CHAPTER 2000-151

House Bill No. 1049

An act relating to the Florida Statutes; amending ss. 11.45, 20.12, 20.171, 20.331, 39.001, 39.402, 72.011, 95.091, 110.123, 110.191, 112.317, 112.324, 120.536, 120.545, 120.80, 121.021, 121.031, 121.052, 121.122, 159.804, 159.805, 159.807, 159.81, 163.3187, 175.071, 185.02, 185.06, 185.23, 189.427, 197.343, 201.15, 206.46, 206.609, 207.002, 212.02, 212.054, 212.055, 212.06, and 212.08, F.S.; and reenacting ss. 61.13 and 63.132, F.S., pursuant to s. 11.242, F.S.; 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which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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. Paragraph (a) of subsection (1) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; audits; reports.—

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

(a) "County agency," for the exclusive purposes of this section, means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed. Each county agency is a local governmental entity for purposes of subparagraph (3)(a)5. ~~(3)(a)4.~~

Reviser's note.—Amended to conform to the redesignation of subparagraph (3)(a)4. as subparagraph (3)(a)5. by s. 3, ch. 99-333, Laws of Florida.

Section 2. Subsection (2) of section 20.12, Florida Statutes, is amended to read:

20.12 Department of Banking and Finance.—There is created a Department of Banking and Finance.

(2) As provided in s. 4(d), Art. IV of the State Constitution, the purpose of the Comptroller is to serve as the chief fiscal officer of the state, and he or she shall settle and approve accounts against the state.

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

Section 3. Paragraph (d) of subsection (3) of section 20.171, Florida Statutes, is amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter 110.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4) ~~20.059(4)~~.

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Reviser's note.—Amended to conform to the correct citation to the referenced material; s. 20.059 does not exist.

Section 4. Paragraph (a) of subsection (4) of section 20.331, Florida Statutes, is amended to read:

20.331 Fish and Wildlife Conservation Commission.—

(4)(a) To aid the commission in the implementation of its constitutional and statutory duties, the Legislature authorizes the commission to appoint, fix the salary of, and at its pleasure, remove a person, not a member of the commission, as the executive director. The executive director shall be reimbursed for ~~travel~~ per diem and travel expenses, as provided in s. 112.061, incurred in the discharge of official duties. The executive director shall maintain headquarters and reside in Tallahassee.

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

Section 5. Subsection (7) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(7) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The department shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services Prevention and Intervention of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an

opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department shall establish an interprogram task force comprised of the Assistant Secretary for Children and Family Services, or a designee, a representative from the Children and Families Program Office, a representative from the Alcohol, Drug Abuse, and Mental Health Program Office, a representative from the Developmental Services Program Office, a representative from the Office of Standards and Evaluation, and a representative from the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan

shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the department shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, abandonment, and neglect. The district administrator shall appoint the members of the

task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

Reviser's note.—Amended to conform to the reorganization of divisions of the Department of Health by ch. 99-397, Laws of Florida.

Section 6. Paragraph (b) of subsection (6) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(6)

(b) The shelter petition filed with the court must address each condition required to be determined by the court in paragraphs (8)(a), (b), (d), and (h) ~~(8)(a), (b), (d), and (f)~~.

Reviser's note.—Amended to conform to the redesignation of paragraph (8)(f) as paragraph (8)(h) by s. 12, ch. 99-168, Laws of Florida.

Section 7. Paragraph (b) of subsection (1) of section 61.13, Florida Statutes, is reenacted to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(1)

(b) Each order for child support shall contain a provision for health insurance for the minor child when the insurance is reasonably available. Insurance is reasonably available if either the obligor or obligee has access at a reasonable rate to group insurance. The court may require the obligor either to provide health insurance coverage or to reimburse the obligee for the cost of health insurance coverage for the minor child when coverage is provided by the obligee. In either event, the court shall apportion the cost of coverage, and any noncovered medical, dental, and prescription medication expenses of the child, to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). The court may order that payment of uncovered medical, dental, and prescription medication expenses of the minor child be made directly to the payee on a percentage basis.

1. A copy of the court order for insurance coverage shall be served on the obligor's payor or union by the obligee or the IV-D agency when the following conditions are met:

a. The obligor fails to provide written proof to the obligee or the IV-D agency within 30 days of receiving effective notice of the court order, that the insurance has been obtained or that application for insurability has been made;

b. The obligee or IV-D agency serves written notice of its intent to enforce medical support on the obligor by mail at the obligor's last known address; and

c. The obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the IV-D agency that the insurance coverage existed as of the date of mailing.

2. In cases in which the noncustodial parent provides health care coverage and the noncustodial parent changes employment and the new employer provides health care coverage, the IV-D agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice. Notice to enforce medical coverage under this section shall be served by the IV-D agency upon the obligor by mail at the obligor's last known address. The obligor shall have 15 days from the date of mailing of the notice to contest the notice with the IV-D agency.

3. Upon receipt of the order pursuant to subparagraph 1. or the notice pursuant to subparagraph 2., or upon application of the obligor pursuant to

the order, the payor, union, or employer shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income. If more than one plan is offered by the payor, union, or employer, the child shall be enrolled in the insurance plan in which the obligor is enrolled.

4. The Department of Revenue shall have the authority to adopt rules to implement the child support enforcement provisions of this section.

Reviser's note.—Section 8, ch. 98-397, Laws of Florida, purported to amend paragraph (1)(b), but failed to republish subparagraphs 1.-4. In the absence of affirmative evidence that the Legislature intended to repeal subparagraphs 1.-4., paragraph (1)(b) is reenacted to confirm that the omission was not intended.

Section 8. Paragraph (c) of subsection (1) of section 63.132, Florida Statutes, is reenacted to read:

63.132 Report of expenditures and receipts.—

(1) At least 10 days before the hearing, the petitioner and any intermediary must file two copies of an affidavit containing a full accounting of all disbursements and receipts of anything of value, including professional fees, made or agreed to be made by or on behalf of the petitioner and any intermediary in connection with the adoption. The clerk of the court shall forward a copy of the affidavit to the department. The report must show any expenses or receipts incurred in connection with:

(c) The medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement.

Reviser's note.—Section 15, ch. 92-96, Laws of Florida, purported to amend subsection (1), but failed to republish in full paragraph (c). In the absence of affirmative evidence that the Legislature intended to repeal a portion of paragraph (c), it is reenacted to confirm that the omission was not intended.

Section 9. Paragraph (a) of subsection (1) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1)(a) A taxpayer may contest the legality of any assessment or denial of refund of tax, fee, surcharge, permit, interest, or penalty provided for under s. 125.0104, s. 125.0108, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, chapter 210, chapter 211, chapter 212, chapter 213, chapter 220, chapter 221, s. 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, ~~s. 403.7195,~~ s. 538.09, s. 538.25, chapter 550, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565, chapter 624, or s. 681.117 by filing an action in circuit court; or, alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, s. 120.569, s.

120.57, or s. 120.80(14)(b), no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

Reviser's note.—Amended to conform to the repeal of s. 403.7195 by s. 20, ch. 99-4, Laws of Florida.

Section 10. Paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.—

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

1. For taxes due before July 1, 1999, within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later; and for taxes due on or after July 1, 1999, within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. For taxes due before July 1, 1999, within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. For taxes due before July 1, 1999, at any time after the taxpayer has filed a grossly false return;

5. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a fraudulent return, except that for taxes due on or after July 1, 1999, the limitation prescribed in subparagraph 1. ~~sub-subparagraph a.~~ applies if the taxpayer has disclosed in writing the tax liability to the department before the department has contacted the taxpayer; or

6. In any case in which there has been a refund of tax erroneously made for any reason:

a. For refunds made before July 1, 1999, within 5 years after making such refund; and

b. For refunds made on or after July 1, 1999, within 3 years after making such refund,

or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

Reviser's note.—Amended to conform to the correct citation to the referenced material.

Section 11. Paragraph (g) of subsection (3) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish uniform deductibles, copayments, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of

those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The department ~~division~~ is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department ~~division~~ may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a. through d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department ~~division~~ shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the department ~~division~~ shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the

department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Reviser's note.—Amended to conform to the substitution of the term "department" for the term "division" made elsewhere in the section by s. 6, ch. 99-255, Laws of Florida.

Section 12. Subsection (2) of section 110.191, Florida Statutes, is amended to read:

110.191 State employee leasing.—

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of the state employee lease agreement are comparable as determined by the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. 110.205(2)(k)1.b ~~110.205(2)(k)2~~.

Reviser's note.—Amended to conform to the redesignation of s. 110.205(2)(k)2. as s. 110.205(2)(k)1.b. by s. 30, ch. 99-228, Laws of Florida.

Section 13. Paragraph (c) of subsection (1) of section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

(1) Violation of any provision of this part, including, but not limited to, any failure to file any disclosures required by this part or violation of any standard of conduct imposed by this part, or violation of any provision of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, shall, pursuant to applicable constitutional and statutory procedures, constitute grounds for, and may be punished by, one or more of the following:

(c) In the case of a candidate who violates the provisions of this part or s. 8(a) and (i) ~~8(a) and (h)~~, Art. II of the State Constitution:

1. Disqualification from being on the ballot.

2. Public censure.

3. Reprimand.

4. A civil penalty not to exceed $10,000.

Reviser's note.—Amended to conform to the redesignation of s. 8(h), Art. II of the State Constitution, as s. 8(i) to conform to the addition of a new s. 8(g) by Revision No. 13 (1998).

Section 14. Subsection (7) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations.—

(7) If, in cases pertaining to complaints other than complaints against impeachable officers or members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of s. 8, Art. II of the State Constitution, it shall be the duty of the commission to report its findings and recommend appropriate action to the proper disciplinary official or body as follows, and such official or body shall have the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i) ~~8(a) and (h)~~, Art. II of the State Constitution:

(a) The President of the Senate and the Speaker of the House of Representatives, jointly, in any case concerning the Public Counsel, members of the Public Service Commission, members of the Public Service Commission Nominating Council, the Auditor General, members of the Legislative Committee on Intergovernmental Relations, or members of the Advisory Council on Environmental Education.

(b) The Supreme Court, in any case concerning an employee of the judicial branch.

(c) The President of the Senate, in any case concerning an employee of the Senate; the Speaker of the House of Representatives, in any case concerning an employee of the House of Representatives; or the President and the Speaker, jointly, in any case concerning an employee of a committee of the Legislature whose members are appointed solely by the President and the Speaker or in any case concerning an employee of the Public Counsel, Public Service Commission, Auditor General, Legislative Committee on Intergovernmental Relations, or Advisory Council on Environmental Education.

(d) Except as otherwise provided by this part, the Governor, in the case of any other public officer, public employee, former public officer or public employee, candidate, or former candidate.

(e) The President of the Senate or the Speaker of the House of Representatives, whichever is applicable, in any case concerning a former member of the Legislature who has violated a provision applicable to former members or whose violation occurred while a member of the Legislature.

Reviser's note.—Amended to conform to the redesignation of s. 8(h), Art. II of the State Constitution, as s. 8(i) to conform to the addition of a new s. 8(g) by Revision No. 13 (1998).

Section 15. Paragraph (b) of subsection (2) of section 120.536, Florida Statutes, is amended to read:

120.536 Rulemaking authority; listing of rules exceeding authority; repeal; challenge.—

(2)

(b) By October 1, 1999, each agency shall provide to the Administrative Procedures Committee a listing of each rule, or portion thereof, adopted by that agency before June 18, 1999 ~~the effective date of the bill~~, which exceeds the rulemaking authority permitted by this section. For those rules of which only a portion exceeds the rulemaking authority permitted by this section, the agency shall also identify the language of the rule which exceeds this authority. The Administrative Procedures Committee shall combine the lists and provide the cumulative listing to the President of the Senate and the Speaker of the House of Representatives. The Legislature shall, at the 2000 Regular Session, consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted. By January 1, 2001, each agency shall initiate proceedings pursuant to s. 120.54 to repeal each rule, or portion thereof, identified as exceeding the rulemaking authority permitted by this section for which authorizing legislation does not exist. By February 1, 2001, the Administrative Procedures Committee shall submit to the President of the Senate and the Speaker of the House of Representatives a report identifying those rules that an agency had previously identified as exceeding the rulemaking authority permitted by this section for which proceedings to repeal the rule have not been initiated. As of July 1, 2001, the Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, the agency shall initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Paragraph (b) was enacted by s. 3, ch. 99-379, Laws of Florida. Section 8, ch. 99-379, provided that the act would take effect upon becoming law. Committee Substitute for H.B. 107, which became ch. 99-379, was signed by the Governor on June 18, 1999.

Section 16. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2) ~~120.81(1)(d) and (2)~~, and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, the agency has exceeded the scope of its statutory authority, and the rule was promulgated in compliance with the requirements and limitations of s. 120.54(4).

Reviser's note.—Amended to conform to the redesignation of s. 120.81(1)(d) as s. 120.81(1)(e) by s. 7, ch. 99-379, Laws of Florida.

Section 17. Subsection (7) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES.—Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Children and Family Services in the execution of those social and economic programs administered by the former Division of Family Services of the

former Department of Health and Rehabilitative Services ~~that department~~ prior to the reorganization effected by chapter 75-48, Laws of Florida, need not be conducted by an administrative law judge assigned by the division.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The referenced former Division of Family Services had been a part of the former Department of Health and Rehabilitative Services.

Section 18. Subsection (10) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, or special district of the state, or any city of the state which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d).

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

Section 19. Subsection (1) and paragraph (a) of subsection (3) of section 121.031, Florida Statutes, are amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(1) The Department of Management Services has the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon the department ~~division~~ and to adopt rules as are necessary for the effective and efficient administration of this system. The funds to pay the expenses for administration of the system are hereby appropriated from the interest earned on investments made for the retirement and social security trust funds and the assessments allowed under chapter 650.

(3) The administrator shall cause an actuarial study of the system to be made at least once every 2 years and shall report the results of such study to the Legislature by February 1 prior to the next legislative session.

(a) The study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:

1. The valuation of plan assets shall be based on a 5-year averaging methodology such as that specified in the United States Department of Treasury Regulations, 26 C.F.R. s. 1.412(c)(2)-1, or a similar accepted approach designed to attenuate fluctuations in asset values.

2. The study shall include a narrative explaining the changes in the covered group over the period between actuarial valuations and the impact of those changes on actuarial results.

3. When substantial changes in actuarial assumptions have been made, the study shall reflect the results of an actuarial assumption as of the current date based on the assumptions utilized in the prior actuarial report.

4. The study shall include an analysis of the changes in actuarial valuation results by the factors generating those changes. Such analysis shall reconcile the current actuarial valuation results with those results from the prior valuation.

5. The study shall include measures of funding status and funding progress designed to facilitate the assessment of trends over several actuarial valuations with respect to the overall solvency of the system. Such measures shall be adopted by the department ~~division~~ and shall be used consistently in all actuarial valuations performed on the system.

Reviser's note.—Amended to conform to the transfer of functions of the Division of Retirement to the Department of Management Services by ch. 99-255, Laws of Florida.

Section 20. Paragraph (d) of subsection (5) and paragraph (a) of subsection (7) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected officers.—

(5) UPGRADED SERVICE; PURCHASE OF ADDITIONAL CREDIT.—

(d) Any member of the Florida Retirement System who serves as the elected mayor of a consolidated local government, which government by its charter has chosen status as a municipality rather than a county government for purposes of the state retirement system administered under this chapter, may elect membership in the Elected ~~State and County~~ Officers' Class established by this section for the duration of the term of office. Any such mayor or former mayor shall be eligible for membership in this class for the term of office, provided the member or the local government employer pays the retirement contributions that would have been paid had actual participation commenced at that time, plus interest at 6.5 percent compounded each June 30 from date of participation until date of payment. No retirement credit will be allowed under this subsection for any such service which is used to obtain a benefit under any local retirement system.

(7) CONTRIBUTIONS.—

(a) The following table states the required retirement contribution rates for members of the Elected Officers' Class and their employers in terms of a percentage of the member's gross compensation. A change in a contribution rate is effective with the first salary paid on or after the beginning date of the change. Contributions shall be made or deducted as may be appropriate for each pay period and are in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution Rate Changes	Members	Employers
July 1, 1972, through September 30, 1977		
Legislators	8%	8%
All Other Members	8%	8%
October 1, 1977, through September 30, 1978		
Legislators	8%	8%
All Other Members	4%	12%
October 1, 1978, through September 30, 1979		
Legislators	8%	10.57%
All Other Members	4%	16.78%
October 1, 1979, through September 30, 1981		
Legislators	8%	10.57%
Governor, Lt. Governor, Cabinet Officers	4%	16.78%
All Other Members	0%	20.78%
July 1, 1981, through June 30, 1984		
County Elected Officers	0%	19.30%
July 1, 1984, through September 30, 1984		
County Elected Officers	0%	20.25%
October 1, 1981, through September 30, 1984		
Legislators	0%	19.30%
Governor, Lt. Governor, Cabinet Officers	0%	21.03%
State Attorneys, Public Defenders	0%	20.95%
Justices, Judges	0%	22.55%
October 1, 1984, through September 30, 1986		
Legislators	0%	10.98%
Governor, Lt. Governor, Cabinet Officers	0%	10.98%
State Attorneys, Public Defenders	0%	10.98%
Justices, Judges	0%	21.79%
County Elected Officers	0%	16.97%
October 1, 1986, through December 31, 1988		
Legislators	0%	11.50%
Governor, Lt. Governor, Cabinet Officers	0%	11.50%
State Attorneys, Public Defenders	0%	11.50%
Justices, Judges	0%	20.94%
County Elected Officers	0%	17.19%

Dates of Contribution Rate Changes	Members	Employers
January 1, 1989, through December 31, 1989		
Legislators	0%	13.70%
Governor, Lt. Governor, Cabinet Officers	0%	13.70%
State Attorneys, Public Defenders	0%	13.70%
Justices, Judges	0%	22.58%
County Elected Officers	0%	18.44%
January 1, 1990, through December 31, 1990		
Legislators	0%	15.91%
Governor, Lt. Governor, Cabinet Officers	0%	15.91%
State Attorneys, Public Defenders	0%	15.91%
Justices, Judges	0%	24.22%
County Elected Officers	0%	19.71%
January 1, 1991, through December 31, 1991		
Legislators	0%	17.73%
Governor, Lt. Governor, Cabinet Officers	0%	17.73%
State Attorneys, Public Defenders	0%	17.73%
Justices, Judges	0%	26.63%
County Elected Officers	0%	23.32%
January 1, 1992, through December 31, 1992		
Legislators	0%	19.94%
Governor, Lt. Governor, Cabinet Officers	0%	19.94%
State Attorneys, Public Defenders	0%	19.94%
Justices, Judges	0%	28.27%
County Elected Officers	0%	24.59%
January 1, 1993, through December 31, 1993		
Legislators	0%	22.14%
Governor, Lt. Governor, Cabinet Officers	0%	22.14%
State Attorneys, Public Defenders	0%	22.14%
Justices, Judges	0%	29.91%
County Elected Officers	0%	25.84%
January 1, 1994, through December 31, 1994		
Legislators	0%	22.65%
Governor, Lt. Governor, Cabinet Officers	0%	22.65%
State Attorneys, Public Defenders	0%	22.65%
Justices, Judges	0%	30.52%
County Elected Officers	0%	26.07%

Dates of Contribution Rate Changes	Members	Employers
January 1, 1995, through December 31, 1995		
Legislators	0%	22.80%
Governor, Lt. Governor, Cabinet Officers	0%	22.80%
State Attorneys, Public Defenders	0%	22.80%
Justices, Judges	0%	30.21%
County Elected Officers	0%	27.48%
January 1, 1996, through June 30, 1996		
Legislators	0%	22.90%
Governor, Lt. Governor, Cabinet Officers	0%	22.90%
State Attorneys, Public Defenders	0%	22.90%
Justices, Judges	0%	30.15%
County Elected Officers	0%	27.54%
July 1, 1996, through June 30, 1998		
Legislators	0%	23.07%
Governor, Lt. Governor, Cabinet Officers	0%	23.07%
State Attorneys, Public Defenders	0%	23.07%
Justices, Judges	0%	29.55%
County Elected Officers	0%	27.33%
~~Effective~~ July 1, 1998, through June 30, 1999		
Legislators	0%	22.33%
Governor, Lt. Governor, Cabinet Officers	0%	22.33%
State Attorneys, Public Defenders	0%	22.33%
Justices, Judges	0%	27.21%
County Elected Officers	0%	26.99%
Effective July 1, 1999		
Legislators	0%	14.31%
Governor, Lt. Governor, Cabinet Officers	0%	14.31%
State Attorneys, Public Defenders	0%	14.31%
Justices, Judges	0%	20.48%
County Elected Officers	0%	17.05%

Reviser's note.—Paragraph (5)(d) is amended to conform to the redesignation of the Elected State and County Officers' Class as the Elected Officers' Class by ch. 98-413, Laws of Florida. Paragraph (7)(a) is amended to delete a word that has served its purpose.

Section 21. Paragraph (b) of subsection (3) of section 121.122, Florida Statutes, is amended to read:

121.122 Renewed membership in system.—Except as provided in s. 121.053, effective July 1, 1991, any retiree of a state-administered retirement system who is employed in a regularly established position with a covered employer shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System or, effective July 1, 1997, any retiree of a state-administered retirement system who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055, and shall be entitled to receive an additional retirement benefit, subject to the following conditions:

(3) Such member shall be entitled to purchase additional retirement credit in the Regular Class or the Senior Management Service Class, as applicable, for any postretirement service performed in a regularly established position as follows:

(b) For Senior Management Service Class prior to June 1, 1997, as provided in s. 121.055(1)(j) ~~121.055(1)(i)~~.

The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

Reviser's note.—Amended to conform to the redesignation of s. 121.055(1)(i) as s. 121.055(1)(j) by s. 2, ch. 99-291, Laws of Florida.

Section 22. Subsection (3) of section 159.804, Florida Statutes, is amended to read:

159.804 Allocation of state volume limitation.—The division shall annually determine the amount of private activity bonds permitted to be issued in this state under the Code and shall make such information available upon request to any person or agency. The total amount of private activity bonds authorized to be issued in this state pursuant to the Code shall be initially allocated as follows on January 1 of each year:

(3)(a) Twenty-five percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the Florida Housing Finance Corporation ~~Agency~~ for use in connection with the issuance of housing bonds of that corporation ~~agency~~ or its assigns.

(b) The Florida Housing Finance Corporation ~~Agency~~ need not apply to the division for an allocation of its volume limitation granted under paragraph (a) for bonds it issues prior to July 1 of any year and is not subject to the fee required under s. 159.811. However, for bonds it intends to issue between July 1 and September 29 of any year, utilizing the allocation granted under paragraph (a), the Florida Housing Finance Corporation

~~Agency~~ must submit a notice of intent to issue to the division not later than June 30 of such year, and a written confirmation of allocation shall be granted if a sufficient amount of that allocation is available.

(c) The Florida Housing Finance Corporation ~~Agency~~, in its discretion, may, prior to July 1 of each year, assign any portion of the Florida Housing Finance Corporation ~~Agency~~ allocation to any agency for the issuance of housing bonds, taking into consideration the ability of the agency to timely issue such bonds, the need and public purpose to be served by the issue, and the ability of the agency to comply with the requirements of federal and state law. Such assignment is not effective until receipt by the division of notification of the assignment. A separate allocation from the division is not needed for bonds issued prior to July 1 utilizing such an assignment. An agency that intends to utilize such an assignment to issue housing bonds between July 1 and September 29 of any year must submit a notice of intent to issue to the division for the amount of such assignment not later than June 30, and a written confirmation of allocation shall be granted if a sufficient amount of the allocation under paragraph (a) is available. Any amounts representing assignments of which the division had been notified by the Florida Housing Finance Corporation ~~Agency~~ but for which an issuance report or notice of intent to issue pursuant to this subsection has not been received by the division by June 30 of any year shall be reallocated to the state allocation pool on July 1 of that year.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 23. Paragraph (b) of subsection (5) of section 159.805, Florida Statutes, is amended to read:

159.805 Procedures for obtaining allocations; requirements; limitations on allocations; issuance reports.—

(5)

(b) The issuance report shall be made on a form adopted by the division and must provide such information as the division considers necessary, but must provide at least the name and amount of bonds issued; the date of issuance; the name of the agency issuing such bonds; the purpose for which the bonds were issued, and, for bonds for manufacturing facilities, the product manufactured; the rating on the bonds, if one was obtained; the name, address, phone number, and contact person for any project sponsor or private borrower of bond proceeds; the address of any project and, in addition, the number of residential units if the bonds are for multifamily housing; the name and address of bond counsel, bond underwriter, if any, bond purchaser, if not an underwriter, or placement agency, if any; and, except with respect to housing bonds issued by the Florida Housing Finance Corporation ~~Agency~~ pursuant to s. 159.81, the amount of bond proceeds disbursed at the time of issuance.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 24. Paragraph (b) of subsection (4) of section 159.807, Florida Statutes, is amended to read:

159.807 State allocation pool.—

(4)

(b) This subsection does not apply to the Florida Housing Finance Corporation ~~Agency~~:

1. Until its allocation pursuant to s. 159.804(3) has been exhausted, is unavailable, or is inadequate to provide an allocation pursuant to s. 159.804(3) and any carryforwards of volume limitation from prior years for the same carryforward purpose, as that term is defined in s. 146 of the Code, as the bonds it intends to issue have been completely utilized or have expired.

2. Prior to July 1 of any year, when housing bonds for which the Florida Housing Finance Corporation ~~Agency~~ has made an assignment of its allocation permitted by s. 159.804(3)(c) have not been issued.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 25. Paragraphs (b) and (d) of subsection (2) of section 159.81, Florida Statutes, are amended to read:

159.81 Unused allocations; carryforwards.—

(2) On December 30 of any year, any amount of the state volume limitation not used prior to December 30 to issue bonds as evidenced by receipt by the division of the issuance report, except for that amount of the state volume limitation utilized pursuant to subsection (1) above, shall be applied in the following order of priority:

(b) Thereafter, the Florida Housing Finance Corporation ~~Agency~~ shall use any remaining state volume limitation to issue bonds or carryforward allocation for the issuance of housing bonds.

(d) Then, any amounts not allocated or carried forward shall be reserved for use by the Florida Housing Finance Corporation ~~Agency~~ for mortgage credit certificates, as defined in s. 25 of the Code, to be used in subsequent years as provided by the Code.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 26. Paragraph (j) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(j) Any comprehensive plan amendment to establish public school concurrency pursuant to s. 163.3180(13) ~~163.3180(12)~~, including, but not limited to, adoption of a public school facilities element and adoption of amendments to the capital improvements element and intergovernmental coordination element. In order to ensure the consistency of local government public school facilities elements within a county, such elements shall be prepared and adopted on a similar time schedule.

Reviser's note.—Amended to conform to the redesignation of s. 163.3180(12) as s. 163.3180(13) by s. 4, ch. 99-378, Laws of Florida.

Section 27. Paragraph (b) of subsection (7) of section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(b) Employ an independent actuary, as defined in s. 175.032(7) ~~175.032(4)~~, at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's or special district's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Reviser's note.—Amended to conform to the transfer of the material formerly in s. 175.032(4) to s. 175.032(7) by s. 2, ch. 99-1, Laws of Florida.

Section 28. Subsection (3) of section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:

(3) "Chapter plan" means a separate defined benefit pension plan for police officers which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality as provided in s. 185.08. Except as may be specifically authorized in this chapter, provisions of a chapter plan may not differ from the plan provisions set forth in ss. 185.01-185.341 and 185.37-185.39 ~~185.36-185.42~~. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 185.221(1)(b).

Reviser's note.—Amended to conform to the repeal of ss. 185.36 and 185.40 by ss. 75 and 79, ch. 99-1, Laws of Florida, respectively, and the fact that the referenced s. 185.42 has never existed.

Section 29. Paragraph (b) of subsection (6) of section 185.06, Florida Statutes, is amended to read:

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(6) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(b) Employ an independent actuary, as defined in s. 185.02(8) ~~185.02(5)~~, at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Reviser's note.—Amended to conform to the transfer of the material formerly in s. 185.02(5) to s. 185.02(8) by s. 42, ch. 99-1, Laws of Florida.

Section 30. Subsection (1) of section 185.23, Florida Statutes, is amended to read:

185.23 Duties of Division of Retirement; rulemaking; investment by State Board of Administration.—

(1) The division shall be responsible for the daily oversight and monitoring for actuarial soundness of the municipal police officers' retirement plans, whether chapter or local law plans, established under this chapter, for receiving and holding the premium tax moneys collected under this chapter, and, upon determining compliance with the provisions of ~~on~~ this chapter, for disbursing those moneys to the municipal police officers' retirement plans. The funds to pay the expenses for such administration shall be annually appropriated from the interest and investment income earned on moneys deposited in the trust fund.

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

Section 31. Section 189.427, Florida Statutes, is amended to read:

189.427 Fee schedule; Operating Trust Fund.—The Department of Community Affairs, by rule, shall establish a schedule of fees to pay one-half of the costs incurred by the department in administering this act, except that the fee may not exceed $175 per district per year. The fees collected under this section shall be deposited in the Operating Trust Fund ~~established under s. 290.034~~, which shall be administered by the Department of Community Affairs. Any fee rule must consider factors such as the dependent and independent status of the district and district revenues for the most recent fiscal year as reported to the Department of Banking and Finance. The department may assess fines of not more than $25, with an aggregate total not to exceed $50, as penalties against special districts that fail to remit

required fees to the department. It is the intent of the Legislature that general revenue funds will be made available to the department to pay one-half of the cost of administering this act.

Reviser's note.—Amended to conform to the repeal of s. 290.034 by s. 14, ch. 99-4, Laws of Florida.

Section 32. Subsection (1) of section 197.343, Florida Statutes, is amended to read:

197.343 Tax notices; additional notice required.—

(1) An additional tax notice shall be mailed by April 10 to each taxpayer whose payment has not been received. The notice shall include a description of the property and the following statement: If the taxes for ~~the~~ ...(year)... on your property are not paid, a tax certificate will be sold for these taxes, and your property may be sold at a future date. Contact the tax collector's office at once.

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

Section 33. Paragraph (a) of subsection (7) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(7) Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation ~~Agency~~ for the purposes for which the State Housing Trust Fund was created and exists by law.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 34. Effective July 1, 2001, paragraph (a) of subsection (10) of section 201.15, Florida Statutes, as amended by section 2 of chapter 99-247, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the

extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(10) Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation ~~Agency~~ for the purposes for which the State Housing Trust Fund was created and exists by law.

Reviser's note.—Amended to conform to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation pursuant to s. 7, ch. 97-167, Laws of Florida.

Section 35. Subsection (3) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(3) Through fiscal year 1999-2000, a minimum of 14.3 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, chapter 341, and chapter 343. Beginning in fiscal year 2000-2001, and each year thereafter, a minimum of 15 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007 ~~332.002-332.007~~, chapter 341, and chapter 343.

Reviser's note.—Amended to facilitate correct interpretation and conform to usage elsewhere in the subsection; s. 332.002 does not exist.

Section 36. Subsection (1) and paragraph (b) of subsection (3) of section 206.609, Florida Statutes, are amended to read:

206.609 Transfer of funds to the Agricultural Emergency Eradication Trust Fund.—Moneys transferred to the Agricultural Emergency Eradication Trust Fund pursuant to ss. 206.606 and 206.608 are subject to the following provisions:

(1) If the unobligated balance of the Agricultural Emergency Eradication Trust Fund exceeds $20 million, the transfers provided for in ss. 206.606(1)(c) ~~206.606(1)(d)~~ and 206.608(1) shall be discontinued until the unobligated balance of the trust fund falls below $10 million, at which time such transfers shall be reinstated to return the balance to $20 million.

(3)

(b) Any refunds of the tax imposed under s. 206.41(1)(g) claimed under s. 206.41(4)(c)1. in excess of such refunds claimed during the fiscal year preceding the effective date of this act shall be deducted from the amount

transferred pursuant to s. 206.606(1)(c) ~~206.606(1)(d)~~, during the year the claims are made, to the Agricultural Emergency Eradication Trust Fund.

Reviser's note.—Amended to conform to the redesignation of s. 206.606(1)(d) as s. 206.606(1)(c) necessitated by the repeal of former s. 206.606(1)(c) by s. 4, ch. 98-307, Laws of Florida.

Section 37. Subsection (2) of section 207.002, Florida Statutes, is amended to read:

207.002 Definitions.—As used in this chapter, the term:

(2) "Commercial motor vehicle" means any vehicle not owned or operated by a governmental entity which uses diesel fuel or motor fuel on the public highways; and which has a gross vehicle weight in excess of 26,000 pounds, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,000 pounds gross vehicle weight. The term excludes any vehicle owned or operated by a ~~coordinated~~ community transportation coordinator ~~provider~~ as defined in s. 427.011 or by a private operator that provides public transit services under contract with such a provider.

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 38. Paragraph (a) of subsection (14) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(14)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and includes all such transactions that may be made in lieu of retail sales or sales at retail. A sale for resale includes a sale of qualifying property. As used in this paragraph, the term "qualifying property" means tangible personal property, other than electricity, which is used or consumed by a government contractor in the performance of a qualifying contract as defined in s. 212.08(17)(c) ~~212.06(17)(c)~~, to the extent that the cost of the property is allocated or charged as a direct item of cost to such contract, title to which property vests in or passes to the government under the contract. The term "government contractor" includes prime contractors and subcontractors. As used in this paragraph, a cost is a "direct item of cost" if it is a "direct cost" as defined in 48 C.F.R. s. 9904.418-30(a)(2), or similar successor provisions, including costs identified specifically with a particular contract.

Reviser's note.—Amended to conform to the correct location of the referenced material; the referenced s. 212.06(17)(c) does not exist.

Section 39. Subsection (7) of section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(7)(a) The governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(6) ~~212.055(7)~~ shall notify the department within 10 days after final adoption by ordinance or referendum of an imposition, termination, or rate change of the surtax, but no later than November 16 prior to the effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(6) ~~212.055(7)~~ shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

Reviser's note.—Amended to conform to the redesignation of s. 212.055(7) as s. 212.055(6) necessitated by the repeal of former s. 212.055(6) by s. 4, ch. 99-4, Laws of Florida.

Section 40. Paragraph (i) of subsection (2), paragraph (f) of subsection (3), and paragraph (a) of subsection (4) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(i) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), and (5) ~~(3), (4), (5), and (6)~~ in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(f) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), and (5) ~~(2), (4), (5), and (6)~~ in excess of a combined rate of 1 percent.

(4) INDIGENT CARE SURTAX.—

(a) The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5) ~~or subsection (6)~~, may levy, pursuant to an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

Reviser's note.—Amended to conform to the repeal of former subsection (6) by s. 4, ch. 99-4, Laws of Florida.

Section 41. Paragraph (b) of subsection (8) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(8)

(b) The presumption that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state does not apply to any boat for which a saltwater fishing license fee is required to be paid pursuant to s. 370.0605(2)(b)1., 2., or 3., either directly or indirectly, for the purpose of taking, attempting to take, or possessing any marine fish for noncommercial purposes. Use tax shall apply and be due on such a boat as provided in this paragraph, and proof of payment of such tax must be presented prior to the first such licensure of the boat, registration of the boat pursuant to chapter 328 ~~327~~, and titling of the boat pursuant to chapter 328 ~~that occurs after July 1, 1991~~. A boat that is first licensed within 1 year after purchase shall be subject to use tax on the full amount of the purchase price; a boat that is first licensed in the second year after purchase shall be subject to use tax on 90 percent of the purchase price; a boat that is first licensed in the third year after purchase shall be subject to use tax on 80 percent of the purchase price; a boat that is first licensed in the fourth year after purchase shall be subject to use tax on 70 percent of the purchase price; a boat that is first licensed in the fifth year after purchase shall be subject to use tax on 60 percent of the purchase price; and a boat that is first licensed in the sixth year after purchase, or later, shall be subject to use tax on 50 percent of the purchase price. If the purchaser fails to provide the purchase invoice on such boat, the fair market value of the boat at the time of importation into this state shall be used to compute the tax.

Reviser's note.—Amended to conform to the transfer of provisions relating to vessel registration from chapter 327 to chapter 328 by ch. 99-289, Laws of Florida, and to delete a provision that has served its purpose.

Section 42. Paragraph (t) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapter ~~chapters 327 and~~ 328, pertaining to the registration of vessels, a boat upon which the state sales or use tax has not been paid is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 20 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 20-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, including the time spent on sea trials conducted by the facility. The 20-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 20-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must have in its possession, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat while in the facility. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must, within 72 hours after the date of release, have in its possession a copy of the release form which shows the date of release and any other information the department requires. The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 20-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this chapter; however, the sales tax levied under this chapter applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

Reviser's note.—Amended to conform to the transfer of provisions relating to vessel registration from chapter 327 to chapter 328 by ch. 99-289, Laws of Florida.

Approved by the Governor May 25, 2000.

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