (9) are amended to conform to the deletion of subunits from s. 320.0605 by s. 50, ch. 96-350.

Section 95. Subsections (4) and (5) of section 318.21, Florida Statutes, 1998 Supplement, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(4) Of the additional fine assessed under s. 318.18(3)(e) ~~318.18(3)(d)~~ for a violation of s. 316.1301, 40 percent must be deposited into the Grants and Donations Trust Fund of the Division of Blind Services of the Department of Labor and Employment Security, and 60 percent must be distributed pursuant to subsections (1) and (2) of this section.

(5) Of the additional fine assessed under s. 318.18(3)(e) ~~318.18(3)(d)~~ for a violation of s. 316.1303, 60 percent must be deposited into the endowment fund for the Florida Endowment Foundation for Vocational Rehabilitation, and 40 percent must be distributed pursuant to subsections (1) and (2) of this section.

Reviser's note.—Amended to conform to the redesignation of s. 318.18(3)(d) as s. 318.18(3)(e) by s. 6, ch. 98-223, Laws of Florida.

Section 96. Paragraph (d) of subsection (1) of section 319.33, Florida Statutes, is amended to read:

319.33 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(1) It is unlawful:

(d) To possess, sell or offer for sale, conceal, or dispose of in this state a motor vehicle or mobile home, or major component part thereof, on which the motor number or vehicle identification number has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or defacement, except as provided in s. 319.30(4) ~~319.30(3)~~.

Reviser's note.—Amended to conform to the redesignation of s. 319.30(3) as s. 319.30(4) by s. 4, ch. 90-283, Laws of Florida.

Section 97. Subsections (7) and (8) of section 320.03, Florida Statutes, 1998 Supplement, are amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(7) The Department of Highway Safety and Motor Vehicles shall register apportioned motor vehicles under the provisions of the International Registration Plan. ~~Implementation of the plan shall occur by July 1, 1986, for the 1986-1987 registration period.~~ The department may adopt rules to implement and enforce the provisions of the plan.

(8) If the applicant's name appears on the list referred to in s. 316.1001(4) ~~316.1001(5)~~ or s. 316.1967(6), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. If the tax collector has private tag agents, such tag agents are entitled to

receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which is inclusive of the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Reviser's note.—Subsection (7) is amended to delete a provision that has served its purpose. Subsection (8) is amended to conform to the redesignation of s. 316.1001(5) as s. 316.1001(4) by s. 15, ch. 96-350, Laws of Florida.

Section 98. Subsection (1) of section 320.055, Florida Statutes, is amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(1) For a motor vehicle subject to registration under s. 320.08(1), (2), (3)~~(a), (b), (c), (d), or (e)~~, (5)(b), (c), (d), or (f) ~~(e)~~, (6)(a), (7), (8), (9), or (10) and owned by a natural person, the registration period begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If such vehicle is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vehicle subject to this registration period, the renewal period is the 30-day period ending at midnight on the vehicle owner's date of birth.

Reviser's note.—Amended to conform to the fact that s. 320.08(3) only contains paragraphs (a)-(e) and the redesignation of s. 320.08(5)(e) as s. 320.08(5)(f) by s. 5, ch. 97-58, Laws of Florida.

Section 99. Subsection (7) of section 320.08056, Florida Statutes, 1998 Supplement, is amended to read:

320.08056 Specialty license plates.—

(7) The department shall annually retain from the first proceeds derived from the annual use fees collected an amount sufficient to defray each specialty plate's pro rata share of the department's costs directly related to issuing the specialty plate. Such costs shall include distribution costs, direct costs to the department, and any applicable increased costs of manufacturing the specialty ~~speciality~~ license plate. ~~Beginning in the 1995-1996 fiscal year,~~ Any cost increase to the department related to actual cost of the plate, including a reasonable vendor profit, shall be verified by the Department of Management Services. The balance of the proceeds from the annual use fees

collected for that specialty license plate shall be distributed as provided by law.

Reviser's note.—Amended to conform to terminology elsewhere in the section and to delete a provision that has served its purpose.

Section 100. Paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, 1998 Supplement, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)~~1.~~ The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund may be used only for environmental education; manatee research; facilities, as provided in s. 370.12(4)(b) ~~370.12(5)(b)~~; and manatee protection and recovery.

~~2. For fiscal year 1996-1997, 25 percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).~~

Reviser's note.—Amended to conform to the redesignation s. 370.12(5)(b) as s. 370.12(4)(b) necessitated by the repeal of former s. 370.12(4) by s. 17, ch. 98-227, Laws of Florida, and to delete obsolete language pertaining to the manatee license plate annual use fee for fiscal year 1996-1997.

Section 101. Effective July 1, 1999, paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, 1998 Supplement, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b) The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund may be used only for manatee-related environmental education; manatee research; facilities, as provided in s. 370.12(4)(b) ~~370.12(5)(b)~~; and manatee protection and recovery.

Reviser's note.—Amended to conform to the redesignation of s. 370.12(5)(b) as s. 370.12(4)(b) necessitated by the repeal of former s. 370.12(4) by s. 17, ch. 98-227, Laws of Florida.

Section 102. Paragraph (c) of subsection (2) of section 320.0848, Florida Statutes, 1998 Supplement, is amended and subsections (9) and (10) of that section are reenacted to read:

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

(2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM MOBILITY PROBLEMS.—

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

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

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

The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic. The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(e) ~~(1)(d)~~. Subsections (1), (5), (6), and (7) apply to this subsection.

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

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

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

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

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of supplemental security income, the fee for the disabled parking permit shall be $9 for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $6.75 and the tax collector of the county in which the fee was collected shall receive $2.25.

(9) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, or s. 461.013, as applicable.

(10) The Department of Highway Safety and Motor Vehicles shall adopt rules to administer this section.

Reviser's note.—Paragraph (2)(c) is amended to conform to the redesignation of paragraph (1)(d) as (1)(e) by s. 7, ch. 98-202, Laws of Florida. Section 7, ch. 98-202, purported to amend s. 320.0848, but failed to publish

subsections (9) and (10). In the absence of affirmative evidence that the Legislature intended to repeal subsections (9) and (10), they are reenacted to confirm that the omission was not intended.

Section 103. Section 320.1325, Florida Statutes, is amended to read:

320.1325 Registration required for the temporarily employed.—Motor vehicles owned or leased by persons who are temporarily employed within the state but are not residents are required to be registered. The department shall provide a temporary registration plate and a registration certificate valid for 90 days to an applicant who is temporarily employed in the state. The temporary registration plate may be renewed one time for an additional 90-day period. At the end of the 180-day period of temporary registration, the applicant shall apply for a permanent registration if there is a further need to remain in this state. A temporary license registration plate may not be issued for any commercial motor vehicle as defined in s. 320.01. The fee for the 90-day temporary registration plate shall be $40 plus the applicable service charge required by s. 320.04. Subsequent permanent registration and titling of a vehicle registered hereunder shall subject the applicant to the fees required by s. ~~ss. 319.231 and~~ 320.072, in addition to all other taxes and fees required.

Reviser's note.—Amended to conform to the repeal of s. 319.231 by s. 9, ch. 95-140, Laws of Florida.

Section 104. Subsection (2) of section 320.20, Florida Statutes, is reenacted to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(2) Twenty-five million dollars per year of such revenues must be deposited in the State Transportation Trust Fund, with priority use assigned to completion of the interstate highway system. However, any excess funds may be utilized for general transportation purposes, consistent with the Department of Transportation's legislatively approved objectives. Prior to such utilization, the department's comptroller shall certify that adequate funds are available to assure expeditious completion of the interstate highway system and to award all such contracts by 1990.

Reviser's note.—Section 136, ch. 96-320, Laws of Florida, purported to amend s. 320.20, but did not set out in full subsection (2) to include the part of the last sentence that reads "completion of the interstate highway system and to award all such contracts by 1990." Absent affirmative evidence that the Legislature intended to repeal this language, it is reenacted to confirm that the omission was not intended.

Section 105. Subsection (2) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(2) The department shall examine every applicant for a driver's license, including an applicant who is licensed in another state or country, except as otherwise provided in this chapter. A person who holds a learner's driver's license as provided for in s. 322.1615 ~~322.161~~ is not required to pay a fee for successfully completing the examination showing his or her ability to operate a motor vehicle as provided for herein and need not pay the fee for a replacement license as provided in s. 322.17(2). Any person who applies for reinstatement following the suspension or revocation of his or her driver's license shall pay a service fee of $25 following a suspension, and $50 following a revocation, which is in addition to the fee for a license. Any person who applies for reinstatement of a commercial driver's license following the disqualification of his or her privilege to operate a commercial motor vehicle shall pay a service fee of $50, which is in addition to the fee for a license. The department shall collect all of these fees at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

(a) Of the $25 fee received from a licensee for reinstatement following a suspension, the department shall deposit $15 in the General Revenue Fund and the remaining $10 in the Highway Safety Operating Trust Fund.

(b) Of the $50 fee received from a licensee for reinstatement following a revocation or disqualification, the department shall deposit $35 in the General Revenue Fund and the remaining $15 in the Highway Safety Operating Trust Fund.

If the revocation or suspension of the driver's license was for a violation of s. 316.193, or for refusal to submit to a lawful breath, blood, or urine test, an additional fee of $105 must be charged. However, only one such $105 fee is to be collected from one person convicted of such violations arising out of the same incident. The department shall collect the $105 fee and deposit it into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver's license, but the fee must not be collected if the suspension or revocation was overturned.

Reviser's note.—Amended to conform to the redesignation of the referenced s. 322.161 as s. 322.1615 by the reviser incident to the compilation of the 1996 Supplement to the Florida Statutes 1995. Another s. 322.161 was created by s. 28, ch. 96-413, Laws of Florida.

Section 106. Paragraph (a) of subsection (3) of section 322.121, Florida Statutes, is amended to read:

322.121 Periodic reexamination of all drivers.—

(3) For each licensee whose driving record does not show any revocations, disqualifications, or suspensions for the preceding 7 years or any convictions for the preceding 3 years except for convictions of the following nonmoving violations:

(a) Failure to exhibit a vehicle registration certificate, rental agreement, or cab card pursuant to s. 320.0605 ~~320.0605(1)~~;

the department shall cause such licensee's license to be prominently marked with the notation "Safe Driver."

Reviser's note.—Amended to conform to the deletion of subunits from s. 320.0605 following the repeal of former s. 320.0605(2) by s. 50, ch. 96-350, Laws of Florida.

Section 107. Subsection (1) and paragraph (f) of subsection (2) of section 322.292, Florida Statutes, are amended to read:

322.292 DUI programs supervision; powers and duties of the department.—

(1) The Department of Highway Safety and Motor Vehicles shall license and regulate all DUI programs, which regulation shall include the certification of instructors, evaluators, clinical supervisors, and evaluator supervisors. The department shall, after consultation with the chief judge of the affected judicial circuit, establish requirements regarding the number of programs to be offered within a judicial circuit. Such requirements shall address the number of clients currently served in the circuit as well as improvements in service that may be derived from operation of an additional DUI program. DUI education and evaluation services are exempt from licensure under chapter ~~chapters 396 and~~ 397. However, treatment programs must continue to be licensed under chapter ~~chapters 396 and~~ 397.

(2) The department shall adopt rules to implement its supervisory authority over DUI programs in accordance with the procedures of chapter 120, including the establishment of uniform standards of operation for DUI programs and the method for setting and approving fees, as follows:

(f) The department shall oversee an ongoing evaluation to assess the effectiveness of the DUI programs. This evaluation shall be performed by an independent group and shall evaluate the curriculum, client treatment referrals, recidivism rates, and any other relevant matters. ~~The department shall report to the Legislature by January 1, 1995, on the status of the evaluation, including its design and schedule for completion.~~ The department may use funds received under s. 322.293 to retain the services and reimburse expenses of such private persons or professional consultants as are required for monitoring and evaluating DUI programs.

Reviser's note.—Subsection (1) is amended to conform to the repeal of the provisions of chapter 396 by s. 48, ch. 93-39, Laws of Florida. Paragraph (2)(f) is amended to delete a provision that has served its purpose.

Section 108. Paragraph (b) of subsection (6) of section 322.34, Florida Statutes, 1998 Supplement, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(6) Any person who operates a motor vehicle:

(b) While his or her driver's license or driving privilege is canceled, suspended, or revoked pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (6) ~~(5)~~,

and who by careless or negligent operation of the motor vehicle causes the death of or serious bodily injury to another human being is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Amended to conform to the redesignation of s. 322.28(5) as s. 322.28(6) by s. 10, ch. 98-223, Laws of Florida.

Section 109. Paragraph (b) of subsection (1) of section 322.57, Florida Statutes, is amended to read:

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—

(1) In addition to fulfilling any other driver's licensing requirements of this chapter, a person who:

(b) Drives a passenger vehicle must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skill in such a vehicle. ~~However, if such a person satisfies the requirements of s. 322.55(1)-(3), he or she is exempt from the test of his or her driving skills.~~

Reviser's note.—Amended to conform to the repeal of s. 322.55 by s. 14, ch. 95-247, Laws of Florida, and s. 67, ch. 95-333, Laws of Florida.

Section 110. Paragraph (a) of subsection (4) of section 323.001, Florida Statutes, 1998 Supplement, is amended to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(4) The requirements for a written hold apply when the following conditions are present:

(a) The officer has probable cause to believe the vehicle should be seized and forfeited under the Florida Contraband Forfeiture Act, ss. 932.701-932.707 ~~932.701-932.704~~;

Reviser's note.—Amended to conform to the correct citation of the Florida Contraband Forfeiture Act.

Section 111. Subsections (3) and (12) of section 325.202, Florida Statutes, are amended to read:

325.202 Definitions.—As used in this act, the term:

(3) "Dealer certificate" means an inspection certificate issued to a motor vehicle dealer, motor vehicle broker as defined in s. 320.27 ~~320.07~~, mobile home dealer as defined in s. 320.77, or recreational vehicle dealer as defined in s. 320.771, indicating that a motor vehicle has passed an emissions inspection, which grants the dealer or broker 12 months in which to sell at retail the identified motor vehicle owned by the dealer or broker.

(12) "Reinspection facility" means any motor vehicle repair shop as defined in s. 559.903(7) ~~559.903(2)~~ which has been licensed by the department pursuant to the provisions of s. 325.212.

Reviser's note.—Subsection (3) is amended to conform to the correct citation to the referenced definition. Subsection (12) is amended to conform to the redesignation of s. 559.903(2) as s. 559.903(7) by s. 3, ch. 93-219, Laws of Florida.

Section 112. Subsection (2) of section 325.212, Florida Statutes, is amended to read:

325.212 Reinspections; reinspection facilities; rules; minority business participation.—

(2) Any motor vehicle repair shop, as defined in s. 559.903(7) ~~559.903(2)~~, may apply to the department, on a form approved by the department, to be licensed as a reinspection facility to reinspect motor vehicles which fail to pass inspections required by this act.

Reviser's note.—Amended to conform to the redesignation of s. 559.903(2) as s. 559.903(7) by s. 3, ch. 93-219, Laws of Florida.

Section 113. Subsection (11) and paragraph (c) of subsection (12) of section 327.25, Florida Statutes, are amended to read:

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

(11) VOLUNTARY CONTRIBUTIONS.—The application form for boat registration shall include a provision to allow each applicant to indicate a desire to pay an additional voluntary contribution to the Save the Manatee Trust Fund for manatee and marine mammal research, protection, recovery, rescue, rehabilitation, and release. This contribution shall be in addition to all other fees and charges. The amount of the request for a voluntary contribution solicited shall be ~~$1 per registrant. Beginning with boat registration in fiscal year 1992-1993, the request for a voluntary contribution solicited shall be~~ $2 or $5 per registrant. A registrant who provides a voluntary contribution of $5 or more shall be given a sticker or emblem by the tax collector to display, which signifies support for the Save the Manatee Trust Fund. All voluntary contributions shall be deposited in the Save the Manatee Trust Fund for use according to this subsection. The first $2 of voluntary contribution by a vessel registrant shall be available for the manatee protection and recovery effort pursuant to s. 370.12(4)(a) ~~370.12(5)(a)~~. Any additional amount of voluntary contribution by a vessel registrant shall also be for the purpose of the manatee protection and recovery effort, except that any voluntary contribution in excess of the first $2 voluntary contribution by a vessel registrant but not exceeding $2 shall be available for manatee rehabilitation by those facilities approved to rescue, rehabilitate, and release manatees pursuant to s. 370.12(4)(b) ~~370.12(5)(b)~~. The form shall also include language permitting a voluntary contribution of $5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

(12) REGISTRATION.—

(c) ~~Effective July 1, 1996,~~ The following registration periods and renewal periods are established:

1. For vessels owned by individuals, the registration period begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If the vessel is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vessel subject to this registration period, the renewal period is the 30-day period ending at midnight on the vessel owner's date of birth.

2. For vessels owned by companies, corporations, governmental entities, those entities listed under subsection (15) ~~(11)~~, and registrations issued to dealers and manufacturers, the registration period begins July 1 and ends June 30. The renewal period is the 30-day period beginning June 1.

Reviser's note.—Subsection (11) is amended to delete provisions that have served their purpose and to conform to the redesignation of s. 370.12(5) as s. 370.12(4) necessitated by the repeal of former s. 370.12(4) by s. 17, ch. 98-227, Laws of Florida. Paragraph (12)(c) is amended to delete a provision that has served its purpose and to conform to the redesignation of subsection (11) as subsection (15) by s. 54, ch. 95-333, Laws of Florida.

Section 114. Paragraphs (a) and (b) of subsection (1) of section 327.28, Florida Statutes, are amended to read:

327.28 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified and less any administrative costs, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 327.25(1) shall be transferred as follows:

(a) In each fiscal year, an amount equal to $1 for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund for manatee and marine mammal research, protection, and recovery in accordance with the provisions of s. 370.12(4)(a) ~~370.12(5)(a)~~.

(b) In addition, in each fiscal year, an amount equal to 50 cents for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund in accordance with the provisions of s. 370.12(4)(b) ~~370.12(5)(b)~~ for use by those facilities approved to rescue, rehabilitate, and release manatees as authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior.

Reviser's note.—Amended to conform to the redesignation of s. 370.12(5) as s. 370.12(4) necessitated by the repeal of former s. 370.12(4) by s. 17, ch. 98-227, Laws of Florida.

Section 115. Subsection (1) of section 328.17, Florida Statutes, is reenacted to read:

328.17 Nonjudicial sale of vessels.—

(1) It is the intent of the Legislature that any nonjudicial sale of any unclaimed vessel held for unpaid costs of repairs, improvements, or other work and related storage charges, or any vessel held for failure to pay removal costs pursuant to s. 327.53(7), or any undocumented vessel in default of marina storage fees be disposed of pursuant to the provisions of this section.

Reviser's note.—Section 61, ch. 95-333, Laws of Florida, purported to amend subsection (1) of s. 328.17, but did not publish it. In the absence of affirmative evidence that the Legislature intended to repeal the subsection, coupled with the fact that the form of the amendment affirmatively evidences an intent to preserve the existing subsection structure, subsection (1) is reenacted to confirm that the omission was not intended.

Section 116. Subsection (16) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(16) "Project" means any development, improvement, property, launch, utility, facility, system, works, road, sidewalk, enterprise, service, or convenience, which may include coordination with Enterprise Florida, Inc. ~~the Florida High Technology and Industry Council~~, the Board of Regents, and the Space Research Foundation; any rocket, capsule, module, launch facility, assembly facility, operations or control facility, tracking facility, administrative facility, or any other type of space-related transportation vehicle, station, or facility; any type of equipment or instrument to be used or useful in connection with any of the foregoing; any type of intellectual property and intellectual property protection in connection with any of the foregoing including, without limitation, any patent, copyright, trademark, and service mark for, among other things, computer software; any water, wastewater, gas, or electric utility system, plant, or distribution or collection system; any small business incubator initiative, including any startup aerospace company, research and development company, research and development facility, storage facility, and consulting service; or any tourism initiative, including any space experience attraction, space-launch-related activity, and space museum sponsored or promoted by the authority.

Reviser's note.—Amended to conform to the abolition of the Florida High Technology and Industry Council and the assumption of its obligations by the Department of Commerce according to s. 12, ch. 93-187, Laws of Florida, and the repeal of s. 20.17, creating the Department of Commerce and the reorganization of the functions formerly performed by it, by ch. 96-320, Laws of Florida.

Section 117. Subsection (4) of section 331.305, Florida Statutes, is amended to read:

331.305 Powers of the authority.—The authority shall have the power to:

(4) Review and make recommendations with respect to a strategy to guide and facilitate the future of space-related educational and commercial development. The authority shall in coordination with the Federal Government, private industry, and Florida universities develop a business plan which shall address the expansion of Spaceport Florida locations, space launch capacity, spaceport projects, and complementary activities, which shall include, but not be limited to, a detailed analysis of:

(a) The authority and the commercial space industry.

(b) Products, services description—potential, technologies, skills.

(c) Market research and evaluation—customers, competition, economics.

(d) Marketing plan and strategy.

(e) Design and development plan—tasks, difficulties, costs.

(f) Manufacturing locations, facilities, and operations plan.

(g) Management organization—roles and responsibilities.

(h) Overall schedule (monthly).

(i) Important risks, assumptions, and problems.

(j) Community impact—economic, human development, community development.

(k) Financial plan (monthly for first year; quarterly for next 3 years).

(l) Proposed authority offering—financing, capitalization, use of funds.

~~A final report containing the recommendations and business plan of the authority shall be completed and submitted prior to the 1990 Regular Session of the Legislature, along with any proposed statutory changes and related legislative budget requests required to implement the business plan, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.~~

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

Section 118. Subsection (2) of section 331.308, Florida Statutes, is amended to read:

331.308 Board of supervisors.—

(2) ~~Initially, the Governor shall appoint four regular members for terms of 3 years or until successors are appointed and qualified and three regular members for terms of 4 years or until successors are appointed and qualified. Thereafter,~~ Each ~~such~~ member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. ~~The terms for such members initially appointed shall be construed to include the time between initial appointment and June 30, 1992, for those appointed for 3-year terms, and June 30, 1993, for those appointed for 4-year terms. No such member shall be allowed to serve an initial 3-year term or fill any vacancy for the remainder of a term for less than 4 years.~~ Appointment to the board shall not preclude any such member from holding any other private or public position.

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

Section 119. Paragraph (d) of subsection (25) of section 334.03, Florida Statutes, is amended to read:

334.03 Definitions.—When used in the Florida Transportation Code, the term:

(25) "State Highway System" means the following, which shall be facilities to which access is regulated:

(d) The urban minor arterial mileage on the existing State Highway System as of July 1, 1987, plus additional mileage to comply with the 2-percent requirement as described below. ~~These urban minor arterial routes shall be selected in accordance with s. 335.04(1)(a) and (b).~~

However, not less than 2 percent of the public road mileage of each urbanized area on record as of June 30, 1986, shall be included as minor arterials in the State Highway System. Urbanized areas not meeting the foregoing minimum requirement shall have transferred to the State Highway System additional minor arterials of the highest significance in which case the total minor arterials in the State Highway System from any urbanized area shall not exceed 2.5 percent of that area's total public urban road mileage.

Reviser's note.—Amended to conform to the repeal of s. 335.04 by s. 35, ch. 95-257, Laws of Florida.

Section 120. Section 336.01, Florida Statutes, is amended to read:

336.01 Designation of county road system.—The county road system shall be as defined in s. 334.03(8) ~~334.03(7)~~.

Reviser's note.—Amended to conform to the redesignation of s. 334.03(7) as s. 334.03(8) by s. 2, ch. 93-164, Laws of Florida.

Section 121. Section 337.023, Florida Statutes, is amended to read:

337.023 Sale of building; acceptance of replacement building.—Notwithstanding the provisions of s. 216.292(5)(b) ~~216.292(4)(b)~~, if the department

sells a building, the department may accept the construction of a replacement building, in response to a request for proposals, totally or partially in lieu of cash, and may do so without a specific legislative appropriation. Such action is subject to the approval of the Executive Office of the Governor, and is subject to the notice, review, and objection procedures under s. 216.177. The replacement building shall be consistent with the current and projected needs of the department as agreed upon by the department and the Department of Management Services.

Reviser's note.—Amended to conform to the redesignation of s. 216.292(4)(b) as s. 216.292(5)(b) by s. 9, ch. 98-73, Laws of Florida.

Section 122. Subsection (2) of section 337.407, Florida Statutes, is amended to read:

337.407 Regulation of signs and lights within rights-of-way.—

(2) The department has the authority to direct removal of any sign erected in violation of subsection (1) ~~paragraph (a)~~, in accordance with the provisions of chapter 479.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 337.407 necessitated by the repeal of former subsection (2) by s. 62, ch. 94-237, Laws of Florida.

Section 123. Section 338.22, Florida Statutes, is amended to read:

338.22 Florida Turnpike Law; short title.—Sections 338.22-338.241 ~~338.22-338.244~~ may be cited as the "Florida Turnpike Law."

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 124. Section 338.221, Florida Statutes, is amended to read:

338.221 Definitions of terms used in ss. 338.22-338.241 ~~338.22-338.244~~.—As used in ss. 338.22-338.241 ~~338.22-338.244~~, the following words and terms have the following meanings, unless the context indicates another or different meaning or intent:

(1) "Bonds" or "revenue bonds" means notes, bonds, refunding bonds or other evidences of indebtedness or obligations, in either temporary or definitive form, issued by the Division of Bond Finance on behalf of the department and authorized under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ and the State Bond Act.

(2) "Cost," as applied to a turnpike project, includes the cost of acquisition of all land, rights-of-way, property, easements, and interests acquired by the department for turnpike project construction; the cost of such construction; the cost of all machinery and equipment, financing charges, fees, and expenses related to the financing; establishment of reserves to secure bonds; interest prior to and during construction and for such period after completion of construction as shall be determined by the department; the

cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues; other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such turnpike project; administrative expenses; and such other expenses as may be necessary or incident to the acquisition or construction of a turnpike project, the financing of such acquisition or construction, and the placing of the turnpike project in operation.

(3) "Feeder road" means any road no more than 5 miles in length, connecting to the turnpike system which the department determines is necessary to create or facilitate access to a turnpike project.

(4) "Owner" includes any person or any governmental entity that has title to, or an interest in, any property, right, easement, or interest authorized to be acquired pursuant to ss. 338.22-338.241 ~~338.22-338.244~~.

(5) "Revenues" means all tolls, charges, rentals, gifts, grants, moneys, and other funds coming into the possession, or under the control, of the department by virtue of the provisions hereof, except the proceeds from the sale of bonds issued under ss. 338.22-338.241 ~~338.22-338.244~~.

(6) "Turnpike system" means those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature.

(7) "Turnpike improvement" means any betterment necessary or desirable for the operation of the turnpike system, including, but not limited to, widenings, the addition of interchanges to the existing turnpike system, resurfacings, toll plazas, machinery, and equipment.

(8) "Economically feasible" means:

(a) For a proposed turnpike project, that, as determined by the department before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the debt service on the bonds by the end of the 5th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 15th year of operation. In implementing this paragraph ~~subparagraph~~, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.

(b) For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

This subsection does not prohibit the pledging of revenues from the entire turnpike system to bonds issued to finance or refinance a turnpike project or group of turnpike projects.

(9) "Turnpike project" means any extension to or expansion of the existing turnpike system and new limited access toll highways and associated feeder roads and other structures, interchanges, appurtenances, or rights as may be approved in accordance with the Florida Turnpike Law.

(10) "Statement of environmental feasibility" means a statement by the Department of Environmental Protection of the project's significant environmental impacts.

Reviser's note.—The introductory paragraph and subsections (1), (4), and (5) are amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida. Paragraph (8)(a) is amended to conform to the correct citation to the referenced material.

Section 125. Subsection (2) of section 338.222, Florida Statutes, is amended to read:

338.222 Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.—

(2) The department may contract with any local governmental entity as defined in s. 334.03(14) ~~334.03(13)~~ for the design, right-of-way acquisition, or construction of any turnpike project which the Legislature has approved. Local governmental entities may negotiate with the department for the design, right-of-way acquisition, and construction of any section of the turnpike project within areas of their respective jurisdictions or within counties with which they have interlocal agreements.

Reviser's note.—Amended to conform to the redesignation of s. 334.03(13) as s. 334.03(14) by s. 2, ch. 93-164, Laws of Florida.

Section 126. Paragraph (b) of subsection (1) and subsection (3) of section 338.223, Florida Statutes, are amended to read:

338.223 Proposed turnpike projects.—

(1)

(b) Any proposed turnpike project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program pursuant to s. 339.135. Turnpike projects that add capacity, alter access, affect feeder roads, or affect the operation of the local transportation system shall be included in the transportation improvement plan of the affected metropolitan planning organization. If such turnpike project does not fall within the jurisdiction of a metropolitan planning organization, the department shall notify the affected county and provide for public hearings in accordance with s. 339.155(6)(c) ~~339.155(7)(c)~~.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or other rights

or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.241 ~~338.22-338.244~~ except when such reimbursement is prohibited by state or federal law.

Reviser's note.—Paragraph (1)(b) is amended to conform to the redesignation of s. 339.155(7)(c) as s. 339.155(6)(c) by s. 3, ch. 93-164, Laws of Florida. Subsection (3) is amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 127. Section 338.225, Florida Statutes, is amended to read:

338.225 Taking of public road for feeder road.—Before taking over any existing public road for maintenance and operation as a feeder road, the department shall obtain the consent of the governmental entity then exercising jurisdiction over the road, which governmental entity is authorized to give such consent by resolution. Each feeder road or portion of a feeder road acquired, constructed, or taken over under this section for maintenance and operation shall, for all purposes of ss. 338.22-338.241 ~~338.22-338.244~~, be deemed to constitute a part of the turnpike system, except that no toll shall be charged for transit between points on such feeder road.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 128. Subsection (2) of section 338.227, Florida Statutes, is amended to read:

338.227 Turnpike revenue bonds.—

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided by ss. 338.22-338.241 ~~338.22-338.244~~ and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. All revenues and bond proceeds from the turnpike system received by the department pursuant to ss. 338.22-338.241 ~~338.22-338.244~~, the Florida Turnpike Law, shall be used only for the cost of turnpike projects and turnpike improvements and for the administration, operation, maintenance, and financing of the turnpike system. No revenues or bond proceeds from the turnpike system shall be spent for the operation, maintenance, construction, or financing of any project which is not part of the turnpike system.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 129. Section 338.228, Florida Statutes, is amended to read:

338.228 Bonds not debts or pledges of credit of state.—Turnpike revenue bonds issued under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. All such bonds shall contain a statement on their face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principal or interest of such bonds. The issuance of turnpike revenue bonds under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ does not directly, indirectly, or contingently obligate the state to levy or to pledge any form of taxation whatsoever, or to make any appropriation for their payment. Except as provided in ss. 338.001, 338.223, and 338.2275, no state funds shall be used on any turnpike project or to pay the principal or interest of any bonds issued to finance or refinance any portion of the turnpike system, and all such bonds shall contain a statement on their face to this effect.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 130. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to ss. 338.22-338.241 ~~338.22-338.244~~ that the state will not limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in ss. 338.22-338.241 ~~338.22-338.244~~ or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 131. Subsections (6) and (7) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance

any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(6) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds, the repayment of Broward County gasoline tax funds as provided in s. 338.2275(3) ~~338.2275(4)~~, and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement shall establish that the Sawgrass Expressway shall be subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues shall be subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to provisions of any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.

(7) The use and disposition of revenues pledged to bonds are subject to the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ and such regulations as the resolution authorizing the issuance of such bonds or such trust agreement may provide.

Reviser's note.—Subsection (6) is amended to conform to the redesignation of s. 338.2275(4) as s. 338.2275(3) by s. 20, ch. 97-280, Laws of Florida. Subsection (7) is amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 132. Section 338.232, Florida Statutes, is amended to read:

338.232 Continuation of tolls upon provision for payment of bondholders and assumption of maintenance by department.—When all revenue bonds issued under the provisions of ss. 338.22-338.241 ~~338.22-338.244~~ in connection with the turnpike system and the interest on the bonds have been paid, or an amount sufficient to provide for the payment of all such bonds and the interest on the bonds to the maturity of the bonds, or such earlier date on which the bonds may be called, has been set aside in trust for the benefit of the bondholders, the department may assume the maintenance of the turnpike system as part of the State Highway System, except that the turnpike system shall remain subject to sufficient tolls to pay the cost of the maintenance, repair, improvement, and operation of the system and the construction of turnpike projects.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 133. Section 338.239, Florida Statutes, is amended to read:

338.239 Traffic control on the turnpike system.—

(1) The department is authorized to adopt rules with respect to the use of the turnpike system, which rules must relate to vehicular speeds, loads and dimensions, safety devices, rules of the road, and other matters necessary to carry out the purposes of ss. 338.22-338.241 ~~338.22-338.244~~. Insofar as these rules may be inconsistent with the provisions of chapter 316, the rules control. A violation of these rules must be punished pursuant to chapters 316 and 318.

(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. Expenses incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. 338.22-338.241 ~~338.22-338.244~~ may be treated as a part of the cost of the operation of the turnpike system, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the Department of Transportation for such expenses incurred on the turnpike mainline, which is that part of the turnpike system extending from the southern terminus in Florida City to the northern terminus in Wildwood including all contiguous sections.

Reviser's note.—Amended to conform to the repeal of s. 338.244 by s. 8, ch. 94-237, Laws of Florida.

Section 134. Paragraph (b) of subsection (2) of section 339.0805, Florida Statutes, 1998 Supplement, is amended to read:

339.0805 Funds to be expended with certified disadvantaged business enterprises; specified percentage to be expended; construction management development program; bond guarantee program.—It is the policy of the state to meaningfully assist socially and economically disadvantaged business enterprises through a program that will provide for the development of skills through construction and business management training, as well as by providing contracting opportunities and financial assistance in the form of bond guarantees, to primarily remedy the effects of past economic disparity.

(2) The department shall revoke the certification of a disadvantaged business enterprise upon receipt of notification of any change in ownership which results in the disadvantaged individual or individuals used to qualify the business as a disadvantaged business enterprise, no longer owning at least 51 percent of the business enterprise. Such notification shall be made to the department by certified mail within 10 days after the change in ownership, and such business shall be removed from the certified disadvantaged business list until a new application is submitted and approved by the department. Failure to notify the department of the change in the ownership which qualifies the business as a disadvantaged business enterprise will result in revocation of certification and subject the business to the provisions of s. 337.135. In addition, the department may, for good cause, deny or suspend the certification of a disadvantaged business enterprise. As used in this subsection, the term "good cause" includes, but is not limited to, the disadvantaged business enterprise:

(b) Making a false, deceptive, or fraudulent statement in ~~it~~ its application for certification or in any other information submitted to the department;

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

Section 135. Paragraph (e) of subsection (7) of section 339.135, Florida Statutes, is amended to read:

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

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding the requirements in paragraph (d) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34(3) ~~252.34(2)~~, and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget in the event that the delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and shall provide such parties written justification for the emergency action within 7 days of the approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. In no event may the adopted work program be amended under the provisions of this subsection without the certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

Reviser's note.—Amended to conform to the redesignation of s. 252.34(2) as s. 252.34(3) by s. 10, ch. 93-211, Laws of Florida.

Section 136. Subsection (5) of section 341.051, Florida Statutes, is reenacted and amended to read:

341.051 Administration and financing of public transit programs and projects.—

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

(a) The department may fund up to 50 percent of the nonfederal share of the costs, not to exceed the local share, of any eligible public transit capital project or commuter assistance project that is local in scope; except, however, that departmental participation in the final design, right-of-way acquisition, and construction phases of an individual fixed-guideway project which is not approved for federal funding shall not exceed an amount equal to 12.5 percent of the total cost of each phase.

(b) The Department of Transportation shall develop a major capital investment policy which shall include policy criteria and guidelines for the

expenditure or commitment of state funds for public transit capital projects. The policy shall include the following:

1. Methods to be used to determine consistency of a transit project with the approved local government comprehensive plans of the units of local government in which the project is located.

2. Methods for evaluating the level of local commitment to a transit project, which is to be demonstrated through system planning and the development of a feasible plan to fund operating cost through fares, value capture techniques such as joint development and special districts, or other local funding mechanisms.

3. Methods for evaluating alternative transit systems including an analysis of technology and alternative methods for providing transit services in the corridor.

~~The department shall present such investment policy to both the Senate Transportation Committee and the House Public Transportation Committee along with recommended legislation by March 1, 1991.~~

(c) The department is authorized to fund up to 100 percent of the cost of any eligible transit capital project or commuter assistance project that is statewide in scope or involves more than one county where no other governmental entity or appropriate jurisdiction exists.

(d) The department is authorized to advance up to 80 percent of the capital cost of any eligible project that will assist Florida's transit systems in becoming fiscally self-sufficient. Such advances shall be reimbursed to the department on an appropriate schedule not to exceed 5 years after the date of provision of the advances.

(e) The department is authorized to fund up to 100 percent of the capital and net operating costs of statewide transit service development projects or transit corridor projects. All transit service development projects shall be specifically identified by way of a departmental appropriation request, and transit corridor projects shall be identified as part of the planned improvements on each transportation corridor designated by the department. The project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the required service, and the criteria by which the success of the project will be judged shall be documented by the department for each such transit service development project or transit corridor project.

(f) The department is authorized to fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and that will improve system efficiencies, ridership, or revenues. All such projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:

1. Improving system operations, including, but not limited to, realigning route structures, increasing system average speed, decreasing deadhead mileage, expanding area coverage, and improving schedule adherence, for a period of up to 3 years;

2. Improving system maintenance procedures, including, but not limited to, effective preventive maintenance programs, improved mechanics training programs, decreasing service repair calls, decreasing parts inventory requirements, and decreasing equipment downtime, for a period of up to 3 years;

3. Improving marketing and consumer information programs, including, but not limited to, automated information services, organized advertising and promotion programs, and signing of designated stops, for a period of up to 2 years; and

4. Improving technology involved in overall operations, including, but not limited to, transit equipment, fare collection techniques, electronic data processing applications, and bus locators, for a period of up to 2 years.

The term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Reviser's note.—Section 57, ch. 95-257, Laws of Florida, purported to amend paragraphs (5)(a) and (c) of s. 341.051, but did not set out in full the amended material to include the flush left language at the end of the subsection. In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, subsection (5) is reenacted to confirm that the omission was not intended. Subsection (5) is also amended to delete a provision that has served its purpose.

Section 137. Subsection (1) of section 341.321, Florida Statutes, is amended to read:

341.321 Development of high-speed rail transportation system; legislative findings, policy, purpose, and intent.—

(1) The intent of ss. 341.3201-341.386 is to further and advance the goals and purposes of the 1984 High Speed Rail Transportation Commission Act; to ensure a harmonious relationship between that act and the various growth management laws enacted by the Legislature including the Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161-163.3215 ~~163.3616-363.3215~~, the Florida State Comprehensive Planning Act of 1972, as amended, ss. 186.001-186.031 ~~186.011-186.031~~, the Florida Regional Planning Council Act, ss. 186.501-186.513 ~~186.501-186.512~~, and the State Comprehensive Plan, chapter 187; to promote the implementation of these acts in an effective manner; and to encourage and enhance the establishment of a high-speed rail transportation system connecting the major urban areas of the state as expeditiously as is economically feasible. Furthermore, it is the intent of the Legislature that any high-speed rail line and transit station be consistent to the maximum extent feasible with local comprehensive plans, and that any other development associated with the rail line and transit station shall ultimately be

consistent with comprehensive plans. The Legislature therefore reaffirms these enactments and further finds:

(a) That the implementation of a high-speed rail transportation system in the state will result in overall social and environmental benefits, improvements in ambient air quality, better protection of water quality, greater preservation of wildlife habitat, less use of open space, and enhanced conservation of natural resources and energy.

(b) That a high-speed rail transportation system, when used in conjunction with sound land use planning, becomes a vigorous force in achieving growth management goals and in encouraging the use of public transportation to augment and implement land use and growth management goals and objectives.

(c) That urban and social benefits include revitalization of blighted or economically depressed areas, the redirection of growth in a carefully and comprehensively planned manner, and the creation of numerous employment opportunities within inner-city areas.

(d) That transportation benefits include improved travel times and more reliable travel, hence increased productivity. High-speed rail is far safer than other modes of transportation and, therefore, travel-related deaths and injuries can be reduced, and millions of dollars can be saved from avoided accidents.

Reviser's note.—Amended to conform to the correct citations to the referenced acts.

Section 138. Paragraph (c) of subsection (2) of section 348.0005, Florida Statutes, is amended to read:

348.0005 Bonds.—

(2)

(c) Said bonds shall be sold by the authority at public sale by competitive bid. However, if the authority, after receipt of a written recommendation from a financial adviser, shall determine by official action after public hearing by a two-thirds vote of all voting members of the authority that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the county in which the authority exists. The authority shall provide specific findings in a resolution as to the reasons requiring the negotiated sale, which resolution shall incorporate and have attached thereto the written recommendation of the financial adviser required by this subsection ~~(4)~~.

Reviser's note.—Amended to facilitate correct interpretation. There is no subsection (4).

Section 139. Paragraph (a) of subsection (2) of section 348.242, Florida Statutes, is amended to read:

348.242 Broward County Expressway Authority.—

(2) The governing body of the authority shall consist of five members. Each member of the governing body shall be a permanent resident of Broward County at all times during his or her term of office.

(a) Two members shall be appointed by the Governor, subject to confirmation by the Senate, and three members shall be appointed by the Board of County Commissioners of Broward County. Not more than one of the members appointed by the board of county commissioners may be a member of that board. One of the two members appointed by the Governor must be an elected municipal official, and the other member may not be an officeholder. The members appointed by the Governor shall serve terms of 4 years. If the member appointed by the Governor does not remain in elected municipal office, that member's seat shall become vacant. ~~Initially, two members of the authority appointed by the Board of County Commissioners of Broward County shall serve terms of 2 years, and one member so appointed shall serve a term of 4 years; thereafter,~~ The term of each appointed member shall be for 4 years. A vacancy occurring during a term shall be filled by the original appointing authority only for the balance of the unexpired term. Any member of the authority is eligible for reappointment. Members appointed by the Board of County Commissioners of Broward County shall be reviewed annually by the board.

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

Section 140. Section 349.21, Florida Statutes, is amended to read:

349.21 Powers conferred by ~~part VI, chapter 163, and by~~ s. 212.055(1).—Notwithstanding any other provision of law, any transportation authority created by this chapter shall have all the powers conferred by ~~part VI of chapter 163 and by~~ s. 212.055(1). The revenues provided by this section shall be used to pay principal and interest on bonds for which tolls have been pledged. The powers provided by this section shall expire when all such bonds in existence on the effective date of this act have been retired.

Reviser's note.—Amended to conform to the repeal by s. 105, ch. 90-136, Laws of Florida, of the provisions formerly contained in part VI of chapter 163, redesignated as part VII when a new part IV was added by ch. 87-243, Laws of Florida.

Section 141. Subsection (3) of section 350.031, Florida Statutes, 1998 Supplement, is amended to read:

350.031 Florida Public Service Commission Nominating Council.—

(3) A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council shall be staffed by the Office of Legislative Services and shall be subject to the provisions of ss. 119.07 and 286.011. Members of the council are entitled to receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. Applicants

invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses as provided in s. 112.061 ~~112.06~~, which shall be funded by the Florida Public Service Regulatory Trust Fund. The council shall establish policies and procedures to govern the process by which applicants are nominated.

Reviser's note.—Amended to facilitate correct interpretation. Provisions relating to per diem and travel expenses are in s. 112.061.

Section 142. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.—

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss. 364.02(12) ~~364.02(7)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Reviser's note.—Amended to conform to the redesignation of s. 364.02(7) as s. 364.02(12) by s. 6, ch. 95-403, Laws of Florida.

Section 143. Effective October 1, 2002, sections 351.03, 351.034, 351.35, 351.36, and 351.37, Florida Statutes, are reenacted to read:

351.03 Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darkness.—

(1) Every railroad company shall exercise reasonable care for the safety of motorists whenever its track crosses a highway and shall be responsible for erecting and maintaining crossbuck grade-crossing warning signs in accordance with the uniform system of traffic control devices adopted pursuant to s. 316.0745. Such crossbuck signs shall be erected and maintained at all public or private railroad-highway grade crossings.

(2) Advance railroad warning signs and pavement markings shall be installed and maintained at public railroad-highway grade crossings in accordance with the uniform system of traffic control devices by the governmental entity having jurisdiction over or maintenance responsibility for the highway or street. All persons approaching a railroad-highway grade crossing shall exercise reasonable care for their own safety and for the safety of railroad train crews as well as for the safety of train or vehicle passengers.

(3) Except as provided in subsection (4), any railroad train approaching within 1,500 feet of a public railroad-highway grade crossing shall emit a signal audible for such distance.

(4)(a) The Department of Transportation and the Federal Railroad Administration may authorize a municipality or county to implement a whistle ban provided the following conditions are met:

1. A traffic operations system is implemented to secure railroad-highway grade crossings for the purpose of preventing vehicles from going around, under, or through lowered railroad gates.

2. The municipality or county has in effect an ordinance that unconditionally prohibits the sounding of railroad train horns and whistles during the hours of 10 p.m. and 6 a.m. at all public railroad-highway grade crossings within the municipality or county and where the municipality, county, or state has erected signs at the crossing announcing that railroad train horns and whistles may not be sounded during such hours. Signs so erected shall be in conformance with the uniform system of traffic control devices as specified in s. 316.0745.

(b) Upon final approval and verification by the department and the Federal Railroad Administration that such traffic operations system meets all state and federal safety and traffic regulations and that such railroad-highway grade crossings can be secured, the municipality or county may pass an ordinance prohibiting the sounding of audible warning devices by trains upon approaching such railroad-highway grade crossings between the hours of 10 p.m. and 6 a.m.

(c) Nothing in this subsection shall be construed to nullify the liability provisions of s. 768.28.

(5)(a) Whenever a railroad train engages in a switching operation or stops so as to block a public highway, street, or road at any time from one-half hour after sunset to one-half hour before sunrise, the crew of the railroad train shall cause to be placed a lighted fusee or other visual warning device in both directions from the railroad train upon or at the edge of the pavement of the highway, street, or road to warn approaching motorists of the railroad train blocking the highway, street, or road. However, this subsection does not apply to railroad-highway grade crossings at which there are automatic warning devices properly functioning or at which there is adequate lighting.

(b) A person who violates any provision of paragraph (a) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

351.034 Railroad-highway grade crossings to be cleared for emergency vehicles.—Except for trains or equipment stopped due to mechanical failure where separation or movement is not possible, any train or equipment that has come to a complete stop and is blocking a railroad-highway grade crossing must be cut, separated, or moved to clear the crossing upon the approach of any emergency vehicle, which for the purpose of this law shall be:

(1) An ambulance operated by public authority or by private persons;

(2) A fire engine; or an emergency vehicle operated by power or electric companies; or

(3) Any other vehicle when operated as an emergency vehicle, defined as one which is engaged in the saving of life, property, or responding to any other public peril; or

(4) Emergency vehicles used as such by the Government of the United States; when upon the approach of such emergency vehicle, such vehicle gives due warning of its approach to such crossing by the sounding of sirens, flashing of lights, waving of flag, or any other warning sufficient to attract attention to such emergency vehicle; and thereupon the said train or equipment shall be cut and said crossing shall be cleared with all possible dispatch to permit the crossing and passing through of said emergency vehicle.

351.35 Railroad tracks and related equipment; safety rules; penalties.—

(1) The Department of Transportation shall adopt rules requiring companies operating railroads wholly or in part in the state to maintain tracks and all supportive, related equipment, including locomotives and other rolling stock, of such railroad companies within the state in a safe condition.

(2) If any company operating a railroad either in whole or in part within the state fails to comply with any rule adopted by the department, such company shall thereby incur a penalty as provided for in applicable federal regulations.

351.36 Railroad safety inspections and inspectors.—

(1) The Department of Transportation shall employ competent safety inspectors to inspect the physical conditions of the tracks and all supportive, related equipment, including locomotives and other rolling stock, of any railroad operated wholly or in part in the state. Safety inspectors shall attain Federal Railroad Administration employment qualifications necessary to qualify the state for federal funds.

(2) The inspectors shall report in writing the results of their inspections in the manner and on forms prescribed by the department.

351.37 Railroad safety.—The state shall supplement and not replace the responsibility of the Federal Government in the inspection of physical conditions of railroad facilities within the state to ascertain compliance with federal standards and regulations. Because this is a supplementary program, the state shall not be deemed to be liable for any actions or omissions in inspecting or failing to inspect railroad facilities. The provisions of this act replace all other provisions in the Florida Statutes relating to jurisdiction over railroad safety.

Reviser's note.—Reenacted to conform to the repeal of the s. 11.61 repeal of ss. 351.03-351.37 by s. 4, ch. 91-429, Laws of Florida, and the confirmation of that repeal by s. 33, ch. 96-318, Laws of Florida.

Section 144. Section 354.01, Florida Statutes, is amended to read:

354.01 Appointment of special officers.—Upon the application of any railroad or other common carrier doing business in this state, the Governor shall appoint one or more persons who have met the law enforcement qualifications and training requirements of s. 943.13(1)-(10) as special officers for the protection and safety of such carriers; their passengers and employees; and the property of such carriers, passengers, and employees. ~~Any special officer appointed before October 1, 1982, shall meet the training requirements no later than October 1, 1985.~~

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

Section 145. Effective October 1, 2002, section 354.01, Florida Statutes, is reenacted to read:

354.01 Appointment of special officers.—Upon the application of any railroad or other common carrier doing business in this state, the Governor shall appoint one or more persons who have met the law enforcement qualifications and training requirements of s. 943.13(1)-(10) as special officers for the protection and safety of such carriers; their passengers and employees; and the property of such carriers, passengers, and employees.

Reviser's note.—Reenacted to conform to the repeal of the s. 11.61 repeal of s. 354.01 by s. 4, ch. 91-429, Laws of Florida, and the confirmation of that repeal by s. 33, ch. 96-318, Laws of Florida.

Section 146. Effective October 1, 2002, sections 354.02, 354.03, 354.04, 354.05, and 354.07, Florida Statutes, are reenacted to read:

354.02 Powers.—Each special officer shall have and exercise throughout every county in which the common carrier for which he or she was appointed, shall do business, operate, or own property, the power to make arrests for violation of law on the property of such common carrier, and to arrest persons, whether on or off such carrier's property, violating any law on such carrier's property, under the same conditions under which deputy sheriffs may by law make arrests, and shall have authority to carry weapons for the reasonable purpose of their offices.

354.03 Bond.—Before entering into the performance of his or her duties every such special officer shall enter into a good and sufficient bond payable to the Governor of Florida, and the Governor's successors, in the penal sum of $5,000, with some surety company authorized to do business in this state as surety thereon, conditioned for the faithful performance of his or her duties, and to pay any and all damage done by any illegal act committed by him or her, to be approved by the Department of Banking and Finance.

354.04 Compensation.—Such special officers shall not receive any fees or salary from the state or any county, but their compensation shall be agreed upon and paid by the carrier making such application.

354.05 Term of office; removal.—The special officers provided for herein shall be commissioned by the Governor, and their commissions shall con-

tinue so long as they are employed in such capacity by the railroad or other common carrier; but they shall be removed by the Governor at any time, in the manner and for the causes provided by law.

354.07 Suit for damages on bond.—Any person whose person or property has been damaged by the wrongful act of such special officer may bring suit for the redress of such wrong on the bond of such officer. The remedy provided in this section is not exclusive of any remedy that otherwise may exist.

Reviser's note.—Reenacted to conform to the repeal of the s. 11.61 repeal of ss. 354.02-354.07 by s. 4, ch. 91-429, Laws of Florida, and the confirmation of that repeal by s. 33, ch. 96-318, Laws of Florida.

Section 147. Effective October 1, 2002, section 361.025, Florida Statutes, is reenacted to read:

361.025 Right of eminent domain to railroad companies.—Any railroad company organized under the laws of this state, or organized under the laws of any other state and qualified to do business in this state, shall have the right of eminent domain to enter upon, for survey purposes, any land necessary for the construction, operation, and maintenance of its roads and required facilities and to appropriate the same or any part thereof upon making due compensation according to the procedures set forth in chapters 73 and 74; however, no such company shall have the right of eminent domain with respect to property belonging to the state or any agency thereof. Any railroad company may construct, operate, and maintain its roads and required facilities on such property, subject only to the permitting requirements and reasonable regulations that may be imposed by the public authorities having jurisdiction over such property. The right of eminent domain for the purpose of securing terminal facilities on any waters of this state, including a sufficient amount of land for such facilities, shall be subordinate to the right of the governmental entity wherein the property is located to condemn such property through the exercise of its powers of eminent domain for a public purpose.

Reviser's note.—Reenacted to conform to the repeal of the s. 11.61 repeal of s. 361.025 by s. 4, ch. 91-429, Laws of Florida, and the confirmation of that repeal by s. 33, ch. 96-318, Laws of Florida.

Section 148. Paragraph (c) of subsection (3) and paragraph (b) of subsection (4) 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:

(c) The executive director of the Florida ~~State~~ Community College System or the executive director's designee.

(4)

(b) The board of directors shall ~~meet within 30 days after July 1, 1995, and shall continue to~~ meet at least 4 times each year, upon the call of the chairperson, or at the request of a majority of the membership. The board of directors shall take official action only by consensus.

Reviser's note.—Paragraph (3)(c) is amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida. Paragraph (4)(b) is amended to delete a provision that has served its purpose.

Section 149. Subsections (1) and (3) of section 368.061, Florida Statutes, are amended to read:

368.061 Penalty.—

(1) Any person who violates any provision of this part ~~chapter~~, or any regulation issued hereunder, shall be subject to a civil penalty not to exceed $25,000 for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(3) The commissioners may, at their discretion, cause to be instituted in any court of competent jurisdiction in this state proceedings for injunction against any person subject to the provisions of this part ~~chapter~~ to compel the observance of the provisions of this part ~~chapter~~ or any rule, regulation or requirement of the commission made thereunder.

Reviser's note.—Amended to conform to the division of the chapter into parts incident to the compilation of ch. 92-284, Laws of Florida.

Section 150. Paragraph (e) of subsection (4) of section 370.06, Florida Statutes, 1998 Supplement, is amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(e) The department is authorized to issue special activity licenses in accordance with ss. 370.071, 370.101, and this section; aquaculture permit consolidation procedures in s. 370.26(2) ~~370.26(3)(a)~~; and rules of the Marine Fisheries Commission to permit the capture and possession of saltwater species protected by law and used as stock for artificial cultivation and propagation.

Reviser's note.—Amended to conform to the redesignation of s. 370.26(3)(a) as s. 370.26(2) by s. 14, ch. 98-333, Laws of Florida.

Section 151. Subsection (7) and paragraphs (a) and (h) of subsection (12) of section 370.0605, Florida Statutes, 1998 Supplement, are amended to read:

370.0605 Saltwater fishing license required; fees.—

(7)~~(a) Each county tax collector, as issuing agent for the department, shall submit to the department by January 31, 1997, a report of the sale of, and payment for, all licenses and permits sold between June 1, 1996, and December 31, 1996.~~

~~(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.

(12)(a) Any person cited for a violation of the license requirements of subsection (1) or the permit ~~stamp~~ requirements of s. 370.1111(1)(a) or s. 370.14(10)(a) ~~370.14(11)(a)~~ is guilty of a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $50, in addition to the cost of the amount of the annual license fee or stamp involved in the infraction, except as otherwise provided in this section. The civil penalty for any other noncriminal infraction shall be $50, except as otherwise provided in this section.

(h) ~~Effective October 1, 1991,~~ Any person who fails to pay the civil penalty specified in paragraph (a) within 30 days or who fails to appear before the court is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Subsection (7) and paragraph (12)(h) are amended to delete provisions that have served their purpose. Paragraph (12)(a) is amended to conform to the substitution of permit requirements for stamp requirements in ss. 370.1111 and 370.14 by ss. 8 and 9, ch. 96-300, Laws of Florida, respectively, and to conform to the redesignation of s. 370.14(11)(a) as s. 370.14(10)(a) necessitated by the repeal of former s. 370.14(6) by s. 20, ch. 98-227, Laws of Florida.

Section 152. Subsection (3) of section 370.063, Florida Statutes, is amended to read:

370.063 Special recreational crawfish license.—There is created a special recreational crawfish license, to be issued to qualified persons as provided by this section for the recreational harvest of crawfish (spiny lobster) beginning August 5, 1994.

(3) The holder of a special recreational crawfish license must also possess the recreational crawfish permit ~~stamp~~ required by s. 370.14(10) ~~370.14(11)~~ and the license required by s. 370.0605.

Reviser's note.—Amended to conform to the substitution of recreational crawfish permits for recreational crawfish stamps by s. 9, ch. 96-300, Laws of Florida, and the redesignation of s. 370.14(11) as s. 370.14(10) necessitated by the repeal of former s. 370.14(6) by s. 20, ch. 98-227, Laws of Florida.

Section 153. Subsection (3) and paragraph (b) of subsection (4) of section 370.0821, Florida Statutes, 1998 Supplement, are amended to read:

370.0821 St. Johns County; use of nets.—

(3) No person, firm, or corporation shall use, or cause to be used, any manner of seine net, other than a recreational net as hereafter defined, in the salt waters of St. Johns County, or within 1 mile seaward of the Atlantic Ocean beaches and coast thereof, without a permit issued by the Division of Marine Resources of the Department of Environmental Protection. Applications for such permits shall be made on forms to be supplied by the division, which shall require the applicant to furnish such information as may be deemed pertinent to the best interests of saltwater conservation. The fee for such permits shall be $250 per year. Each permit shall entitle the holder thereof to use no more than one seine net at any one time, subject to the provisions of subsections (1) and, (2), and (3). The division may refuse to grant any permit when it is apparent that the best interests of saltwater conservation will be served by such denial. All permits granted shall be in the holder's possession whenever the holder is engaged in using a seine net. Each permit is subject to immediate revocation upon conviction of a violation of any provision of this section or when it is apparent that the best interests of saltwater conservation will be served by such revocation.

(4)

(b)1. No recreational net may be set or hauled within 100 feet of any other recreational or commercial net.

2. No recreational net shall be used after the hours of sunset and before sunrise between May 1 and September 15 of each year.

3. Unless the user of a recreational net is also a holder of a permit specified in subsection (3) (4), no user of a recreational net shall retain on the beach, in a vehicle on the beach, or in a boat, during the time that such net is in use, more than one bushel container of fish per net in use. All fish in excess of one bushel container per net and all unwanted species taken shall be returned alive to the waters when caught.

Reviser's note.—Subsection (3) is amended to conform to the repeal of former subsection (3) by s. 12, ch. 98-227, Laws of Florida. Paragraph (4)(b) is amended to conform to the redesignation of subsection (4) as subsection (3) necessitated by the repeal of former subsection (3) by s. 12, ch. 98-227.

Section 154. Paragraph (b) of subsection (4) of section 370.12, Florida Statutes, 1998 Supplement, is amended to read:

370.12 Marine animals; regulation.—

(4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(b) Each fiscal year moneys in the Save the Manatee Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to reimburse the cost of activities related to manatee rehabilitation by facilities that rescue, rehabilitate, and release manatees as authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. Such facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operations related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through contractual agreement to each facility for manatee rehabilitation shall be proportionate to the number of manatees under acute care rehabilitation and those released during the previous fiscal year. However, the reimbursement may not exceed the total amount available pursuant to ss. 327.25(11) ~~327.25(7)~~ and 327.28(1)(b) for the purposes provided in this paragraph. Prior to receiving reimbursement for the expenses of rescue, rehabilitation, and release, a facility that qualifies under state and federal regulations shall submit a plan to the Department of Environmental Protection for assisting the department and the Department of Highway Safety and Motor Vehicles in marketing the manatee specialty license plates. At a minimum, the plan shall include provisions for graphics, dissemination of brochures, recorded oral and visual presentation, and maintenance of a marketing exhibit. The plan shall be updated annually and the Department of Environmental Protection shall inspect each marketing exhibit at least once each year to ensure the quality of the exhibit and promotional material. Each facility that receives funds for manatee rehabilitation shall annually provide the department a written report, within 30 days after the close of the state fiscal year, documenting the efforts and effectiveness of the facility's promotional activities.

Reviser's note.—Amended to conform to the redesignation of s. 327.25(7) as s. 327.25(11) by s. 54, ch. 95-333, Laws of Florida.

Section 155. Paragraph (a) of subsection (2) and subsection (9) of section 370.14, Florida Statutes, 1998 Supplement, are amended to read:

370.14 Crawfish; regulation.—

(2)(a) Each trap used for taking or attempting to take crawfish must have a trap number permanently attached to the trap and the buoy. This trap number may be issued by the Division of Law Enforcement upon the receipt of application by the owner of the traps and accompanied by the payment of a fee of $100. The design of the applications and of the trap number shall be determined by the division. ~~However, effective July 1, 1988, and until July 1, 1992, no crawfish trap numbers issued pursuant to this section except those numbers that were active during the 1990-1991 fiscal year shall be renewed or reissued. No new trap numbers shall be issued during this period. Until July 1, 1992, trap number holders or members of their immediate family or a person to whom the trap number was transferred in writing must request renewal of the number prior to June 30 of each year. If a person holding an active trap number or a member of the person's immediate family~~

~~or a person to whom the trap number was transferred in writing does not request renewal of the number before the applicable date as specified above, the department may reissue the number to another applicant in the order of the receipt of the application for a trap number.~~ Any trap or device used in taking or attempting to take crawfish, other than a trap with the trap number attached as prescribed in this paragraph, shall be seized and destroyed by the division. The proceeds of the fees imposed by this paragraph shall be deposited and used as provided in paragraph (b). The Department of Environmental Protection is authorized to promulgate rules and regulations to carry out the intent of this section.

(9) No common carrier or employee of said carrier may carry, knowingly receive for carriage, or permit the carriage of any crawfish of the species Panulirus argus, regardless of where taken, during the closed season, except of the species Panulirus argus lawfully imported from a foreign country for reshipment outside of the territorial limits of the state under United States Customs bond or in accordance with paragraph (7)(a) ~~(8)(a)~~.

Reviser's note.—Paragraph (2)(a) is amended to delete provisions that have served their purpose. Subsection (9) is amended to conform to the redesignation of paragraph (8)(a) as paragraph (7)(a) necessitated by the repeal of former subsection (6) by s. 20, ch. 98-227, Laws of Florida.

Section 156. Paragraphs (b) and (c) of subsection (2) of section 370.142, Florida Statutes, 1998 Supplement, are amended to read:

370.142 Spiny lobster trap certificate program.—

(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.—The Department of Environmental Protection shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:

(b) Trap tags.—Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters shall, in addition to the crawfish trap number required by s. 370.14(2), have affixed thereto an annual trap tag issued by the department. Each such tag shall be made of durable plastic or similar material and shall, ~~beginning with those tags issued for the 1993-1994 season~~ based on the number of certificates held, have stamped thereon the owner's license number. To facilitate enforcement and recordkeeping, such tags shall be issued each year in a color different from that of each of the previous 3 years. ~~A fee of 50 cents per tag issued other than on the basis of a certificate held shall be assessed through March 31, 1993. Until 1995, an annual fee of 50 cents per certificate shall be assessed, and thereafter, until 1998, an annual fee of 75 cents per certificate shall be assessed upon issuance in order to recover administrative costs of the tags and the certificate program. Beginning in 1998,~~ The annual certificate fee shall be $1 per certificate. Replacement tags for lost or damaged tags may be obtained as provided by rule of the department.

(c) Prohibitions; penalties.—

1. It is unlawful for a person to possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. It is unlawful for a person to possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined in rule 46-24.006(2), Florida Administrative Code.

2. It is unlawful for a person to possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.

3. In addition to any other penalties provided in s. 370.021, a commercial harvester, as defined by rule 46-24.002(1), Florida Administrative Code, who violates the provisions of this section, or the provisions relating to traps of chapter 46-24, Florida Administrative Code, shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the department shall assess an additional civil penalty of up to $1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) ~~(7)~~ may be suspended for the remainder of the current license year. For all other first violations, the department shall assess an additional civil penalty of up to $500.

b. For a second violation of subparagraph 1. or subparagraph 2. which occurs within 24 months of any previous such violation, the department shall assess an additional civil penalty of up to $2,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) ~~(7)~~ may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1. or subparagraph 2. which occurs within 36 months of any previous two such violations, the department shall assess an additional civil penalty of up to $5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) ~~(7)~~ for a period of up to 24 months or may revoke the crawfish trap number and, if revoking the crawfish trap number, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 370.021(3)(i) ~~370.021(2)(e)~~.

d. Any person assessed an additional civil penalty pursuant to this section shall within 30 calendar days after notification:

(I) Pay the civil penalty to the department; or

(II) Request an administrative hearing pursuant to the provisions of s. 120.60.

e. The department shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) ~~(7)~~ for any person failing to comply with the provisions of sub-subparagraph d.

4.a. It is unlawful for any person to make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. It is unlawful for any person to knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.

c. It is unlawful for any person to barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or to conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is duly authorized by the department as provided in this chapter or in the rules of the department.

5.a. Any person who violates the provisions of subparagraph 4., or any person who engages in the commercial harvest, trapping, or possession of spiny lobster without a crawfish trap number as required by s. 370.14(2) or (6) ~~(7)~~ or during any period while such crawfish trap number is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. In addition to any penalty imposed pursuant to sub-subparagraph a., the department shall levy a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on any person who violates the provisions of sub-subparagraph 4.c.

6. Any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the department. During any period of trap reduction, any certificates reverting to the department shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the department are to be reallotted in such manner as provided by the department.

7. The proceeds of all civil penalties collected pursuant to subparagraph 3. and all fines collected pursuant to sub-subparagraph 5.b. shall be deposited into the Marine Resources Conservation Trust Fund.

8. All traps shall be removed from the water during any period of suspension or revocation.

Reviser's note.—Paragraph (2)(b) is amended to delete provisions that have served their purpose. Paragraph (2)(c) is amended to conform to the redesignation of s. 370.14(7) as s. 370.14(6) necessitated by the repeal of former s. 370.14(6) by s. 20, ch. 98-227, Laws of Florida, and the redesignation of s. 370.021(2)(e) as s. 370.021(3)(i) by s. 2, ch. 98-227.

Section 157. Paragraph (d) of subsection (2) of section 370.1535, Florida Statutes, is amended to read:

370.1535 Regulation of shrimp fishing in Tampa Bay; licensing requirements.—

(2) The Department of Environmental Protection is authorized to issue a dead shrimp production permit to persons qualified pursuant to the following criteria:

(d) No person shall be issued a permit or be allowed to renew a permit if such person is registered for noncommercial trawling pursuant to s. 370.15(4) ~~370.15(6)~~ or if such person holds a live bait shrimping license issued pursuant to s. 370.15(6) ~~370.15(8)~~.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 370.15 necessitated by the repeal of former s. 370.15(2) and (3) by s. 21, ch. 98-227, Laws of Florida.

Section 158. Section 370.154, Florida Statutes, is amended to read:

370.154 Shrimp regulations; closed areas; suspension of license, etc.—Any person convicted of taking shrimp in a closed area who is punishable under s. 370.15(5) or (6) ~~370.15(7) or (8)~~ shall, in addition to the penalties set forth therein, have his or her permit and the permit of the boat involved in the violation, issued pursuant to s. 370.15(4) ~~370.15(6)~~, revoked, if the person holds such a permit, and he or she shall be ineligible to make application for such a permit for a period of 2 years from the date of such conviction. If a person not having a permit is convicted hereunder, that person and the boat involved in the violation shall not be eligible for such a permit for 5 years.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 370.15 necessitated by the repeal of former s. 370.15(2) and (3) by s. 21, ch. 98-227, Laws of Florida.

Section 159. Subsection (3) of section 372.023, Florida Statutes, is amended to read:

372.023 J. W. Corbett and Cecil M. Webb Wildlife Management Areas.—

(3) Moneys received from the sale of lands within either wildlife management area, less reasonable expenses incident to the sale, shall be used by the Game and Fresh Water Fish Commission to acquire acreage contiguous to the wildlife management area or lands of equal wildlife value. The sale shall be made directly to the state, notwithstanding the procedures of s. ~~ss.~~ 270.08 ~~and 270.09~~ to the contrary.

Reviser's note.—Amended to conform to the repeal of s. 270.09 by s. 513, ch. 94-356, Laws of Florida.

Section 160. Subsection (7) of section 372.561, Florida Statutes, 1998 Supplement, is amended to read:

372.561 Issuance of licenses to take wild animal life or freshwater aquatic life; costs; reporting.—

~~(7)(a) Each county tax collector, as issuing agent for the commission, shall submit to the commission by January 31, 1997, a report of the sale of, and payment for, all licenses and permits sold between June 1, 1996, and December 31, 1996.~~

~~(b) By March 15, 1997, each county tax collector shall provide the commission with a written report, on forms provided by the commission, 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 commission with a written audit report on unissued, sold, and voided licenses, permits, and stamps 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 commission 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.

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

Section 161. Subsection (13) of section 372.57, Florida Statutes, 1998 Supplement, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.

(13) Fees collected pursuant to s. 370.0605(2) for 5-year saltwater fishing licenses, fees collected pursuant to s. 370.0605(6)(e) ~~370.0605(5)(e)~~ for replacement 5-year and lifetime licenses, fees collected pursuant to s. 370.0615 for lifetime saltwater fishing licenses and 30 percent of the fee for the lifetime sportsman's license shall be transferred within 30 days follow-

ing the last day of the month in which the license fees were received by the commission to the Marine Resources Conservation Trust Fund.

Reviser's note.—Amended to facilitate correct interpretation; s. 370.0605(5)(e) does not exist. Section 370.0605(6)(e) pertains to replacement licenses.

Section 162. Section 372.573, Florida Statutes, is amended to read:

372.573 Management area permit revenues.—The commission shall expend the revenue generated from the sale of the management area permit as provided for in s. 372.57(4)(b) ~~372.57(5)(b)~~ or that pro rata portion of any license that includes management area privileges as provided for in s. 372.57(2)(i) ~~372.57(2)(k)~~ and (14)(b) ~~(16)(b)~~ for the lease, management, and protection of lands for public hunting, fishing, and other outdoor recreation.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 372.57 by s. 13, ch. 96-300, Laws of Florida.

Section 163. Subsection (2) of section 372.661, Florida Statutes, is amended to read:

372.661 Private hunting preserve, license; exception.—

(2) A commercial hunting preserve license, which shall exempt patrons of licensed preserves from the licensure requirements of s. 372.57(2)(e), (f), (g), ~~(h),~~ and (i) ~~(k)~~, (4)(a) ~~(5)(a)~~, (c), (d), and (e), (7) ~~(9)~~, (9) ~~(11)~~, and (14)(b) ~~(16)(b)~~ while hunting on the licensed preserve property, shall be $500. Such commercial hunting preserve license shall be available only to those private hunting preserves licensed pursuant to this section which are operated exclusively for commercial purposes, which are open to the public, and for which a uniform fee is charged to patrons for hunting privileges.

Reviser's note.—Amended to conform to the repeal of s. 372.57(2)(h) and the redesignation of other subunits of s. 372.57 by s. 13, ch. 96-300, Laws of Florida.

Section 164. Paragraph (d) of subsection (1) of section 373.036, Florida Statutes, 1998 Supplement, is amended to read:

373.036 Florida water plan; district water management plans.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(20) ~~373.019(21)~~, shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water

resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

Reviser's note.—Amended to facilitate correct interpretation; the water resource implementation rule can be found at s. 373.019(20).

Section 165. Subsection (1) of section 373.0691, Florida Statutes, is amended to read:

373.0691 Transfer of areas.—

(1) At the time of change of boundaries of the respective districts under s. 373.069(3), 1976 Supplement to Florida Statutes 1975, all contractual obligations with respect to an area being transferred to another district shall be assumed by the district receiving such area; all real property interests owned by a district within an area to be transferred shall be conveyed to the district receiving such area; and all equipment, vehicles, other personal property, and records owned, located, and used by a district solely within an area being transferred shall be delivered to the district receiving such area. However, if an area is transferred from a district with a contractual obligation to the United States of America for the operation and maintenance of works within such area, then the deliveries and conveyances required in this section shall be deferred until the United States has approved the assumption of the contractual obligations by the receiving district.

Reviser's note.—Amended to clarify the reference to s. 373.069(3), which appeared at the location and referenced the time of change of boundaries of the districts in the 1976 Supplement.

Section 166. Subsections (2) and (3) of section 373.197, Florida Statutes, are reenacted to read:

373.197 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; measures authorized.—

(2) The Legislature recommends that the authorization provide that the Board of Engineers for Rivers and Harbors, created under s. 3 of the Rivers and Harbors Act, approved June 13, 1902, be directed to review the report of the Chief of Engineers on Central and Southern Florida, published as House Document Numbered 643, Eightieth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendations contained therein and of the system of works constructed pursuant thereto is advisable with respect to questions of the quality of water entering the Kissimmee River and Taylor Creek-Nubbins Slough and Lake Okeechobee therefrom, flood control, recreation, navigation, loss of fish and wildlife resources, other current and foreseeable environmental problems, and loss of environmental amenities in those areas. Potential modification

alternatives, if any, shall include, but not be limited to, consideration of restoration of all or parts of the Kissimmee River below Lake Kissimmee and of the Taylor Creek-Nubbins Slough Basin.

(3) The department and the Water Management District shall also seek to assure that this restudy be conducted by the Corps of Engineers in close cooperation with the Coordinating Council on the Restoration of the Kissimmee River Valley and the Taylor Creek-Nubbins Slough Basin and that the study be responsive to the problems and needs identified by the Coordinating Council and consider development of detailed physical and mathematical models to assess and predict these identified problems.

Reviser's note.—Section 260, ch. 94-356, Laws of Florida, purported to amend s. 373.197, but failed to republish subsections (2) and (3). In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, coupled with the fact that the form of the amendment affirmatively evidenced an intent to retain the existing subsection structure, subsections (2) and (3) are reenacted to confirm that the omission was not intended.

Section 167. Section 373.213, Florida Statutes, is amended to read:

373.213 Certain artesian wells exempt.—Nothing in ss. 373.203, 373.206, 373.209, or s. 373.213 ~~ss. 370.051-370.054~~ shall be construed to apply to an artesian well feeding a lake already in existence prior to June 15, 1953, which lake is used or intended to be used for public bathing and/or the propagation of fish, where the continuous flow of water is necessary to maintain its purity for bathing and the water level of said lake for fish.

Reviser's note.—Amended to conform to the redesignation of the referenced sections incident to the compilation of the Florida Statutes 1957 and the further redesignation of sections pursuant to the directive of the Legislature in s. 25, ch. 73-190, Laws of Florida. Section 370.054, as redesignated s. 373.051, was repealed by s. 1, part VI, ch. 72-299, Laws of Florida.

Section 168. Subsection (1) of section 373.246, Florida Statutes, is amended to read:

373.246 Declaration of water shortage or emergency.—

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. ~~Copies of the water shortage plan shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than October 31, 1983.~~ As a part of this plan the governing board or the department shall adopt a reasonable system of water-use classification according to source of water supply; method of extraction, withdrawal, or diversion; or use of water or a combination thereof. The plan may include provisions for variances and alternative measures to prevent undue hardship and ensure equitable distribution of water resources.

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

Section 169. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate the provisions of this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and consistent permitting approach to activities regulated under this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(29) and may include the special criteria adopted pursuant to s. 403.061(34) ~~403.061(35)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission of proof of financial responsibility which may include the posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Reviser's note.—Amended to conform to the redesignation of s. 403.061(35) as s. 403.061(34) necessitated by the repeal of s. 403.061(33) by s. 26, ch. 97-160, Laws of Florida.

Section 170. Subsection (1) of section 373.421, Florida Statutes, 1998 Supplement, is amended to read:

373.421 Delineation methods; formal determinations.—

(1) ~~By January 1, 1994,~~ The Environmental Regulation Commission shall adopt a unified statewide methodology for the delineation of the extent of wetlands as defined in s. 373.019(22) ~~373.019(23)~~. This methodology shall consider regional differences in the types of soils and vegetation that may serve as indicators of the extent of wetlands. This methodology shall also include provisions for determining the extent of surface waters other than wetlands for the purposes of regulation under s. 373.414. This methodology shall not become effective until ratified by the Legislature. Subsequent to

legislative ratification, the wetland definition in s. 373.019(22) ~~373.019(23)~~ and the adopted wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019(22) ~~373.019(23)~~ and this section. Upon such legislative ratification, any existing wetlands definition or wetland delineation methodology shall be superseded by the wetland definition and delineation methodology established pursuant to this chapter. Subsequent to legislative ratification, a delineation of the extent of a surface water or wetland by the department or a water management district, pursuant to a formal determination under subsection (2), or pursuant to a permit issued under this part in which the delineation was field-verified by the permitting agency and specifically approved in the permit, shall be binding on all other governmental entities for the duration of the formal determination or permit. All existing rules and methodologies of the department, the water management districts, and local governments, regarding surface water or wetland definition and delineation shall remain in full force and effect until the common methodology rule becomes effective. However, this shall not be construed to limit any power of the department, the water management districts, and local governments to amend or adopt a surface water or wetland definition or delineation methodology until the common methodology rule becomes effective.

Reviser's note.—Amended to delete a provision that has served its purpose and to conform to the correct location of the definition of "wetlands" in s. 373.019.

Section 171. Paragraph (a) of subsection (4) and paragraph (e) of subsection (6) of section 373.4592, Florida Statutes, are amended to read:

373.4592 Everglades improvement and management.—

(4) EVERGLADES PROGRAM.—

(a) Everglades Construction Project.—The district shall implement the Everglades Construction Project. By the time of completion of the project, the state, district, or other governmental authority shall purchase the inholdings in the Rotenberger and such other lands necessary to achieve a 2:1 mitigation ratio for the use of Brown's Farm and other similar lands, including those needed for the STA 1 Inflow and Distribution Works. The inclusion of public lands as part of the project is for the purpose of treating waters not coming from the EAA for hydroperiod restoration. It is the intent of the Legislature that the district aggressively pursue the implementation of the Everglades Construction Project in accordance with the schedule in this subsection. The Legislature recognizes that adherence to the schedule is dependent upon factors beyond the control of the district, including the timely receipt of funds from all contributors. The district shall take all reasonable measures to complete timely performance of the schedule in this

section in order to finish the Everglades Construction Project. The district shall not delay implementation of the project beyond the time delay caused by those circumstances and conditions that prevent timely performance. The district shall not levy ad valorem taxes in excess of 0.1 mill within the Okeechobee Basin for the purposes of the design, construction, and acquisition of the Everglades Construction Project. The ad valorem tax proceeds not exceeding 0.1 mill levied within the Okeechobee Basin for such purposes shall be the sole direct district contribution from district ad valorem taxes appropriated or expended for the design, construction, and acquisition of the Everglades Construction Project unless the Legislature by specific amendment to this section increases the 0.1 mill ad valorem tax contribution, increases the agricultural privilege taxes, or otherwise reallocates the relative contribution by ad valorem taxpayers and taxpayers paying the agricultural privilege taxes toward the funding of the design, construction, and acquisition of the Everglades Construction Project. Notwithstanding the provisions of s. 200.069 to the contrary, any millage levied under the 0.1 mill limitation in this paragraph shall be included as a separate entry on the Notice of Proposed Property Taxes pursuant to s. 200.069. Once the STAs are completed, the district shall allow these areas to be used by the public for recreational purposes in the manner set forth in s. 373.59(11) ~~373.59(10)~~, considering the suitability of these lands for such uses. These lands shall be made available for recreational use unless the district governing board can demonstrate that such uses are incompatible with the restoration goals of the Everglades Construction Project or the water quality and hydrological purposes of the STAs or would otherwise adversely impact the implementation of the project. The district shall give preferential consideration to the hiring of agricultural workers displaced as a result of the Everglades Construction Project, consistent with their qualifications and abilities, for the construction and operation of these STAs. The following milestones apply to the completion of the Everglades Construction Project as depicted in the February 15, 1994, conceptual design document:

1. The district must complete the final design of the STA 1 East and West and pursue STA 1 East project components as part of a cost-shared program with the Federal Government. The district must be the local sponsor of the federal project that will include STA 1 East, and STA 1 West if so authorized by federal law. Land acquisition shall be completed for STA 1 West by April 1, 1996, and for STA 1 East by July 1, 1998;

2. Construction of STA 1 East is to be completed under the direction of the United States Army Corps of Engineers in conjunction with the currently authorized C-51 flood control project by July 1, 2002;

3. The district must complete construction of STA 1 West and STA 1 Inflow and Distribution Works under the direction of the United States Army Corps of Engineers, if the direction is authorized under federal law, in conjunction with the currently authorized C-51 flood control project, by January 1, 1999;

4. The district must complete construction of STA 2 by February 1, 1999;

5. The district must complete construction of STA 3/4 by October 1, 2003;

6. The district must complete construction of STA 5 by January 1, 1999; and

7. The district must complete construction of STA 6 by October 1, 1997.

8. East Beach Water Control District, South Shore Drainage District, South Florida Conservancy District, East Shore Water Control District, and the lessee of agricultural lease number 3420 shall complete any system modifications described in the Everglades Construction Project to the extent that funds are available from the Everglades Fund. These entities shall divert the discharges described within the Everglades Construction Project within 60 days of completion of construction of the appropriate STA. Such required modifications shall be deemed to be a part of each district's plan of reclamation pursuant to chapter 298.

(6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

(e) If, for any tax year, the number of acres subject to the Everglades agricultural privilege tax is less than the number of acres included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994, the minimum tax shall be subject to increase in the manner provided in this paragraph. In determining the number of acres subject to the Everglades agricultural privilege tax for purposes of this paragraph, property acquired by a not-for-profit entity for purposes of conservation and preservation, the United States, or the state, or any agency thereof, and removed from the Everglades agricultural privilege tax roll after January 1, 1994, shall be treated as subject to the tax even though no tax is imposed or due: in its entirety, for tax notices mailed prior to November 2000; to the extent its area exceeds 4 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2000 through November 2005; and to the extent its area exceeds 8 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2006 and thereafter. For each tax year, the district shall determine the amount, if any, by which the sum of the following exceeds $12,367,000:

1. The product of the minimum tax multiplied by the number of acres subject to the Everglades agricultural privilege tax; and

2. The ad valorem tax increment, as defined in this subparagraph.

The aggregate of such annual amounts, less any portion previously applied to eliminate or reduce future increases in the minimum tax, as described in this paragraph ~~subparagraph~~, shall be known as the "excess tax amount." If for any tax year, the amount computed by multiplying the minimum tax by the number of acres then subject to the Everglades agricultural privilege tax is less than $12,367,000, the excess tax amount shall be applied in the following manner. If the excess tax amount exceeds such difference, an amount equal to the difference shall be deducted from the excess tax amount and applied to eliminate any increase in the minimum tax. If such difference exceeds the excess tax amount, the excess tax amount shall be applied to reduce any increase in the minimum tax. In such event, a new minimum tax

shall be computed by subtracting the remaining excess tax amount from $12,367,000 and dividing the result by the number of acres subject to the Everglades agricultural privilege tax for such tax year. For purposes of this paragraph ~~subparagraph~~, the "ad valorem tax increment" means 50 percent of the difference between the amount of ad valorem taxes actually imposed by the district for the immediate prior tax year against property included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994 that was not subject to the Everglades agricultural privilege tax during the immediate prior tax year and the amount of ad valorem taxes that would have been imposed against such property for the immediate prior tax year if the taxable value of each acre had been equal to the average taxable value of all other land classified as agricultural within the EAA for such year; however, the ad valorem tax increment for any year shall not exceed the amount that would have been derived from such property from imposition of the minimum tax during the immediate prior tax year.

Reviser's note.—Paragraph (4)(a) is amended to conform to the redesignation of subunits of s. 373.59 by s. 17, ch. 96-389, Laws of Florida. Paragraph (6)(e) is amended to reflect that references to "this subparagraph" occurred in text that is not designated as a subparagraph.

Section 172. Paragraph (a) of subsection (2), subsection (6), and paragraphs (a) and (d) of subsection (14) of section 373.59, Florida Statutes, 1998 Supplement, are amended to read:

373.59 Water Management Lands Trust Fund.—

(2)(a) By January 15 of each year, each district shall file with the Legislature and the Secretary of Environmental Protection a report of acquisition activity together with modifications or additions to its 5-year plan of acquisition. Included in the report shall be an identification of those lands which require a full fee simple interest to achieve water management goals and those lands which can be acquired using alternatives to fee simple acquisition techniques and still achieve such goals. In their evaluation of which lands would be appropriate for acquisition through alternatives to fee simple, district staff shall consider criteria including, but not limited to, acquisition costs, the net present value of future land management costs, the net present value of ad valorem revenue loss to the local government, and the potential for revenue generated from activities compatible with acquisition objectives. The report shall also include a description of land management activity. Expenditure of moneys from the Water Management Lands Trust Fund shall be limited to the costs for acquisition, management, maintenance, and capital improvements of lands included within the 5-year plan as filed by each district and to the department's costs of administration of the fund. The department's costs of administration shall be charged proportionally against each district's allocation using the formula provided in subsection (8) ~~(7)~~. However, no acquisition of lands shall occur without a public hearing similar to those held pursuant to the provisions set forth in s. 120.54. In the annual update of its 5-year plan for acquisition, each district shall identify lands needed to protect or recharge groundwater and shall establish a plan for their acquisition as necessary to protect potable water

supplies. Lands which serve to protect or recharge groundwater identified pursuant to this paragraph shall also serve to protect other valuable natural resources or provide space for natural resource based recreation.

(6) If a district issues revenue bonds or notes under s. 373.584, the district may pledge its share of the moneys in the Water Management Lands Trust Fund as security for such bonds or notes. The Department of Environmental Protection shall pay moneys from the trust fund to a district or its designee sufficient to pay the debt service, as it becomes due, on the outstanding bonds and notes of the district; however, such payments shall not exceed the district's cumulative portion of the trust fund. However, any moneys remaining after payment of the amount due on the debt service shall be released to the district pursuant to subsection (4) ~~(3)~~.

(14)(a) ~~Beginning in fiscal year 1992-1993,~~ Not more than one-fourth of the land management funds provided for in subsections (1) and (9) in any year shall be reserved annually by a governing board, during the development of its annual operating budget, for payment in lieu of taxes to qualifying counties for actual ad valorem tax losses incurred as a result of lands purchased with funds allocated pursuant to s. 259.101(3)(b). In addition, the Northwest Florida Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, and the Suwannee River Water Management District shall pay to qualifying counties payments in lieu of taxes for district lands acquired with funds allocated pursuant to subsection (8). Reserved funds that are not used for payment in lieu of taxes in any year shall revert to the fund to be used for management purposes or land acquisition in accordance with this section.

(d) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years immediately preceding acquisition. ~~For lands purchased prior to July 1, 1992, applications for payment in lieu of taxes shall be made to the districts by January 1, 1993. For lands purchased after July 1, 1992,~~ Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. Payment in lieu of taxes shall be limited to a period of 10 consecutive years of annual payments.

Reviser's note.—Paragraph (2)(a) and subsection (6) are amended to conform to the redesignation of subunits of s. 373.59 by s. 17, ch. 96-389, Laws of Florida. Paragraphs (14)(a) and (d) are amended to delete provisions that have served their purpose.

Section 173. Subsection (1) of section 373.591, Florida Statutes, 1998 Supplement, is amended to read:

373.591 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the names ~~named~~ of the water management districts are

being managed for the purposes for which they were acquired and in accordance with land management objectives, the water management districts shall establish land management review teams to conduct periodic management reviews. The land management review teams shall be composed of the following members:

(a) One individual from the county or local community in which the parcel is located.

(b) One employee of the water management district.

(c) A private land manager mutually agreeable to the governmental agency representatives.

(d) A member of the local soil and water conservation district board of supervisors.

(e) One individual from the Game and Fresh Water Fish Commission.

(f) One individual from the Department of Environmental Protection.

(g) One individual representing a conservation organization.

(h) One individual from the Department of Agriculture and Consumer Services' Division of Forestry.

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

Section 174. Subsection (1) of section 374.976, Florida Statutes, 1998 Supplement, is amended to read:

374.976 Authority to address impacts of waterway development projects.—

(1) Each inland navigation district~~, except the district created pursuant to s. 374.301,~~ is empowered and authorized to undertake programs intended to alleviate the problems associated with its waterway or waterways, including, but not limited to, the following:

(a) The district may act as a local interest sponsor for any project designated as a "Section 107, River and Harbor Act of 1960" project authorized and undertaken by the U.S. Army Corps of Engineers and, in this regard, may comply with any or all conditions imposed on local interests as part of such project.

(b) It is the intent of the Legislature that the district may sponsor or furnish assistance and support to member counties and local governments within the district in planning and carrying out beach renourishment and inlet management projects. Such assistance and support, if financial in nature, shall be contributed only after a finding by the board that inlet management projects are a benefit to public navigation in the district and that the beaches to be nourished have been adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project. Such projects will be consistent with Department of Environmental

Protection approved inlet management plans and the statewide beach management plan pursuant to s. 161.161. Inlet management projects that are determined to be consistent with Department of Environmental Protection approved inlet management plans are declared to be a benefit to public navigation.

(c) The district is authorized to aid and cooperate with the Federal Government, state, member counties, and local governments within the district in planning and carrying out public navigation, local and regional anchorage management, beach renourishment, public recreation, inlet management, environmental education, and boating safety projects, directly related to the waterways. The district is also authorized to enter into cooperative agreements with the United States Army Corps of Engineers, state, and member counties, and to covenant in any such cooperative agreement to pay part of the costs of acquisition, planning, development, construction, reconstruction, extension, improvement, operation, and maintenance of such projects.

(d) The district is authorized to enter into cooperative agreements with navigation-related districts to pay part of the costs of acquisition of spoil disposal sites.

(e) The district is authorized to enter into ecosystem management agreements with the Department of Environmental Protection pursuant to s. 403.075.

Reviser's note.—Amended to conform to the repeal of s. 374.301 by s. 2, ch. 93-265, Laws of Florida.

Section 175. Subsection (3) of section 374.983, Florida Statutes, is amended to read:

374.983 Governing body.—

(3) The officers of the board shall be: one chair, one vice chair, one secretary, and one treasurer; provided, however, that no one person shall be eligible to hold more than one of said offices at one and the same time. The officers shall be elected from the board by the members thereof. Six members of the board of commissioners shall constitute a quorum, and the vote of a majority of such quorum shall be necessary to the transaction of business. Board and committee meetings may be conducted utilizing communications media technology, pursuant to s. 120.54(5)(b)2. ~~120.53(6)~~. The chair shall have the right to vote at all meetings of the board. Special meetings of the board may be called at any time by the chair, with notice thereof to be given to each member of the board.

Reviser's note.—Amended to conform to revisions to chapter 120 by ch. 96-159, Laws of Florida. Material relating to utilization of communications media technology formerly located in s. 120.53(6) is now located in s. 120.54(5)(b)2.

Section 176. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) The moneys on deposit in the Land Acquisition Trust Fund shall be first applied to pay the rentals due under lease-purchase agreements or to meet debt service requirements of revenue bonds issued pursuant to s. 375.051; provided, however, that debt service on Save Our Coast bonds shall not be paid from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 259.032(2)(b) ~~253.023(2)(b)~~.

Reviser's note.—Amended to conform to the transfer of s. 253.023 to s. 259.032 by s. 1, ch. 94-240, Laws of Florida.

Section 177. Paragraph (i) of subsection (4) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(i) Funding of the provisions of ss. 376.305(6) ~~376.305(7)~~ and 376.3072.

The Inland Protection Trust Fund may only be used to fund the activities in ss. 376.30-376.319 except ss. 376.3078 and 376.3079. Amounts on deposit in the Inland Protection Trust Fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (o) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature prior to making or providing for other disbursements from the fund. Nothing in this subsection shall authorize the use of the Inland Protection Trust Fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 shall be presumed not to be excluded from eligibility pursuant to this section.

Reviser's note.—Amended to conform to the redesignation of s. 376.305(7) as s. 376.305(6) by s. 4, ch. 96-277, Laws of Florida.

Section 178. Paragraphs (b) and (c) of subsection (2) of section 376.30711, Florida Statutes, are reenacted to read:

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

(2)

(b) Any contractor performing site rehabilitation program tasks must demonstrate to the department that:

1. The contractor meets all certification and license requirements imposed by law.

2. The contractor has obtained approval of its Comprehensive Quality Assurance Plan prepared under department rules.

(c) The contractor shall certify to the department that such contractor:

1. Complies with applicable OSHA regulations.

2. Maintains workers' compensation insurance for all employees as required by the Florida Workers' Compensation Law.

3. Maintains comprehensive general liability and comprehensive automobile liability insurance with minimum limits of at least $1 million per occurrence and $1 million annual aggregate, as shall protect it from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise from performance of work under the program, designating the state as an additional insured party.

4. Maintains professional liability insurance of at least $1 million per occurrence and $1 million annual aggregate.

5. Has completed and submitted a sworn statement under s. 287.133(3)(a), on public entity crimes.

6. Has the capacity to perform or directly supervise the majority of the work at a site in accordance with s. 489.113(9).

Reviser's note.—Section 15, ch. 97-277, Laws of Florida, purported to amend s. 376.30711(2), but failed to republish paragraphs (2)(b) and (c). In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, coupled with the fact that the form of the amendment affirmatively evidences an intent to preserve the existing paragraph structure, paragraphs (2)(b) and (c) are reenacted to confirm that the omission was not intended.

Section 179. Paragraph (a) of subsection (2) of section 376.3072, Florida Statutes, is amended to read:

376.3072 Florida Petroleum Liability and Restoration Insurance Program.—

(2)(a) Any owner or operator of a petroleum storage system may become an insured in the restoration insurance program at a facility provided:

1. A site at which an incident has occurred shall be eligible for restoration if the insured is a participant in the third-party liability insurance program or otherwise meets applicable financial responsibility requirements. After July 1, 1993, the insured must also provide the required excess insurance coverage or self-insurance for restoration to achieve the financial responsibility requirements of 40 C.F.R. s. 280.97, subpart H, not covered by paragraph (d) ~~(e)~~.

2. A site which had a discharge reported prior to January 1, 1989, for which notice was given pursuant to s. 376.3071(9) or (12), and which is ineligible for the third-party liability insurance program solely due to that discharge shall be eligible for participation in the restoration program for any incident occurring on or after January 1, 1989, in accordance with subsection (3). Restoration funding for an eligible contaminated site will be provided without participation in the third-party liability insurance program until the site is restored as required by the department or until the department determines that the site does not require restoration.

3. Notwithstanding paragraph (b), a site where an application is filed with the department prior to January 1, 1995, where the owner is a small business under s. 288.703(1), a state community college with less than 2,500 FTE, a religious institution as defined by s. 212.08(7)(o)2.a., a charitable institution as defined by s. 212.08(7)(o)2.b., or a county or municipality with a population of less than 50,000, shall be eligible for up to $300,000 of eligible restoration costs, less a deductible of $10,000 for small businesses, eligible community colleges, and religious or charitable institutions, and $30,000 for eligible counties and municipalities, provided that:

a. Except as provided in sub-subparagraph e., the facility was in compliance with department rules at the time of the discharge.

b. The owner or operator has, upon discovery of a discharge, promptly reported the discharge to the department, and drained and removed the system from service, if necessary.

c. The owner or operator has not intentionally caused or concealed a discharge or disabled leak detection equipment.

d. The owner or operator proceeds to complete initial remedial action as defined by department rules.

e. The owner or operator, if required and if it has not already done so, applies for third-party liability coverage for the facility within 30 days of receipt of an eligibility order issued by the department pursuant to this provision.

However, the department may consider in-kind services from eligible counties and municipalities in lieu of the $30,000 deductible. The cost of conducting initial remedial action as defined by department rules shall be an eligible restoration cost pursuant to this provision.

4.a. By January 1, 1997, facilities at sites with existing contamination shall be required to have methods of release detection to be eligible for restoration insurance coverage for new discharges subject to department rules for secondary containment. Annual storage system testing, in conjunction with inventory control, shall be considered to be a method of release detection until the later of December 22, 1998, or 10 years after the date of installation or the last upgrade. Other methods of release detection for storage tanks which meet such requirement are:

(I) Interstitial monitoring of tank and integral piping secondary containment systems;

(II) Automatic tank gauging systems; or

(III) A statistical inventory reconciliation system with a tank test every 3 years.

b. For pressurized integral piping systems, the owner or operator must use:

(I) An automatic in-line leak detector with flow restriction meeting the requirements of department rules used in conjunction with an annual tightness or pressure test; or

(II) An automatic in-line leak detector with electronic flow shut-off meeting the requirements of department rules.

c. For suction integral piping systems, the owner or operator must use:

(I) A single check valve installed directly below the suction pump, provided there are no other valves between the dispenser and the tank; or

(II) An annual tightness test or other approved test.

d. Owners of facilities with existing contamination that install internal release detection systems in accordance with sub-subparagraph a. shall permanently close their external groundwater and vapor monitoring wells in accordance with department rules by December 31, 1998. Upon installation of the internal release detection system, these wells shall be secured and taken out of service until permanent closure.

e. Facilities with vapor levels of contamination meeting the requirements of or below the concentrations specified in the performance standards for release detection methods specified in department rules may continue to use vapor monitoring wells for release detection.

f. The department may approve other methods of release detection for storage tanks and integral piping which have at least the same capability to detect a new release as the methods specified in this subparagraph.

Reviser's note.—Amended to conform to the redesignation of paragraph (e) of s. 376.3072(2) as paragraph (d) by s. 8, ch. 96-277, Laws of Florida.

Section 180. Paragraph (a) of subsection (8) and subsection (12) of section 376.3078, Florida Statutes, 1998 Supplement, are amended to read:

376.3078 Drycleaning facility restoration; funds; uses; liability; recovery of expenditures.—

(8) SCORING SYSTEM APPLICATION.—

(a) If the department determines that a site is eligible for the program, pursuant to this section, then the department shall develop a score for the site in accordance with provisions of subsection (7) ~~(5)~~.

(12) REOPENERS.—Upon completion of site rehabilitation in compliance with subsection (11) ~~(10)~~, additional site rehabilitation is not required unless it is demonstrated:

(a) That fraud was committed in demonstrating site conditions or completion of site rehabilitation;

(b) That new information confirms the existence of an area of previously unknown contamination which exceeds the site-specific rehabilitation levels established in accordance with subsection (4), or which otherwise poses the threat of real and substantial harm to public health, safety, or the environment;

(c) That the remediation efforts failed to achieve the site rehabilitation criteria established under this section;

(d) That the level of risk is increased beyond the acceptable risk established under subsection (4) due to substantial changes in exposure conditions, such as a change in land use from nonresidential to residential use. Any person who changes the land use of the site, thus causing the level of risk to increase beyond the acceptable risk level, may be required by the department to undertake additional remediation measures to assure that human health, public safety, and the environment are protected consistent with this section; or

(e) That a new discharge occurs at the drycleaning site subsequent to a determination of eligibility for participation in the drycleaning program established under this section.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 376.3078 by the reviser incident to compiling the 1998 Supplement to the Florida Statutes 1997.

Section 181. Paragraph (a) of subsection (2) of section 376.30781, Florida Statutes, 1998 Supplement, is amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(2)(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11) ~~376.3078(10)~~, if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

Reviser's note.—Amended to conform to the redesignation of s. 376.3078(10) as s. 376.3078(11) by the reviser necessitated by the inclusion of two subsections numbered (6) in s. 10, ch. 98-189, Laws of Florida.

Section 182. Paragraph (a) of subsection (1) of section 376.82, Florida Statutes, 1998 Supplement, is amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—Any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield rehabilitation program established in ss. 376.77-376.85, subject to the following:

(a) Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. ss. 9601, et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as amended; or under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. s. 6928(h)); or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a postclosure permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation unless specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g) ~~(2)(e)~~. A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g).

Reviser's note.—Amended to facilitate correct interpretation and to conform to usage elsewhere in the paragraph; paragraph (2)(e) does not relate to agreements with the United States Environmental Protection Agency.

Section 183. Paragraphs (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m) of subsection (3) of section 377.703, Florida Statutes, 1998 Supplement, are reenacted to read:

377.703 Additional functions of the Department of Community Affairs; energy emergency contingency plan; federal and state conservation programs.—

(3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.—The Department of Community Affairs shall, in addition to assuming the duties and responsibilities provided by ss. 20.18 and 377.701, perform the following functions consistent with the development of a state energy policy:

(b) The department shall constitute the responsible state agency for performing or coordinating the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.

(c) The department shall analyze present and proposed federal energy programs and make recommendations regarding those programs to the Governor.

(d) The department shall coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and shall be the state agency responsible for the coordination of multiagency energy conservation programs and plans.

(e) The department shall analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Florida Public Service Commission, which shall have responsibility for electricity and natural gas forecasts. To this end, the forecasts shall contain:

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.

2. Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.

3. Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years, to identify strategies for long-range action, including identification of potential social, economic, and environmental effects.

4. An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both.

(h) Promote the development and use of renewable energy resources, in conformance with the provisions of chapter 187 and s. 377.601, by:

1. Establishing goals and strategies for increasing the use of solar energy in this state.

2. Aiding and promoting the commercialization of solar energy technology, in cooperation with the Florida Solar Energy Center, the Department of Commerce, and any other federal, state, or local governmental agency which may seek to promote research, development, and demonstration of solar energy equipment and technology.

3. Identifying barriers to greater use of solar energy systems in this state, and developing specific recommendations for overcoming identified

barriers, with findings and recommendations to be submitted annually in the report to the Legislature required under paragraph (f).

4. In cooperation with the Department of Transportation, the Department of Commerce, the Florida Solar Energy Center, and the Florida Solar Energy Industries Association, investigating opportunities, pursuant to the National Energy Policy Act of 1992 and the Housing and Community Development Act of 1992, for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance this state's position as the leader in solar energy research, development, and use.

5. Undertaking other initiatives to advance the development and use of renewable energy resources in this state.

In the exercise of its responsibilities under this paragraph, the department shall seek the assistance of the solar energy industry in this state and other interested parties and is authorized to enter into contracts, retain professional consulting services, and expend funds appropriated by the Legislature for such purposes.

(i) The department shall promote energy conservation in all energy use sectors throughout the state and shall constitute the state agency primarily responsible for this function. To this end, the department shall coordinate the energy conservation programs of all state agencies and review and comment on the energy conservation programs of all state agencies.

(j) The department shall serve as the state clearinghouse for indexing and gathering all information related to energy programs in state universities, in private universities, in federal, state, and local government agencies, and in private industry and shall prepare and distribute such information in any manner necessary to inform and advise the citizens of the state of such programs and activities. This shall include developing and maintaining a current index and profile of all research activities, which shall be identified by energy area and may include a summary of the project, the amount and sources of funding, anticipated completion dates, or, in case of completed research, conclusions, recommendations, and applicability to state government and private sector functions. The department shall coordinate, promote, and respond to efforts by all sectors of the economy to seek financial support for energy activities. The department shall provide information to consumers regarding the anticipated energy-use and energy-saving characteristics of products and services in coordination with any federal, state, or local governmental agencies as may provide such information to consumers.

(k) The department shall coordinate energy-related programs of state government, including, but not limited to, the programs provided in this section. To this end, the department shall:

1. Provide assistance to other state agencies, counties, municipalities, and regional planning agencies to further and promote their energy planning activities.

2. Require, in cooperation with the Department of Management Services, all state agencies to operate state-owned and state-leased buildings in accordance with energy conservation standards as adopted by the Department of Management Services. Every 3 months, the Department of Management Services shall furnish the department data on agencies' energy consumption in a format mutually agreed upon by the two departments.

3. Promote the development and use of renewable energy resources, energy efficiency technologies, and conservation measures.

4. Promote the recovery of energy from wastes, including, but not limited to, the use of waste heat, the use of agricultural products as a source of energy, and recycling of manufactured products. Such promotion shall be conducted in conjunction with, and after consultation with, the Department of Environmental Protection, the Florida Public Service Commission where electrical generation or natural gas is involved, and any other relevant federal, state, or local governmental agency having responsibility for resource recovery programs.

(l) The department shall develop, coordinate, and promote a comprehensive research plan for state programs. Such plan shall be consistent with state energy policy and shall be updated on a biennial basis.

(m) In recognition of the devastation to the economy of this state and the dangers to the health and welfare of residents of this state caused by Hurricane Andrew, and the potential for such impacts caused by other natural disasters, the department shall include in its energy emergency contingency plan and in the state model energy efficiency building code specific provisions to facilitate the use of cost-effective solar energy technologies as emergency remedial and preventive measures for providing electric power, street lighting, and water heating service in the event of electric power outages.

Reviser's note.—Section 7, ch. 95-328, Laws of Florida, purported to amend subsection (3) of s. 377.703, but did not set out in full the amended subsection to include paragraphs (b)-(m). Paragraph (f) was amended by s. 39, ch. 95-196, Laws of Florida, and paragraph (g) was amended by s. 89, ch. 98-200, Laws of Florida. In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, coupled with the amendment of two of the omitted paragraphs in other legislation and the fact that the amendments by ch. 95-196, ch. 95-328, and ch. 98-200 affirmatively evidence an intent to preserve the existing subsection structure, paragraphs (b)-(e) and (h)-(m) are reenacted to confirm that their omission was not intended.

Section 184. Subsection (9) of section 378.901, Florida Statutes, is amended to read:

378.901 Life-of-the-mine permit.—

(9) Each operator of a mine that has received construction approval in accordance with s. 403.087, s. 403.088, <u>former</u> part VIII of chapter 403, or part IV of chapter 373 in response to an application which was submitted prior to July 1, 1995, may elect either to seek renewal of that permit or to

seek a life-of-the-mine permit for all new or existing activities that require a permit. Life-of-the-mine permit applications for existing fuller's earth mining activities must be reviewed as set forth in s. 373.414(15).

Reviser's note.—Amended to conform to the fact that the only provision in former part VIII of chapter 403 existing at the time the reference was enacted, s. 403.939, expired October 1, 1994, and was repealed by s. 18, ch. 95-145, Laws of Florida.

Section 185. Subsections (4) and (5), paragraphs (b) and (c) of subsection (8), and paragraphs (d) and (g) of subsection (10) of section 380.0555, Florida Statutes, 1998 Supplement, are amended to read:

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(4) REMOVAL OF DESIGNATION.—The state land planning agency may recommend to the Administration Commission the removal of the designation from all or part of the area specified in subsection (3), if it determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the Apalachicola Bay Area, continue to carry out the legislative intent set forth in subsection (2), and are in compliance with the principles for guiding development set forth in subsection (7) ~~(8)~~. If the Administration Commission concurs with the recommendations of the state land planning agency to remove any area from the designation, it shall, within 45 days after receipt of the recommendation, initiate rulemaking to remove the designation. The state land planning agency shall make recommendations to the Administration Commission annually.

(5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section 380.05(1)-(6), (8)-(12), (15), (17), and (21), shall not apply to the area designated by this act for so long as the designation remains in effect. Except as otherwise provided in this act, s. 380.045 shall not apply to the area designated by this act. All other provisions of this chapter shall apply, including ss. 380.07 and 380.11, except that the "local development regulations" in s. 380.05(13) shall include the regulations set forth in subsection (8) ~~(9)~~ for purposes of s. 380.05(13), and the plan or plans submitted pursuant to s. 380.05(14) shall be submitted no later than February 1, 1986. All or part of the area designated by this act may be redesignated pursuant to s. 380.05 as if it had been initially designated pursuant to that section.

(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—

(b) Conflicting regulations.—In the event of any inconsistency between subparagraph (a)1. and subparagraphs (a)2.-11., subparagraph (a)1. shall control. Further, in the event of any inconsistency between subsection (7) ~~(8)~~ and paragraph (a) of this subsection and a development order issued pursuant to s. 380.06, which has become final prior to June 18, 1985, or between subsection (7) ~~(8)~~ and paragraph (a) and an amendment to a final development order, which amendment has been requested prior to April 2, 1985, the

development order or amendment thereto shall control. However, any modification to paragraph (a) enacted by a local government and approved by the Administration Commission pursuant to subsection (9) ~~(10)~~ may provide whether it shall control over an inconsistent provision of a development order or amendment thereto. A development order or any amendment thereto referred to in this paragraph shall not be subject to approval by the Administration Commission pursuant to subsection (9) ~~(10)~~.

(c) Effect of existing plans and regulations.—Legally adopted comprehensive plans and land development regulations other than those listed in this subsection shall remain in full force and effect unless inconsistent with the principles for guiding development set forth in subsection (7) ~~(8)~~, the elements of the comprehensive plan listed in this subsection, or the land development regulations listed in this subsection.

(10) REQUIREMENTS; LOCAL GOVERNMENTS.—

(d) Franklin County and the municipalities within it shall, within 12 months from June 18, 1985, establish by ordinance a map of "pollution-sensitive segments of the critical shoreline" within the Apalachicola Bay Area, which ordinance shall not be effective until approved by the Department of Health and Rehabilitative Services and the Department of Environmental Regulation. Franklin County and the municipalities within it, after the effective date of these ordinances, shall no longer grant permits for onsite wastewater disposal systems in pollution-sensitive segments of the critical shoreline, except for those onsite wastewater systems that will not degrade water quality in the river or bay. These ordinances shall not become effective until approved by the resource planning and management committee. Until such ordinances become effective, the Franklin County Health Department shall not give a favorable recommendation to the granting of a septic tank variance pursuant to section (1) of Ordinance 79-8, adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, or issue a permit for a septic tank or alternative waste disposal system pursuant to Ordinance 81-5, adopted on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, as amended as set forth in subparagraph (8)(a)2. ~~(9)(a)2.~~, unless the Franklin County Health Department certifies, in writing, that the use of such system will be consistent with paragraph (7)(f) ~~(8)(f)~~ and subsection (8) ~~(9)~~.

(g) Franklin County and the municipalities within it shall, beginning 12 months from June 18, 1985, prepare semiannual reports on the implementation of paragraphs (b)-(f) on the environmental status of the Apalachicola Bay Area. The state land planning agency may prescribe additional detailed information required to be reported. Each report shall be delivered to the resource planning and management committee and the state land planning agency for review and recommendations. The state land planning agency shall review each report and consider such reports when making recommendations to the Administration Commission pursuant to subsection (9) ~~(10)~~.

Reviser's note.—Amended to conform to the redesignation of the subunits of s. 380.0555 necessitated by the repeal of former subsection (7) by s. 31, ch. 98-176, Laws of Florida.

Section 186. Section 380.20, Florida Statutes, is amended to read:

380.20 Short title.—Sections 380.205-380.24 ~~and ss. 380.31-380.33~~ may be cited as the "Florida Coastal Management Act."

Reviser's note.—Amended to conform to the repeal of ss. 380.31-380.33 by s. 12, ch. 95-145, Laws of Florida.

Section 187. Section 380.205, Florida Statutes, is amended to read:

380.205 Definitions.—As used in ss. 380.21-380.24 ~~and 380.31-380.33~~:

(1) "Department" means the Department of Community Affairs.

~~(2) "Interagency management committee" means the Coastal Resources Interagency Management Committee established by s. 380.31.~~

(2)~~(3)~~ "Coastal zone" means that area of land and water from the territorial limits seaward to the most inland extent of marine influences. However, for planning and developing coordinated projects and initiatives for coastal resource protection and management, the department shall consider the coastal zone to be the geographical area encompassed by the 35 Florida coastal counties listed in the Final Environmental Impact Statement for the Florida Coastal Management Program and the adjoining territorial sea. It is not the intent of this definition to limit the authority currently exercised under the federal law and the federally approved Florida Coastal Management Program by which projects landward and seaward of the 35 coastal counties are reviewed for consistency with the Florida Coastal Management Program.

Reviser's note.—Amended to conform to the repeal of ss. 380.31-380.33 by s. 12, ch. 95-145, Laws of Florida.

Section 188. Subsection (4) of section 380.22, Florida Statutes, 1998 Supplement, is amended to read:

380.22 Lead agency authority and duties.—

(4) The department shall establish a county-based process for identifying, and setting priorities for acquiring, coastal properties in coordination with the Land Acquisition Advisory Council ~~and the Coastal Resources Interagency Management Committee~~ so these properties may be acquired as part of the state's land acquisition programs. This process shall include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

Reviser's note.—Amended to conform to the repeal of s. 380.31, which created the Coastal Resources Interagency Management Committee, by s. 12, ch. 95-145, Laws of Florida.

Section 189. Section 381.0014, Florida Statutes, is amended to read:

381.0014 Regulations and ordinances superseded.—The rules adopted by the department under the provisions of this chapter shall, as to matters of public health, supersede all rules enacted by other state departments, boards or commissions, or ordinances and regulations enacted by municipalities, except that this chapter does not alter or supersede any of the provisions set forth in chapters 502 and 503 or any rule adopted under the authority of those chapters. ~~Any rules adopted by the department under the provisions of this chapter relating to the sanitary practices for the production, handling, and processing of milk, to dairies, and to milk plants shall be only for the purpose of carrying out the provisions of s. 502.211(3).~~

Reviser's note.—Amended to conform to the repeal of s. 502.211 by s. 14, ch. 94-92, Laws of Florida.

Section 190. Subsection (3) of section 381.0035, Florida Statutes, 1998 Supplement, is amended to read:

381.0035 Educational course on human immunodeficiency virus and acquired immune deficiency syndrome; employees and clients of certain health care facilities.—

(3) Facilities licensed under chapters 393, 394, 395, 397, and parts II, III, IV, and VI ~~I, II, III, and V~~ of chapter 400 shall maintain a record of employees and dates of attendance at human immunodeficiency virus and acquired immune deficiency syndrome educational courses.

Reviser's note.—Amended to conform to the redesignation of the parts of chapter 400 incident to the compilation of ch. 93-177, Laws of Florida.

Section 191. Paragraphs (a) and (b) of subsection (3) of section 381.004, Florida Statutes, 1998 Supplement, are amended to read:

381.004 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(a) No person in this state shall order a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in paragraph (h) ~~(i)~~. Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of the test to the extent provided by law. Information shall also be provided on the fact that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and on the availability and location of sites at which anonymous testing is performed. As required in paragraph (4)(c), each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, phone numbers, and hours of operation of the sites. Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained.

(b) Except as provided in paragraph (h) ~~(i)~~, informed consent must be obtained from a legal guardian or other person authorized by law when the person:

1. Is not competent, is incapacitated, or is otherwise unable to make an informed judgment; or

2. Has not reached the age of majority, except as provided in s. 384.30.

Reviser's note.—Amended to conform to the redesignation of paragraph (3)(i) of s. 381.004 as paragraph (3)(h) by s. 2, ch. 98-171, Laws of Florida.

Section 192. Paragraph (s) of subsection (4) of section 381.0065, Florida Statutes, 1998 Supplement, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a

building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(s) Notwithstanding the provisions of subparagraph (f)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone ~~floor prone~~ areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

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

Section 193. Subsection (2) of section 381.0068, Florida Statutes, 1998 Supplement, is amended to read:

381.0068 Technical review and advisory panel.—

(2) The primary purpose of the panel is to assist the department in rulemaking and decisionmaking by drawing on the expertise of representatives from several groups that are affected by onsite sewage treatment and

disposal systems. The panel may also review and comment on any legislation or any existing or proposed state policy or issue related to onsite sewage ~~sewer~~ treatment and disposal systems. If requested by the panel, the chair will advise any affected person or member of the Legislature of the panel's position on the legislation or any existing or proposed state policy or issue. The chair may also take such other action as is appropriate to allow the panel to function. At a minimum, the panel shall consist of a soil scientist; a professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in onsite sewage treatment and disposal systems; two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems; a representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state; a representative from the real estate industry who is recommended by the Florida Association of Realtors; a consumer representative with a science background; two representatives of the septic tank industry recommended by the Florida Septic Tank Association, including one who is a manufacturer of onsite sewage treatment and disposal systems; and a representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department. Members are to be appointed for a term of 2 years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise. All rules proposed by the department which relate to onsite sewage treatment and disposal systems must be presented to the panel for review and comment prior to adoption. The panel's position on proposed rules shall be made a part of the rulemaking record that is maintained by the agency. The panel shall select a chair, who shall serve for a period of 1 year and who shall direct, coordinate, and execute the duties of the panel. The panel shall also solicit input from the department's variance review and advisory committee before submitting any comments to the department concerning proposed rules. The panel's comments must include any dissenting points of view concerning proposed rules. The panel shall hold meetings as it determines necessary to conduct its business, except that the chair, a quorum of the voting members of the panel, or the department may call meetings. The department shall keep minutes of all meetings of the panel. Panel members shall serve without remuneration, but, if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

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

Section 194. Paragraph (d) of subsection (2) of section 381.0203, Florida Statutes, is amended to read:

381.0203 Pharmacy services.—

(2) The department may establish and maintain a pharmacy services program, including, but not limited to:

(d) Consultation to county health departments as required by s. 154.04(1)(c) ~~154.04(1)(d)~~.

Reviser's note.—Amended to conform to the redesignation of s. 154.04(1)(d) as s. 154.04(1)(c) by s. 15, ch. 96-403, Laws of Florida.

Section 195. Section 408.602, Florida Statutes (renumbered as section 381.732, 1998 Supplement), is amended to read:

381.732 Short title.—Sections 381.731-381.734 ~~408.601-408.604~~ may be cited as the "Healthy Communities, Healthy People Act."

Reviser's note.—Amended to conform to the transfer of ss. 408.601-408.604 to ss. 381.731-381.734 by s. 2, ch. 98-224, Laws of Florida.

Section 196. Section 408.603, Florida Statutes (renumbered as section 381.733, 1998 Supplement), is amended to read:

381.733 Definitions.—As used in ss. 381.731-381.734 ~~408.601-408.604~~, the term:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Primary prevention" means interventions directed toward healthy populations with a focus on avoiding disease prior to its occurrence.

(3) "Secondary prevention" means interventions designed to promote the early detection and treatment of diseases and to reduce the risks experienced by at-risk populations.

(4) "Tertiary prevention" means interventions directed at rehabilitating and minimizing the effects of disease in a chronically ill population.

Reviser's note.—Amended to conform to the transfer of ss. 408.601-408.604 to ss. 381.731-381.734 by s. 2, ch. 98-224, Laws of Florida.

Section 197. Subsection (10) of section 382.003, Florida Statutes, is amended to read:

382.003 Powers and duties of the department.—The department may:

(10) Adopt, promulgate, and enforce rules necessary for the creation, issuance, recording, rescinding, maintenance, and processing of vital records and for carrying out the provisions of ss. 382.004-382.0135 ~~382.004-382.014~~ and ss. 382.016-382.019.

Reviser's note.—Amended to conform to the repeal of s. 382.014 by s. 125, ch. 97-237, Laws of Florida.

Section 198. Section 382.356, Florida Statutes, is amended to read:

382.356 Protocol for sharing certain birth certificate information.—In order to facilitate the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04, or s. 827.04(3) ~~827.04(4)~~, the Department of Health, the Department

of Revenue, and the Florida Prosecuting Attorneys Association shall develop a protocol for sharing birth certificate information for all children born to unmarried mothers who are less than 17 years of age at the time of the child's birth.

Reviser's note.—Amended to revise the reference to s. 827.04(4) as created by s. 2, ch. 96-215, Laws of Florida, to conform to the redesignation of subunits of s. 827.04 by s. 10, ch. 96-322, Laws of Florida.

Section 199. Paragraph (c) of subsection (2) of section 388.4111, Florida Statutes, is amended to read:

388.4111 Public lands; arthropod control.—

(2)

(c) If the land management agency and the local arthropod control agency are unable to agree on a public lands control plan, the Florida Coordinating Council on Mosquito Control may recommend a control plan to the department, which shall propose a recommended public lands control plan. If the land management agency and the local arthropod control agency fail to agree to such recommended public lands control plan within 30 days of the rendering of such plan, either agency may petition the Land and Water Adjudicatory Commission to determine whether the proposed control plan employs methods which are the minimum necessary and economically feasible to abate a public health or nuisance problem and which impose the least hazard to fish, wildlife, and other natural resources protected or managed in such areas. Unless both parties waive their right to a hearing, the Land and Water Adjudicatory Commission shall direct a hearing officer to hold a hearing within the jurisdiction of the local arthropod control agency pursuant to the provisions of ss. 120.569 and 120.57 and submit a recommended order. The commission shall, within 60 days of receipt of the recommended order, issue a final order adopting a public lands control plan. Consistent with s. 120.57(1)(l) ~~120.57(1)(j)~~, the commission may adopt or modify the proposed control plan. The commission shall adopt rules on the conduct of appeals before the commission.

Reviser's note.—Amended to conform to the redesignation of s. 120.57(1)(j) as s. 120.57(1)(l) by s. 5, ch. 98-200, Laws of Florida.

Section 200. Subsection (1) of section 388.46, Florida Statutes, is amended to read:

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.—

(1) ESTABLISHMENT OF COUNCIL; LEGISLATIVE INTENT.—It is declared to be in the best interest of the state that public agencies responsible for and involved in arthropod control activities work together to reduce duplication of effort, foster maximum efficient use of existing resources, advise and assist the agencies involved in arthropod control in implementing best management practices and best available technology in controlling arthropods, develop outside funding sources and establish priorities for research into the environmental effects of arthropod control, and enhance

communication between all interests involved in arthropod control activities. It is therefore the intent of the Legislature to establish the Florida Coordinating Council on Mosquito Control within the department. The Florida Coordinating Council on Mosquito Control shall be an advisory body~~, as defined in s. 11.611(3)(a)~~.

Reviser's note.—Amended to conform to the repeal of s. 11.611 by s. 5, ch. 91-429, Laws of Florida, ratified by s. 33, ch. 96-318, Laws of Florida.

Section 201. Paragraph (b) of subsection (3) of section 390.0111, Florida Statutes, 1998 Supplement, is amended to read:

390.0111 Termination of pregnancies.—

(3) CONSENTS REQUIRED.—A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian.

(b) In the event a medical emergency exists and a physician cannot comply with the requirements for informed consent, a physician may terminate a pregnancy if he or she has obtained at least one corroborative medical opinion attesting to the medical necessity for emergency medical procedures and to the fact that to a reasonable degree of medical certainty the continuation of the pregnancy would threaten the life of the pregnant woman. In the event no second physician is available for a corroborating opinion, the physician may proceed but shall ~~be~~ document reasons for the medical necessity in the patient's medical records.

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

Section 202. Subsection (3) of section 390.0112, Florida Statutes, is amended to read:

390.0112 Termination of pregnancies; reporting.—

(3) Reports submitted pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding. ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

Reviser's note.—Amended to conform to the repeal of s. 119.14 by s. 1, ch. 95-217, Laws of Florida.

Section 203. Subsections (8) and (45) of section 393.063, Florida Statutes, 1998 Supplement, are amended to read:

393.063 Definitions.—For the purposes of this chapter:

(8) "Comprehensive transitional education program" means a group of jointly operating centers or units, the collective purpose of which is to provide a sequential series of educational care, training, treatment, habilita-

tion, and rehabilitation services to persons who have developmental disabilities, as defined in subsection (12) ~~(11)~~, and who have severe or moderate maladaptive behaviors. However, nothing in this subsection shall require comprehensive transitional education programs to provide services only to persons with developmental disabilities, as defined in subsection (12) ~~(11)~~. All such services shall be temporary in nature and delivered in a structured residential setting with the primary goal of incorporating the normalization principle to establish permanent residence for persons with maladaptive behaviors in facilities not associated with the comprehensive transitional education program. The staff shall include psychologists and teachers, and such staff personnel shall be available to provide services in each component center or unit of the program. The psychologists shall be individuals who are licensed in this state and certified as behavior analysts in this state, or individuals who meet the professional requirements established by the department for district behavior analysts and are certified as behavior analysts in this state.

(a) Comprehensive transitional education programs shall include a minimum of two component centers or units, as defined in this paragraph, one of which shall be either an intensive treatment and educational center or a transitional training and educational center, which provide services to persons with maladaptive behaviors in the following sequential order:

1. Intensive treatment and educational center. This component is a self-contained residential unit providing intensive psychological and educational programming for persons with severe maladaptive behaviors, whose behaviors preclude placement in a less restrictive environment due to the threat of danger or injury to themselves or others.

2. Transitional training and educational center. This component is a residential unit for persons with moderate maladaptive behaviors, providing concentrated psychological and educational programming emphasizing a transition toward a less restrictive environment.

3. Community transition residence. This component is a residential center providing educational programs and such support services, training, and care as are needed to assist persons with maladaptive behaviors to avoid regression to more restrictive environments while preparing them for more independent living. Continuous-shift staff shall be required for this component.

4. Alternative living center. This component is a residential unit providing an educational and family living environment for persons with maladaptive behaviors, in a moderately unrestricted setting. Residential staff shall be required for this component.

5. Independent living education center. This component is a facility providing a family living environment for persons with maladaptive behaviors, in a largely unrestricted setting which includes education and monitoring appropriate to support the development of independent living skills by the students.

(b) Centers or units that are components of a comprehensive transitional education program are subject to the license issued to the comprehensive transitional education program and may be located on either single or multiple sites.

(c) Comprehensive transitional education programs shall develop individual education plans for each person with maladaptive behaviors who receives services therein. Such individual education plans shall be developed in accordance with the criteria included in Pub. L. No. 94-142, 20 U.S.C. ss. 401 et seq., and 34 C.F.R. part 300.

(d) In no instance shall the total number of persons with maladaptive behaviors being provided services in a comprehensive transitional education program exceed 120.

(e) This subsection shall authorize licensure for comprehensive transitional education programs which by July 1, 1989:

1. Are in actual operation; or

2. Own a fee simple interest in real property for which a county or city government has approved zoning allowing for the placement of the facilities described in this subsection, and have registered an intent with the department to operate a comprehensive transitional education program.

(45) "Screening," for purposes of employment, contracting, or certification, means the act of assessing the background of direct service providers and independent support coordinators, who are not related to clients for whom they provide services, and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different; and statewide criminal records correspondence checks through the Department of Law Enforcement.

Reviser's note.—Subsection (8) is amended to conform to the redesignation of s. 393.063(11) as s. 393.063(12) by s. 23, ch. 98-171, Laws of Florida. Subsection (45) is amended to improve clarity and facilitate correct interpretation.

Section 204. Subsection (12) of section 393.067, Florida Statutes, 1998 Supplement, is amended to read:

393.067 Licensure of residential facilities and comprehensive transitional education programs.—

(12) An alternative living center and an independent living education center, as defined in s. 393.063(8) ~~393.063(7)~~, shall be subject to the provisions of s. 419.001, except that such centers shall be exempt from the 1,000-foot-radius requirement of s. 419.001(2) if:

(a) Such centers are located on a site zoned in a manner so that all the component centers of a comprehensive transition education center may be located thereon; or

(b) There are no more than three such centers within said radius of 1,000 feet.

Reviser's note.—Amended to conform to the redesignation of s. 393.063(7) as s. 393.063(8) by s. 23, ch. 98-171, Laws of Florida.

Section 205. Subsection (7) of section 394.4787, Florida Statutes, 1998 Supplement, is amended to read:

394.4787 Definitions.—As used in this section and ss. 394.4786, 394.4788, and 394.4789:

(7) "Specialty psychiatric hospital" means a hospital licensed by the agency pursuant to s. 395.002(29) ~~395.002(30)~~ as a specialty psychiatric hospital.

Reviser's note.—Amended to conform to the redesignation of s. 395.002(30) as s. 395.002(29) incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 206. Subsections (11) and (29) of section 395.002, Florida Statutes, 1998 Supplement, are amended to read:

395.002 Definitions.—As used in this chapter:

(11) "General hospital" means any facility which meets the provisions of subsection (13) ~~(14)~~ and which regularly makes its facilities and services available to the general population.

(29) "Specialty hospital" means any facility which meets the provisions of subsection (13) ~~(14)~~, and which regularly makes available either:

(a) The range of medical services offered by general hospitals, but restricted to a defined age or gender group of the population;

(b) A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders; or

(c) Intensive residential treatment programs for children and adolescents as defined in subsection (16).

Reviser's note.—Amended to conform to the redesignation of subsection (14) of s. 395.002 as subsection (13) necessitated by the repeal of former subsection (2) by s. 23, ch. 98-89, Laws of Florida.

Section 207. Subsection (4) of section 395.605, Florida Statutes, is amended to read:

395.605 Emergency care hospitals.—

(4) For the purpose of coordinating primary care services described in s. 154.011(1)(c)10. ~~and aging services described in s. 410.016(2)(n)~~, the department shall treat emergency care hospitals in the same manner as rural hospitals.

Reviser's note.—Amended to conform to the repeal of s. 410.016 by s. 87, ch. 95-418, Laws of Florida.

Section 208. Section 397.405, Florida Statutes, is reenacted and amended to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021(11).

(3) A substance abuse education program established pursuant to s. 233.061.

(4) A facility or institution operated by the Federal Government.

(5) A physician licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) An established and legally cognizable church or nonprofit religious organization, denomination, or sect providing substance abuse services, including prevention services, which are exclusively religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization, denomination, or sect providing any of the licensable service components itemized under s. 397.311(19) is not exempt for purposes of its provision of such licensable service components but retains its exemption with respect to all services which are exclusively religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under s. 393.063(8) ~~393.063(7)~~ that, in addition to providing services to persons who are developmentally disabled as defined therein, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services required to be attended pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291 are exempt from licensure under this chapter. Treatment programs must continue to be licensed under this chapter.

The exemptions from licensure in this section do not apply to any facility or entity which receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. No provision of this chapter shall be construed to limit the practice of a physician licensed under

chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a psychotherapist licensed under chapter 491, providing outpatient or inpatient substance abuse treatment to a voluntary patient, so long as the physician, psychologist, or psychotherapist does not represent to the public that he or she is a licensed service provider under this act. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Section 65, ch. 97-190, Laws of Florida, purported to amend subsection (3) of s. 397.405, but did not set out in full the amended subsection to include the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal the omitted material, s. 397.405 is reenacted to confirm that the omission was not intended. Subsection (9) is amended to conform to the redesignation of s. 393.063(7) as s. 393.063(8) by s. 23, ch. 98-171, Laws of Florida.

Section 209. Subsection (4) of section 400.0067, Florida Statutes, is amended to read:

400.0067 Establishment of State Long-Term Care Ombudsman Council; duties; membership.—

~~(4)(a) Within 30 days after May 5, 1993, each district ombudsman council shall appoint one member to the council and the secretary shall submit a list of not fewer than eight council nominees to the Governor.~~

~~(b) Within 60 days after May 5, 1993, the Governor shall appoint three members to the council, or the provisions of paragraph (3)(a) shall apply.~~

~~(c) The initial appointments shall be for staggered terms. The members from districts 1, 2, 3A, 3B, and 4 shall serve for 1 year; the members from districts 5, 6, 7, 8, and 9 shall serve for 2 years; and the members from districts 10 and 11 and the Governor's three appointees shall serve for 3 years. Thereafter,~~ Members shall be appointed and serve 3-year terms as provided by this section.

~~(d) Within 60 days after May 5, 1993, or as soon thereafter as practicable, the State Long-Term Care Ombudsman Council shall hold its first meeting and shall elect a chairperson from among its members, without regard to the minimum time served on the council. All other provisions of paragraph (3)(c) shall apply.~~

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

Section 210. Paragraph (b) of subsection (1) of section 400.051, Florida Statutes, 1998 Supplement, is amended to read:

400.051 Homes or institutions exempt from the provisions of this part.—

(1) The following shall be exempt from the provisions of this part:

(b) Any hospital, as defined in s. 395.002(11) ~~395.002(10)~~, that is licensed under chapter 395.

Reviser's note.—Amended to conform to the redesignation of the referenced s. 395.002(10) as s. 395.002(11) incident to the compilation of the 1998 Supplement to the Florida Statutes 1997.

Section 211. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident Protection Trust Fund.—

(1) A Resident Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0673(2), 400.062(3)(b), 400.111(1), 400.121(2), and 400.23(9) ~~400.23(8)~~. Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the agency determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the agency determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the agency may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(3)(a)5. ~~252.38(6)(e)~~, or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Reviser's note.—Amended to conform to the correct location of material relating to license fees and administrative fines in s. 400.23 and the redesignation of s. 252.38(6)(e) as s. 252.38(3)(a)5. by s. 14, ch. 93-211, Laws of Florida.

Section 212. Subsection (2) of section 400.417, Florida Statutes, 1998 Supplement, is amended to read:

400.417 Expiration of license; renewal; conditional license.—

(2) A license shall be renewed within 90 days upon the timely filing of an application on forms furnished by the agency and the provision of satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part and adopted rules, including proof that the facility has received a satisfactory firesafety inspection, conducted by the local authority having jurisdiction or the State Fire Marshal, within the preceding 12 months and an affidavit of ~~or~~ compliance with the background screening requirements of s. 400.4174.

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

Section 213. Subsection (2) of section 400.4174, Florida Statutes, 1998 Supplement, is amended to read:

400.4174 Background screening; exemptions; reports of abuse in facilities.—

(2) The owner or administrator of an assisted living facility must conduct level 1 background screening, as set forth in chapter 435, on all employees hired on or after October 1, 1998, who perform personal services as defined in s. 400.402(17) ~~400.402(16)~~. The agency may exempt an individual from employment disqualification as set forth in chapter 435. Such persons shall be considered as having met this requirement if:

(a) Proof of compliance with level 1 screening requirements obtained to meet any professional license requirements in this state is provided and accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

(b) The person required to be screened has been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service which exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old is provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided by the employer retaining documentation of the screening to the person screened.

(c) The person required to be screened is employed by a corporation or business entity or related corporation or business entity that owns, operates, or manages more than one facility or agency licensed under this chapter, and for whom a level 1 screening was conducted by the corporation or business entity as a condition of initial or continued employment.

Reviser's note.—Amended to conform to the redesignation of s. 400.402(16) as s. 400.402(17) by s. 1, ch. 98-80, Laws of Florida.

Section 214. Paragraph (a) of subsection (4) of section 400.4256, Florida Statutes, 1998 Supplement, is amended to read:

400.4256 Assistance with self-administration of medication.—

(4) Assistance with self-administration does not include:

(a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet ~~tabled~~ or crushing a tablet as prescribed.

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

Section 215. Subsection (11) of section 400.426, Florida Statutes, is amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(11) No resident who requires 24-hour nursing supervision, except for a resident who is an enrolled hospice patient pursuant to part VI ~~V~~ of this chapter, shall be retained in a facility licensed under this part.

Reviser's note.—Amended to conform to the redesignation of part V of chapter 400 as part VI incident to the compilation of ch. 93-177, Laws of Florida.

Section 216. Paragraph (a) of subsection (6) of section 400.427, Florida Statutes, 1998 Supplement, is amended to read:

400.427 Property and personal affairs of residents.—

(6)

(a) In addition to any damages or civil penalties to which a person is subject, any person who:

1. Intentionally withholds a resident's personal funds, personal property, or personal needs allowance, or who demands, beneficially receives, or contracts for payment of all or any part of a resident's personal property or personal needs allowance in satisfaction of the facility rate for supplies and services; or

2. Borrows from or pledges any personal funds of a resident, other than the amount agreed to by written contract under s. 400.424,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Prior to the amendment by s. 22, ch. 93-216, Laws of Florida, the language "commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083" was placed flush left following s. 400.427(6)(a)2. The amendment by s. 22, ch. 93-216, placed the language at the end of subparagraph 2.

Section 217. Subsection (2) of section 400.447, Florida Statutes, is amended to read:

400.447 Prohibited acts; penalties for violation.—

(2) It is unlawful for any holder of a license issued pursuant to the provisions of this act to withhold from the agency any evidence of financial instability, including, but not limited to, bad checks, delinquent accounts, nonpayment of withholding taxes, unpaid utility expenses, nonpayment for essential services, or adverse court action concerning the financial viability of the facility or any other facility licensed under part II ~~I~~ or part III ~~II~~ of this chapter which is owned by the licensee.

Reviser's note.—Amended to conform to the redesignation of parts I and II of chapter 400 as parts II and III incident to the compilation of ch. 93-177, Laws of Florida.

Section 218. Subsection (1) of section 400.471, Florida Statutes, 1998 Supplement, is amended to read:

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

(1) Application for an initial license or for renewal of an existing license must be made under oath to the Agency for Health Care Administration on forms furnished by it and must be accompanied by the appropriate license fee as provided in subsection (8) ~~(4)~~. The agency must take final action on an initial licensure application within 60 days after receipt of all required documentation.

Reviser's note.—Amended to conform to the correct location of material relating to license fees in s. 400.471(7) as amended by s. 4, ch. 93-214, Laws of Florida, and the further redesignation of subsection (7) as subsection (8) by s. 48, ch. 98-171, Laws of Florida.

Section 219. Paragraph (a) of subsection (2) of section 400.6085, Florida Statutes, is amended to read:

400.6085 Contractual services.—A hospice may contract out for some elements of its services. However, the core services, as set forth in s. 400.609(1), shall be provided directly by the hospice. Any contract entered into between a hospice and a health care facility or service provider must specify that the hospice retains the responsibility for planning, coordinating, and prescribing hospice care and services for the hospice patient and family. A hospice that contracts for any hospice service is prohibited from charging fees for services provided directly by the hospice care team that duplicate contractual services provided to the patient and family.

(2) With respect to contractual arrangements for inpatient hospice care:

(a) Licensed beds designated for inpatient hospice care through contract between an existing health care facility and a hospice shall not be required to be delicensed from one type of health care in order to enter into a contract with a hospice, nor shall the physical plant of any facility licensed pursuant to chapter 395 or part II ~~I~~ of this chapter be required to be altered, except that a homelike atmosphere may be required.

Reviser's note.—Amended to conform to the redesignation of part I of chapter 400 as part II incident to the compilation of ch. 93-177, Laws of Florida.

Section 220. Subsection (12) of section 400.618, Florida Statutes, 1998 Supplement, is amended to read:

400.618 Definitions.—As used in this part, the term:

(12) "Relative" means an individual who is the father, mother, son, daughter, brother, sister, grandfather, grandmother, great-grandfather, ~~and~~ great-grandmother, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-

law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister of a provider.

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

Section 221. Paragraphs (a), (b), and (d) of subsection (1) of section 400.6196, Florida Statutes, 1998 Supplement, are amended to read:

400.6196 Violations; penalties.—

(1) In addition to any other liability or penalty provided by law, the agency may impose a civil penalty on a provider according to the following classification:

(a) Class I violations are those conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice that constitutes a class I violation must be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. A class I deficiency is subject to an administrative fine in an amount not less <u>than</u> ~~that~~ $500 and not exceeding $1,000 for each violation. A fine may be levied notwithstanding the correction of the deficiency.

(b) Class II violations are those conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the residents, other than class I violations. A class II violation is subject to an administrative fine in an amount not less <u>than</u> ~~that~~ $250 and not exceeding $500 for each violation. A citation for a class II violation must specify the time within which the violation is required to be corrected. If a class II violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(d) Class IV violations are those conditions or occurrences related to the operation and maintenance of an adult family-care home, or related to the required reports, forms, or documents, which do not have the potential of negatively affecting the residents. A provider that does not correct a class IV violation within the time limit specified by the agency is subject to an administrative fine in an amount not less <u>than</u> ~~that~~ $50 and not exceeding $100 for each violation. Any class IV violation that is corrected during the time the agency survey is conducted will be identified as an agency finding and not as a violation.

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

Section 222. Section 402.161, Florida Statutes, is amended to read:

402.161 Authorization for sale of property.—

(1) The Department of Children and Family Services ~~division~~ is authorized to sell any real or personal property that it acquired by way of donation, gift, contribution, bequest, or devise from any person, persons, or organizations when such real or personal property is determined by the department ~~division~~ not to be necessary for use in connection with the work of the department ~~division~~. All proceeds derived from the sale of such property shall be transmitted to the State Treasury to be credited to the department.

(2) The Department of Children and Family Services ~~division~~ is authorized to use for its ~~division~~ purposes any moneys realized from the sale of any such real or personal property. It is expressly declared to be the intention of the Legislature that such moneys are appropriated to the department and may be used by it for its ~~division~~ purposes. However, such moneys shall be withdrawn in accordance with law. Such moneys are appropriated to the use of the department in addition to other funds which have been or may otherwise be appropriated for its ~~division~~ purposes.

Reviser's note.—Amended to conform to the assignment of the functions of the former Division of Family Services to the former Department of Health and Rehabilitative Services by s. 3, ch. 75-48, Laws of Florida, and the subsequent assumption of those functions by the Department of Children and Family Services, created by s. 5, ch. 96-403, Laws of Florida.

Section 223. Paragraphs (b), (d), and (g) of subsection (2) of section 402.3055, Florida Statutes, are amended to read:

402.3055 Child care personnel requirements.—

(2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(2) ~~402.305(1)~~.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. 402.305(2) ~~402.305(1)~~, the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(2) ~~402.305(1)~~ shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

Reviser's note.—Amended to conform to the redesignation of s. 402.305(1) as s. 402.305(2) by s. 2, ch. 91-300, Laws of Florida.

Section 224. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2) ~~402.305(1)~~, and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Reviser's note.—Amended to conform to the redesignation of s. 402.305(1) as s. 402.305(2) by s. 2, ch. 91-300, Laws of Florida.

Section 225. Paragraph (d) of subsection (3) and paragraph (d) of subsection (4) of section 402.308, Florida Statutes, are amended to read:

402.308 Issuance of license.—

(3) STATE ADMINISTRATION OF LICENSING.—In any county in which the department has the authority to issue licenses, the following procedures shall be applied:

(d) The department shall issue or renew a license upon receipt of the license fee and upon being satisfied that all standards required by ss. 402.301-402.319 have been met. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) ~~402.305(1)~~ and 402.3055.

(4) LOCAL ADMINISTRATION OF LICENSING.—In any county in which there is a local licensing agency approved by the department, the following procedures shall apply:

(d) The local licensing agency shall issue a license or renew a license upon being satisfied that all standards required by ss. 402.301-402.319 have been met. A license may be issued or renewed if all the screening materials have been timely submitted; however, the local licensing agency shall not issue or renew a license if any of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) ~~402.305(1)~~ and 402.3055.

Reviser's note.—Amended to conform to the redesignation of s. 402.305(1) as s. 402.305(2) by s. 2, ch. 91-300, Laws of Florida.

Section 226. Section 402.3115, Florida Statutes, 1998 Supplement, is amended to read:

402.3115 Elimination of duplicative and unnecessary inspections; abbreviated inspections.—The Department of Health and Rehabilitative Services and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, the department and the local governmental agencies shall develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local governmental agencies as being key indicators of whether the child care facility continues to provide quality care and programming. ~~The department and local governmental agencies shall conduct the first meeting not later than August 15, 1996, and shall jointly share administrative responsibilities. The department and local governmental agencies shall report to the Legislature not later than January 15, 1997, regarding the status of implementing this section and any recommendations for statutory changes necessary to further reduce duplicative and unnecessary inspections and fully implement the plan for abbreviated inspections.~~

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

Approved by the Governor April 6, 1999.

Filed in Office Secretary of State April 6, 1999.