



*State of Florida*

agency for persons with disabilities

*Office of Legislative Affairs*



*2009 Session*  
*Legislative Wrap-Up Report*

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The following bills were passed by the Legislature and will be sent to the Governor for his action. All information is as of May 12, 2009.  
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## **SUBSTANTIVE BILLS**

***The following is an overview of the major substantive bills of interest to the Agency for Persons with Disabilities passed by the Florida Legislature during the 2009 Session***

**[click on the bill number to view bill language](#)**

### **[SB 1660](#) –Agency for Persons with Disabilities [CH 2009--56](#) , Laws of Florida**

The bill amended statutory language by:

- Establishing a prescribed order for the Agency to address the waitlist for waiver services. Beginning July 1, 2010, the agency shall assign and provide priority to clients waiting for waiver services in the following order:
  - ✓ Category 1: includes clients deemed to be in crisis as described by agency rule.
  - ✓ Category 2: includes children on the wait list who are from the child welfare system with an open case in the Department of Children and Family Services' statewide automated child welfare information system.
  - ✓ Category 3: includes, but is not required to be limited to, clients:
    - ◆ Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
    - ◆ At substantial risk of incarceration or court commitment without supports;
    - ◆ Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
    - ◆ Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
  - ✓ Category 4: includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.
  - ✓ Category 5: includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
  - ✓ Category 6: includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.
  - ✓ Category 7: includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

- Requiring that within categories 3, 4, 5, 6, and 7, the agency shall maintain a wait list of clients placed in the order of the date that the client is determined eligible for waiver services. The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. The agency shall remove from the wait list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.
- Granting rule making authority to promulgate rules addressing waitlist categories and procedures.
- Deleting the requirement that all services covered under the current developmental disabilities waiver shall be available to all clients in all tiers where appropriate, except as otherwise provided in this subsection or in the General Appropriations Act.
- Eliminating medication review as a service provided through the waiver.
- Requiring the Agency to develop a plan to eliminate redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating such services.
- Requiring the Agency to develop a plan to reduce the intensity and frequency of supported employment services to clients in stable employment situations who have a documented history of at least 3 years' employment with the same company or in the same industry.
- Eliminating the declining geographic differential for residential habilitation services in Miami-Dade, Broward, and Palm Beach Counties, establishing the rate as 7.5%.
- Eliminating the declining geographic differential for residential habilitation services in Monroe County, establishing the rate as 20%.
- Reenacting the cost plan re-basing as implemented during fiscal year 2008-2009 for fiscal year 2009-2010, requiring the Agency, beginning January 1, 2010, to adjust cost plans to reflect the amount of expenditures for the previous state fiscal year plus 5 percent if such amount is less than the existing cost plan.
  - ✓ The agency may not rebase the cost plan of any client who experiences a significant change in recipient condition or circumstance which results in a change of more than 5 percent to his or her cost plan between July 1 and the date that a rebased cost plan would take effect pursuant to this subsection.
- Changing the word "and" to the word "or", authorizing expenditure of client welfare trust funds for the benefit, education, or welfare of clients.
- Establishing the Prepaid Services for Parents of Children with Developmental Disabilities Study Group to evaluate the establishment of a prepaid service plan for children with disabilities modeled after the Florida prepaid college program. The prepaid service plan would allow funds to be paid into a plan on behalf of a child to provide a voucher for purchasing additional services from a qualified, willing provider upon the child's exit from an exceptional student program. These services would provide support to help the parent retain the benefits to the child of the exceptional student program and to help the child in transitioning to the workforce if possible.

- Establishing membership of the study group to include:
  - ✓ A member of the House of Representatives appointed by the Speaker of the House of Representatives.
  - ✓ A member of the Senate appointed by the President of the Senate.
  - ✓ The director of the Agency for Persons with Disabilities, or designee.
  - ✓ The director of the Division of Vocational Rehabilitation, or designee.
  - ✓ The executive director of the State Board of Administration, or designee.
  - ✓ The Commissioner of Education, or designee.
  - ✓ The executive director of The Arc of Florida, or designee.
  - ✓ An Arc of Florida family board member appointed by the executive director of The Arc of Florida.
  - ✓ The chairperson of the Family Care Council Florida, or designee.
  - ✓ A parent representative from the Family Care Council Florida appointed by the chairperson of the Family Care Council Florida.
- Members of the study group shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, Florida Statutes.
- The members of the study group shall be appointed by July 30, 2009, and shall hold their first meeting by September 1, 2009. The final report of the study group shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 29, 2010. The group is abolished and this section is repealed upon submission of the group's final report.
- Requiring the Agency for Persons with Disabilities to provide administrative support for the study group.
- Requiring the study group to evaluate and develop findings and recommendations regarding the following:
  - ✓ The services for which a voucher could be used.
  - ✓ The financial requirements for such a system.
  - ✓ The qualifications of service providers.
  - ✓ The steps necessary to qualify prepaid service plan funds for a federal waiver match program or other federal funding and the possibilities of such a waiver match or other federal funding.

**Effective Date: July 1, 2009**

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## **APPROPRIATIONS UPDATE**

*The following is an overview of the budget for the Agency for Persons with Disabilities passed by the Florida Legislature during the 2009 Session*

[click on the bill number to view bill language](#)

**[SB 2600](#) – General Appropriations Act  
CH. [2009--81](#), Laws of Florida**

### **Major funding decisions:**

- Funding for Home and Community Services increased by \$8,632,371.
- Funding for Developmental Disabilities Public Facilities increased by \$803,957.
- There were two special member projects included in the Agency's appropriation:
  - ✓ South Florida Autism Charter School – Miami Dade received \$200,000;
  - ✓ Hillsborough Association for Retarded Citizens received \$300,000.
- The Agency was authorized to add up to 2,500 individuals to the Consumer Directed Care Plus Program. Any savings generated are to be used to enroll individuals from the waitlist.
- Medication review services are eliminated effective October 1, 2009. This resulted in a budget reduction of \$301,907.
- The Agency is required to consolidate the purchasing of durable and consumable medical supplies effective January 1, 2010. This resulted in a budget reduction of \$932,093.
- The Agency, in coordination with the Agency for Health Care Administration must seek federal approval to implement a flexible benefit service to each Home and Community Based Waiver provided by the Agency. The flexible benefit service:
  - ✓ Shall to be self-directed and provide the individual with meaningful day activities and support within the home;
  - ✓ Should provide funding at no more than 92% of the individual's projected expenditures for adult day training, companion services, respite care, supported employment, supported living coaching, and in-home support services.
  - ✓ May not authorize an individual to receive simultaneously the flexible benefit service and any of the following services:
    - ◆ Adult day training;
    - ◆ Companion services;
    - ◆ Respite care;
    - ◆ Supported employment;
    - ◆ Supported living coaching, or
    - ◆ In-home support services.
  - ✓ May allow training for the individual or the person authorized to make decisions on behalf of the individual to ensure successful self-direction of flexible benefit services.

- The Agency, in consultation with the Agency for Health Care Administration, must develop a plan to establish individual budgets for individuals enrolled in the home and community based services waivers.
  - ✓ The plan shall provide for the following:
    - ◆ An equitable distribution of available resources among individuals based on an assessment process that includes client characteristics and a valid formal assessment instrument;
    - ◆ Client choice of services and providers once the individual budget is determined;
    - ◆ Any formula necessary to predict resource needs and establish individual budgets;
    - ◆ A recommended role for providers and support coordinators during the assessment process to avoid any potential conflicts of interest;
    - ◆ A proposed schedule for implementation; and
    - ◆ Any suggested statutory revisions necessary to implement individual budgets.
  - ✓ The agency must consider input from stakeholder groups, including self-advocates, family members, service providers, waiver support coordinators, and advocacy organizations in developing the plan.
  - ✓ The plan shall be delivered to the Governor, the chair of the Senate Policy and Steering Committee on Ways and Means, and the chair of the House Full Appropriations Council on General Government & Health Care no later than February 1, 2010.
- Provided funding in the amount of \$5,934,889 to maintain the current geographical differential of 7.5% for residential habilitation services in Broward, Miami-Dade, and Palm Beach Counties and 20% in Monroe County.
- By October 1, 2009, the Agency must submit a plan, to the Southwood Shared Resource Center (SSRC) and the Northwood Shared Resource Center (NSRC) addressing the efficient transfer of all data center service resources allocated to data center functions within the department to the SSRC and NSRC, respectively. These plans shall also be provided to the:
  - ✓ Agency for Enterprise Information Technology;
  - ✓ Executive Office of the Governor;
  - ✓ Chair of the Senate Policy and Steering Committee on Ways and Means, and
  - ✓ Chair of the House Full Appropriations Council on General Government & Health Care.
- The Agency for Persons with Disabilities must purchase pharmaceuticals through the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP), enabling the agency to obtain pharmaceuticals at reduced prices.
- The Agency and the Department of Health must determine the feasibility of consolidating drug repackaging services under the Department of Health's central pharmacy.

- ~~Effective July 1, 2009 the base rate of pay for all employees earning more than \$45,000 annually will be reduced by 2%.~~
  - ✓ ~~No employee's annual base rate of pay will be reduced below \$45,000 as a result of implementation of this pay reduction.~~
  - ✓ ~~For part-time employees, the full-time equivalent value of the base rate of pay shall be used to determine the reduction.~~

The Governor vetoed this language but allowed the budget reduction to remain in state agency budgets. Governor Crist will direct agency heads to manage their salary spending by using their legal authority under section 216.292, Florida Statutes. The statute gives agency heads the flexibility to meet their budget needs by transferring funds from other budget categories. Other steps that may be taken include holding positions vacant and reducing or eliminating non-essential travel and purchases.

- Health insurance and other benefits are to be provided at the current level.

**Effective Date: July 1, 2009**

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## Budget Comparison FY 2008-09 to FY 2009-10 (does not include all items)

	FTE	2008-2009 FUNDS	FTE	2009-2010 FUNDS
<b>Home and Community Services</b>	338		322.5	
Salaries and benefits		\$ 15,152,379		\$ 14,764,870
OPS		\$ 5,129,861		\$ 4,928,576
Expenses		\$ 1,316,901		\$ 2,285,073
OCO		\$ 53,200		\$ 50,513
Individual and Family Supports		\$ 17,836,771		\$ 17,836,771
Room and Board Payments		\$ 4,000,000		\$ 4,000,000
Contracted Services		\$ 6,106,776		\$ 1,950,856
HCBS Waiver		\$ 763,375,972		\$ 849,699,685
<b>Total Home and Community Services</b>	<b>338</b>	<b>\$ 812,971,860</b>	<b>322.5</b>	<b>\$ 895,516,344</b>
<b>Program Management &amp; Compliance</b>	320.5		326	
Salaries and benefits		\$ 18,429,389		\$ 19,002,556
OPS		\$ 448,912		\$ 698,721
Expenses		\$ 2,929,783		\$ 3,179,878
OCO		\$ 46,400		\$ 42,140
Transfer to Div of Admin Hearings		\$ 686,070		\$ 728,683
Contracted Services		\$ 2,223,128		\$ 3,011,044
Home and Com Services Administration		\$ 11,377,928		\$ 7,697,810
Data processing services		\$ 921,292		\$ 921,292
<b>Total Program Manage &amp; Compliance</b>	<b>320.5</b>	<b>\$ 37,062,902</b>	<b>326</b>	<b>\$ 35,282,124</b>
<b>DD Public Facilities</b>	3,057.5		2,754.5	
Salaries and benefits		\$ 114,157,376		\$ 118,413,469
OPS		\$ 2,954,885		\$ 3,349,288
Expenses		\$ 9,308,372		\$ 10,449,598
OCO		\$ 632,342		\$ 798,217
Food Products		\$ 2,684,168		\$ 3,153,598
Contracted Services		\$ 10,325,755		\$ 11,938,295
Prescription Medication		\$ 191,401		\$ 191,401
Salary Incentive Payments		\$ 25,000		\$ 25,000
<b>Total DD Services &amp; Public Facilities</b>	<b>3,057.5</b>	<b>\$ 140,279,299</b>	<b>2,754.5</b>	<b>\$ 148,318,866</b>
<b>Agency Total</b>	<b>3,716</b>	<b>\$ 990,314,061</b>	<b>3,403.5</b>	<b>\$ 1,079,117,334</b>

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## ADMINISTRATIVE BILLS

*The following is an overview of the major administrative bills of interest to the Agency for Persons with Disabilities passed by the Florida Legislature during the 2009 Session*

[click on the bill number to view bill language](#)

### [SB 126](#) - Children/Confidential Records CH. [2009--34](#), Laws of Florida

The bill amended statutory language by:

- Requiring the Department of Children and Family Services to ensure that specified information is made a part of the records of children receiving services.
- Specifying who has access to these records and how that access is controlled.
- Authorizing access to records by employees of a residential home, institution, facility, or agency at which the child resides.
- Specifically authorizing access to the records by APD to enhance access to services.

**Effective Date: July 1, 2009**

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### [HB 135](#) - Public Records/Insured Dependents/Agency Group Plan CH. [2009--104](#), Laws of Florida

The bill amended statutory language by:

- Making personal identifying information of a dependent child of a current or former officer or employee of an agency who is insured by an agency group insurance plan exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
- Applying this exemption to personal identifying information held by an agency before, on, or after the effective date of this exemption.
- Subjecting this exemption to the Open Government Sunset Review Act in accordance with s. 119.15. This exemption will be repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

**Effective Date: July 1, 2009**

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**SB 152 - Home Health Services/Increase Federal Funding  
No Law of Florida Number**

This memorial, sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress urges Congress to:

- Increase federal financial assistance and encourage states to increase financial assistance for, and broaden access to, publicly supported home and community-based services for elders and individuals with disabilities.

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**SB 162 - Electronic Health Records  
CH. 2009--172, Laws of Florida**

The bill amended statutory language by:

- Defining the following terms:
  - ✓ “Electronic health record” means a record of a person’s medical treatment which is created by a licensed health care provider and stored in an interoperable and accessible digital format.
  - ✓ “Qualified electronic health record” means an electronic record of health-related information concerning an individual which includes patient demographic and clinical health information, such as medical history and problem lists, and which has the capacity to provide clinical decision support, to support physician order entry, to capture and query information relevant to health care quality, and to exchange electronic health information with, and integrate such information from, other sources.
  - ✓ “Health record” means any information, recorded in any form or medium, which relates to the past, present, or future health of an individual for the primary purpose of providing health care and health-related services.
  - ✓ “Identifiable health record” means any health record that identifies the patient or with respect to which there is a reasonable basis to believe the information can be used to identify the patient.
- Authorizing a health care provider to release or access an identifiable health record without the patient’s consent for use in the treatment of the patient for an emergency medical condition, as defined in s. 395.002(8), when the health care provider is unable to obtain the patient’s consent or the consent of the patient representative due to the patient’s condition or the nature of the situation requiring immediate medical attention.
- Specifying that a health care provider who releases or accesses an identifiable health record of a patient in any form or medium in good faith is immune from civil liability for accessing or releasing an identifiable health record.
- Requiring the Agency for Health Care Administration to develop forms in paper and electronic formats which may be used by a health care provider to document patient

authorization for the use or release, in any form or medium, of an identifiable health record. The use of this form is not mandatory.

- Requiring a health care provider receiving an authorization form containing a request for the release of an identifiable health record to accept the form as a valid authorization to release an identifiable health record.
- Allowing a health care provider to elect to accept the authorization form in either electronic or paper format or both.
- Requiring the individual or entity submitting the authorization form containing a request for the release of an identifiable health record to determine which format is accepted by the health care provider prior to submitting the form.

**Effective Date: Upon Becoming Law**

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**SB 252 - Local Government/Code of Ethics  
CH. 2009--126, Laws of Florida**

The bill amended statutory language by:

- Defining officers, directors, and chief executive officer of a corporation, partnership, or other business serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, as public officers and employees and making them subject to standards of conduct.
- Establishing the following penalties for violations on the part of persons who are subject to these standards:
  - ✓ Public censure and reprimand.
  - ✓ A civil penalty not to exceed \$10,000.
  - ✓ Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

**Effective Date: July 1, 2009**

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**HB 319 - Recertification of Minority Business Enterprises  
CH. 2009--83, Laws of Florida**

The bill amended statutory language by:

- Changing the period of time that the Office of Supplier Diversity must recertify a minority business from one year to two years.

**Effective Date: July 1, 2009**

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**HB 479 - Retirement**  
**CH. 2009--209 Laws of Florida**

The bill amended statutory language by:

- Redefining the term “termination” to read: For retirements effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination has not occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if the member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as deemed necessary.
- Prohibiting a retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, from renewing membership in the Senior Management Service Optional Annuity Program.
- Allowing a person whose retirement is effective before July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates before July 1, 2010, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, to be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer. However, the person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 12 calendar months immediately subsequent to the date of retirement except for participation in the Deferred Retirement Option Program.
- Allowing a person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, to be reemployed by an employer that participates in a state-administered retirement system. The person may receive retirement benefits and compensation from that employer. However, the person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 6 calendar months after meeting the definition of termination. A DROP participant may continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).
- Requiring the employer to pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the Florida Retirement System in addition to the contributions required by s. 121.76.
- Making a retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer

must have a written statement from the employee that he or she is not retired from a state-administered retirement system. Retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retiree's 6-month reemployment limitation period shall apply toward the repayment of benefits received in violation of this paragraph.

- Making a retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, ineligible for renewed membership.

**Effective Date: July 1, 2009**

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**SB 620 - Health Facilities  
CH. 2009--176 , Laws of Florida**

The bill amended statutory language by:

- Redefining the term “health facility” for the purpose of allowing additional types of health facilities to receive assistance from a health facilities authority. The term now includes any private corporation organized not for profit and authorized by law to provide services for the developmentally disabled under chapter 393.

**Effective Date: Upon Becoming Law**

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**SB 1128 – Education/Children in Shelter Care or Foster Care  
CH. 2009--35, Laws of Florida**

The bill amended statutory language by:

- Expressing the intent of the Legislature that all children with disabilities known to the department, consistent with the Individuals with Disabilities Education Act, have available to them a free, appropriate public education that emphasizes exceptional student education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living and that the rights of children with disabilities are protected.
- Requiring each district school superintendent or dependency court to appoint a surrogate parent for a child who has or is suspected of having a disability if:
  - ✓ After reasonable efforts, no parent can be located; or
  - ✓ A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decision-maker for the child without judicial action.
- Requiring that a surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented.

- Prohibiting the district school superintendent and the court from appointing an employee of the Department of Education, the local school district, a community-based care provider, the Department of Children and Family Services, or any other public or private agency involved in the education or care of the child. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process.
- Authorizing appointment of a court-appointed guardian ad litem or a relative or non-relative adult who is involved in the child's life regardless of whether that person has physical custody of the child as a surrogate parent.
- Requiring that any person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.
- Requiring the district school superintendent to first consider an appointed guardian ad litem when appointing a surrogate parent.
- Requiring the district school superintendent to accept the surrogate appointed by the court if he or she has not previously appointed a surrogate parent.
- Requiring the court to accept a surrogate parent appointed by a district school superintendent if the court has not already made an appointment.
- Requiring that a surrogate parent appointed by the district school superintendent or the court to be accepted by any subsequent school or school district without regard to where the child is receiving residential care.
- Requiring an agency, defined as the Department of Children and Family Services, the Agency for Persons with Disabilities, and the Agency for Health Care Administration to take specified actions when exceptional students are placed in programs in a location crossing school districts.
- Defining "Placement" to mean the funding or arrangement of funding by an agency for all or a part of the cost for an exceptional student to reside in a private residential care facility and the placement crosses school district lines.
- Requiring the agency or private residential care facility licensed by the agency, as appropriate, to provide written notification of the placement to the school district where the student is currently counted for funding purposes and the receiving school district within 10 business days after an exceptional student is placed in a private residential care facility.
- Requiring the receiving school district review the student's individual educational plan (IEP) within 10 business days after receiving the notification to determine if the student's IEP can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district shall:
  - ✓ Provide educational instruction to the student;
  - ✓ Contract with another provider or facility to provide the educational instruction;
  - ✓ Contract with the private residential care facility in which the student resides to provide the educational instruction; or

- ✓ Decline to provide or contract for educational instruction.
- Requiring the school district in which the legal residence of the student is located to provide or contract for the educational instruction to the student if the receiving school district declines to provide or contract for the educational instruction.
- Requiring the Department of Education, in consultation with the agencies and school districts, to develop procedures for written notification to school districts regarding the placement of an exceptional student in a residential care facility. The procedures must:
  - ✓ Provide for written notification of a placement that crosses school district lines; and
  - ✓ Identify the entity responsible for the notification for each facility that is operated, licensed, or regulated by an agency.
- Requiring the State Board of Education to adopt the procedures by rule.
- Requiring the agencies implement the procedures developed by the State Board of Education.
- Requiring the Department of Education and agencies to enter into an agreement for interagency coordination regarding the placement of exceptional students in residential facilities, consistent with federal law and regulations, on or before January 1, 2010. The agreement shall identify the responsibilities of each party and ensure that students receive special education and related services necessary to receive a free appropriate public education. The agreement shall also establish procedures for:
  - ✓ Resolving interagency disputes;
  - ✓ Ensuring the provision of services during the pendency of a dispute; and
  - ✓ Ensuring continued Medicaid eligibility as deemed appropriate.

**Effective Date: July 1, 2009**

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**HB 1405 - Influenza Vaccine  
CH. 2009--147, Laws of Florida**

The bill amended statutory language by:

- Requiring each child care facility, family day care home, and large family child care home to provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention. This information is to be provided during the months of August and September of each year.

**Effective Date: Upon Becoming Law**

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**SB 1802 - Retirement  
CH. 2009--76, Laws of Florida**

The bill amended statutory language by:

- Changing the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation Effective July 1, 2009	Percentage of Gross Compensation Effective July 1, 2010
➤ Regular Class	8.69%	9.63%
➤ Special Risk Class	19.76%	22.11%
➤ Special Risk Administrative Support Class	11.39%	12.10%
➤ Elected Officers' Class	13.32%	15.20%
➤ Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders Elected Officers' Class - Justices, Judges	18.40%	20.65%
➤ Elected Officers' Class - County Elected Officers	15.37%	17.50%
➤ Senior Management Class	11.96%	13.43%
➤ DROP	9.80%	11.14%

**Effective Date: July 1, 2009**

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**SB 1986 - Health Care  
CH. 2009--223, Laws of Florida**

The bill amended statutory language by:

- Prohibiting the Agency for Health Care Administration from issuing a renewal license for a home health agency in any county having at least one licensed home health agency or that has more than one home health agency per 5,000 persons, as indicated by the most recent population estimates published by the Legislature's Office of Economic and Demographic Research, if the applicant or any controlling interest has been administratively sanctioned by the agency during the two years prior to the submission of the licensure renewal application for one or more of the following acts:
  - ✓ An intentional or negligent act that materially affects the health or safety of a client of the provider;

- ✓ Knowingly providing home health services in an unlicensed assisted living facility or unlicensed adult family care home, unless the home health agency or employee reports the unlicensed facility or home to the agency within 72 hours after providing the services;
  - ✓ Preparing or maintaining fraudulent patient records, such as, but not limited to, charting ahead, recording vital signs or symptoms which were not personally obtained or observed by the home health agency's staff at the time indicated, borrowing patients or patient records from other home health agencies to pass a survey or inspection, or falsifying signatures;
  - ✓ Failing to provide at least one service directly to a patient for a period of 60 days;
  - ✓ Demonstrating a pattern of falsifying documents relating to the training of home health aides or certified nursing assistants or demonstrating a pattern of falsifying health statements for staff who provide direct care to patients. A pattern may be demonstrated by a showing of at least three fraudulent entries or documents;
  - ✓ Demonstrating a pattern of billing any payor for services not provided. A pattern may be demonstrated by a showing of at least three billings for services not provided within a 12-month period;
  - ✓ Demonstrating a pattern of failing to provide a service specified in the home health agency's written agreement with a patient or the patient's legal representative, or the plan of care for that patient, unless a reduction in service is mandated by Medicare, Medicaid, or a state program or as provided in s. 400.492(3). A pattern may be demonstrated by a showing of at least three incidents, regardless of the patient or service, in which the home health agency did not provide a service specified in a written agreement or plan of care during a 3-month period;
  - ✓ Giving remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395, chapter 429, or this chapter from whom the home health agency receives referrals or gives remuneration as prohibited in s. 400.474(6)(a);
  - ✓ Giving cash, or its equivalent, to a Medicare or Medicaid beneficiary;
  - ✓ Demonstrating a pattern of billing the Medicaid program for services to Medicaid recipients which are medically unnecessary as determined by a final order. A pattern may be demonstrated by a showing of at least two such medically unnecessary services within one Medicaid program integrity audit period;
  - ✓ Providing services to residents in an assisted living facility for which the home health agency does not receive fair market value remuneration; or
  - ✓ Providing staffing to an assisted living facility for which the home health agency does not receive fair market value remuneration.
- Prohibiting the Agency for Health Care Administration from issuing an initial or change of ownership license to a home health agency under part III of chapter 400 for the purpose of opening a new home health agency until July 1, 2010, in any county that has at least one actively licensed home health agency and a population of persons 65 years of age or older, as indicated in the most recent population estimates published by the Executive Office of the Governor, of fewer than 1,200 per home health agency. For any application received by the agency prior to July 1,

2009, which has been deemed by the agency to be complete except for proof of accreditation, the agency may issue an initial or a change of ownership license only if the applicant has applied for accreditation before May 1, 2009, from an accrediting organization that is recognized by the agency.

- Requiring an applicant for initial licensure, or initial licensure due to a change of ownership, as a home health agency, home medical equipment provider, or health care clinic to:
  - ✓ Demonstrate financial ability to operate, as required under s. 408.810(8) and this section. If the applicant's assets, credit, and projected revenues meet or exceed projected liabilities and expenses, and the applicant provides independent evidence that the funds necessary for startup costs, working capital, and contingency financing exist and will be available as needed, the applicant has demonstrated the financial ability to operate.
  - ✓ Submit pro forma financial statements, including a balance sheet, income and expense statement, and a statement of cash flows for the first 2 years of operation which provide evidence that the applicant has sufficient assets, credit, and projected revenues to cover liabilities and expenses.
  - ✓ Submit a statement of the applicant's estimated startup costs and sources of funds through the break-even point in operations demonstrating that the applicant has the ability to fund all startup costs, working capital, and contingency financing. The statement must show that the applicant has at a minimum 3 months of average projected expenses to cover startup costs, working capital, and contingency financing. The minimum amount for contingency funding may not be less than 1 month of average projected expenses. All documents required under this subsection must be prepared in accordance with generally accepted accounting principles and may be in a compilation form. The financial statements must be signed by a certified public accountant.
- Requiring applicants and controlling interests who are nonimmigrant aliens, as described in 8 U.S.C. s. 1101, applying for initial, renewal, or change of ownership licenses for a home health agency, a home medical equipment provider, or a health care clinic, to file a surety bond of at least \$500,000, payable to the agency, which guarantees that the home health agency, home medical equipment provider, or health care clinic will act in full conformity with all legal requirements for operation.
- Making it a felony of the third degree for any person to:
  - ✓ Offer services that require licensure under part VII or part X of chapter 400, or skilled services that require licensure under part III of chapter 400, without obtaining a valid license.
  - ✓ File a false or misleading license or license renewal application or submit false or misleading information related to such application.
- Requiring the Agency for Health Care Administration to deny an application for a license or license renewal if the applicant or a person having a controlling interest in an applicant has been:
  - ✓ Convicted of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent

- period of probation for such convictions or plea ended more than fifteen years prior to the date of the application;
- ✓ Terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the applicant has been in good standing with the Florida Medicaid program for the most recent five years; or
  - ✓ Terminated for cause, pursuant to the appeals procedures established by the state or Federal Government, from the federal Medicare program or from any other state Medicaid program, unless the applicant has been in good standing with a state Medicaid program or the federal Medicare program for the most recent five years and the termination occurred at least 20 years prior to the date of the application.
- Authorizing the Agency for Health Care Administration to enroll providers located outside the State of Florida if the provider's location is no more than 50 miles from the Florida state line, or the agency determines a need for that provider type to ensure adequate access to care.
  - Requiring rather than allowing the Agency for Health Care Administration to immediately terminate participation of a Medicaid provider in the Medicaid program and seek civil remedies or impose other administrative sanctions against a Medicaid provider, if the provider or any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, has been:
    - ✓ Convicted of a criminal offense related to the delivery of any health care goods or services, including the performance of management or administrative functions relating to the delivery of health care goods or services;
    - ✓ Convicted of a criminal offense under federal law or the law of any state relating to the practice of the provider's profession; or
    - ✓ Found by a court of competent jurisdiction to have neglected or physically abused a patient in connection with the delivery of health care goods or services.
  - Requiring the Agency for Health Care Administration to immediately suspend or terminate, as appropriate, a provider's participation in this state's Medicaid program if the provider participated or acquiesced in any action for which any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, was suspended or terminated from participating in the Medicaid program or the Medicare program by the Federal Government or any state.
  - Providing protection for a person from civil liability for providing information to the state, any state agency, any of the state's political subdivisions, or any agency of the state's political subdivisions about fraud or suspected fraud by a Medicaid provider, including a managed care organization, unless the person acted with knowledge that the information was false or with reckless disregard for the truth or falsity of the information.

- Redefining the term “Exploitation of an elderly person or disabled adult” to include breach of a fiduciary duty to an elderly person or disabled adult by the person’s guardian or agent under a power of attorney which results in an unauthorized appropriation, sale, or transfer of property.

**Effective Date: July 1, 2009**

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**SB 2188 - Administrative Procedures  
CH. 2009--187, Laws of Florida**

The bill amended statutory language by:

- Redefining the definition of “Agency” to include the following officers or governmental entities whose power is not constitutionally based:
  - ✓ The Governor; each state officer and state department;
  - ✓ Each departmental unit described in s. 20.04;
  - ✓ The Board of Governors of the State University System;
  - ✓ The Commission on Ethics;
  - ✓ The Fish and Wildlife Conservation Commission;
  - ✓ A regional water supply authority;
  - ✓ A regional planning agency;
  - ✓ A multicounty special district, but only when a majority of its governing board is comprised of nonelected persons;
  - ✓ Educational units;
  - ✓ Each entity described in chapters 163, 373, 380, and 582 and s. 186.504
  - ✓ Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county.
  - ✓ This definition does not include any municipality or legal entity created solely by a municipality.
- Requiring agencies to advertise public meetings, hearings, and workshops on the agency’s website as well as the Florida Administrative Weekly.
- Requiring agencies to post the agenda, along with any meeting materials available in electronic form excluding confidential and exempt information on the agency’s website.
- Changing how an agency may define “small business” by including businesses employing more than 200 persons instead of 100 persons.
- Requiring agencies to ensure that staff are available to explain the agency’s proposal and to respond to questions or comments regarding the rule during a public hearing.
- Requiring the agency to consider any material pertinent to the issues under consideration submitted to the agency between the date of publication of the notice and the end of the final public hearing. This material is to be made a part of the record of the rulemaking process.
- Requiring that any change, other than a technical change that does not affect the substance of the rule be in response to written material submitted to the agency

within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing.

- Allowing a rule to become effective on a date as specified in the required notice of intent to adopt a rule.
- Requiring the Commission to adopt rules which require that the statement concerning the agency's organization and operations be published on the agency's website.

**Effective Date: July 1, 2009**

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**SB 2574 - Information Technology  
CH. 2009--80, Laws of Florida**

The bill amended statutory language by:

- Deleting the requirement that the Legislative Budget Commission review information resources management needs identified in agency long-range program plans for consistency with the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office.
- Redefining the duties of the Agency for Enterprise Information Technology.
- Creating the Office of Information Security within the Agency for Enterprise Information Technology.
- Requiring the Agency for Enterprise Information Technology to designate a state Chief Information Security Officer who will oversee the office and report directly to the executive director.
- Creating the following definitions:
  - ✓ "Breach" means the same as that provided in s. 817.5781(4) F.S.
  - ✓ "Risk analysis" means the process of identifying security risks, determining their magnitude, and identifying areas needing safeguards.
  - ✓ "Threat" means any circumstance or event that may cause harm to the integrity, availability, or confidentiality of information technology resources.
- Redefining the following terms:
  - ✓ "Computing facility" means agency space containing fewer than a total of 10 physical or logical servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, but excluding single, logical server installations that exclusively perform a utility function such as file and print servers.
  - ✓ "Data center" means agency space containing 10 or more physical or logical servers any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023.
  - ✓ "Standards" means required practices, controls, components, or configurations established by an authority.

- Deleting the term “Enterprise level”, which was defined as all executive branch agencies created or authorized in statute to perform legislatively delegated functions.
- Requiring the Agency for Enterprise Information Technology to include in its annual report concerning consolidation of data centers the identification of computing resources to be transferred and those that will remain in the agency. The transfer of resources must include all hardware, software, staff, contracted services, and facility resources performing data center management and operations, security, backup and recovery, disaster recovery, system administration, database administration, system programming, job control, production control, print, storage, technical support, help desk, and managed services but excluding application development.
- Requiring that state agencies wanting to change their data center services must submit a request for an exception in writing to the Agency for Enterprise Information Technology.
  - ✓ The Agency for Enterprise Information Technology must accept, accept with conditions, or deny the request within 60 days after receipt of the written request.
  - ✓ The Agency for Enterprise Information Technology’s decision is not subject to chapter 120.
- Requiring that the Agency for Enterprise Information Technology not approve an exception request unless it includes:
  - ✓ Documentation approved by the primary data center’s board of trustees which confirms that the center cannot meet the capacity requirements of the agency requesting the exception within the current fiscal year.
  - ✓ A description of the capacity requirements of the agency requesting the exception.
  - ✓ Documentation from the agency demonstrating why it is critical to the agency’s mission that the expansion or transfer must be completed within the fiscal year rather than when capacity is established at a primary data center.
  - ✓ Exceptions requesting permission to terminate services with a primary data center or transfer services between primary data centers without giving written notice of intent to terminate or transfer services 180 days before such termination or transfer may be granted by the board of trustees of the primary data center if the termination or transfer of services can be absorbed within the current cost allocation plan.
  - ✓ Upon the termination of or transfer of agency computing services from the primary data center, the primary data center shall require information sufficient to determine compliance with this section. If a primary data center determines that an agency is in violation of this section, it shall report the violation to the Agency for Enterprise Information Technology.
- Requiring that each customer entity having a projected usage rate of 4 percent or greater during the fiscal operating year of the primary data center shall have one trustee on the board.
- Requiring the Office of Information Security within the Agency for Enterprise Information Technology to:
  - ✓ Develop enterprise security rules and published guidelines for:

- ◆ Comprehensive risk analyses and information security audits conducted by state agencies.
- ◆ Responding to suspected or confirmed information security incidents, including suspected or confirmed breaches of personal information or exempt data.
- ◆ Agency security plans, including strategic security plans and security program plans.
- ◆ The recovery of information technology and data following a disaster.
- ✓ Assist agencies in complying with the provisions of s. 282.318.
- ✓ Provide training for agency information security managers.
- ✓ Annually review the strategic and operational information security plans of executive branch agencies.
- Requiring state agencies to:
  - ✓ Designate an information security manager to administer the security program of the agency for its data and information technology resources.
  - ✓ This designation must be provided annually in writing to the Agency for Enterprise Information Technology by January 1.
  - ✓ Submit to the Agency for Enterprise Information Technology annually by July 31, the agency's strategic and operational information security plans developed pursuant to the rules and guidelines established by the Agency for Enterprise Information Technology.
  - ✓ Develop a strategic information security plan that covers a 3-year period and defines security goals, intermediate objectives, and projected agency costs for the strategic issues of agency information security policy, risk management, security training, security incident response, and survivability. The plan must be based on the enterprise strategic information security plan created by the Agency for Enterprise Information Technology. The agency information security plan must include:
    - ◆ A progress report for the prior operational information security plan
    - ◆ A project plan that includes activities, timelines, and deliverables for security objectives that, subject to current resources, the agency will implement during the current fiscal year.
    - ◆ The cost of implementing the portions of the plan which cannot be funded from current resources must be identified in the plan.
  - ✓ Provide security awareness training to employees and users of the agency's communication and information resources concerning information security risks and the responsibility of employees and users to comply with policies, standards, guidelines, and operating procedures adopted by the agency to reduce those risks.
  - ✓ Develop a process for detecting, reporting, and responding to suspected or confirmed security incidents, including suspected or confirmed breaches consistent with the security rules and guidelines established by the office.
    - ◆ Suspected or confirmed information security incidents and breaches must be immediately reported to the Agency for Enterprise Information Technology.
    - ◆ For incidents involving breaches, agencies shall provide notice in accordance with s. 817.5681.

- Requiring state agencies to obtain authorization of the Legislature or other specified approval prior to:
  - ✓ Initiating a new e-mail service with any entity other than the provider of the statewide e-mail system service;
  - ✓ Terminating a statewide e-mail system service without giving written notice of termination 180 days in advance; or
  - ✓ Transferring e-mail system services from the provider of the statewide e-mail system service.
  - ✓ Exceptions may be granted by the Agency for Enterprise Information Technology only if the Southwood Shared Resource Center is unable to meet agency e-mail service requirements. Requests for exceptions must be submitted in writing to the Agency for Enterprise Information Technology and include confirmation by the Southwood Shared Resource Center board of trustees that it cannot meet the requesting agency's e-mail service requirements.

**Effective Date: Upon Becoming Law**

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**SB 2694 – State Financial Matters  
CH. 2009 –, Laws of Florida  
**VETOED****

The bill amended statutory language by:

- ~~Prohibiting a state agency from entering into a contract or agreement that requires the state to:
 
  - ✓ ~~Pay liquidated damages or early termination fees for a breach or early termination of a contract or agreement by such agency or branch due to an act of the Legislature which provides less than full funding for the contract during the fiscal year.~~
  - ✓ ~~Pay interest, other than interest paid pursuant to s. 215.422, to another party because the agency or branch has insufficient budget authority to pay the underlying obligation of the contract or agreement in the current year.~~
  - ✓ ~~Make future-year payments to offset payments not made in a prior year due to insufficient budget authority, unless the Legislature expressly authorizes the agency or branch to enter into such contract or agreement.~~
  - ✓ ~~Grant to any party the right or privilege to collect and retain fees or other revenues from persons who are not a party to the contract which would otherwise be payable to the state and deposited into the State Treasury, unless the Legislature expressly authorizes the agency or branch to enter into such contract or agreement.~~~~
- ~~Prohibiting an agency from entering into a lease or lease purchase agreement for tangible personal property which requires the state to pay more than \$500,000 over the term of the lease or agreement if the term of the lease or agreement exceeds 1 fiscal year unless such lease or agreement is expressly authorized by the Legislature.~~
- ~~Providing that any contract or agreement in violation of this section is null and void.~~

- ~~Any public officer or employee who willfully enters into a contract or other agreement in violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~
- ~~Defining the terms “contract” and “agreement” to include the initial contract or agreement, any amendment to the contract or agreement, and any extension or renewal of the contract or agreement.~~
- ~~Requiring an executive or judicial branch public officer or employee to provide notice to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 30 days prior to entering into any contract or agreement, or any series of contracts or agreements on behalf of the state which requires:
 
  - ✓ ~~Payments by the state in excess of \$10 million in any fiscal or calendar year to the same party.~~
  - ✓ ~~Minimal or no payments by the state or authorizes the other party to make expenditures in anticipation of revenues.~~
  - ✓ ~~Initial expenditures by the other party and for which the other party will not receive payment from the state within 180 days after the expenditure.~~~~
- ~~Prohibiting an executive or judicial branch public officer or employee from entering into any contract or agreement on behalf of the state or judicial branch which
 
  - ✓ ~~Binds the state or its executive agencies or the judicial branch for the purchase of services or tangible personal property unless the contract identifies the specific appropriation of state funds from which the state will make payment under the contract in the first year of the contract, or unless the Legislature expressly authorizes the agency or the judicial branch to enter into such contract without a specific appropriation of funds.~~
  - ✓ ~~Binds the state for the purchase of services or tangible personal property unless the following statements are included in the contract:
 
    - ◆ ~~“The State of Florida’s performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.”~~
    - ◆ ~~“This contract may be terminated by the state upon 30 days’ written notice if funding for this contract is specifically eliminated pursuant to:
 
      - ♦ ~~A deficit reduction plan implemented by the Governor or the Chief Justice or by an act of the Legislature after certification pursuant to section 216.221, Florida Statutes, that a deficit will occur in the General Revenue Fund; or~~
      - ♦ ~~A deficit reduction plan implemented by the Governor or Chief Justice pursuant to section 216.221(10), Florida Statutes, or by an act of the Legislature, after a determination by the Chief Financial Officer that a deficit will occur with respect to the appropriations from a specific trust fund in the current fiscal year.”~~~~~~~~
- ~~Requiring that a contract or other agreement that exceeds:
 
  - ✓ ~~The CATEGORY TWO threshold amount provided in s. 287.017 must be signed by the agency head, executive director, or chief judge, as appropriate, or a designated senior management employee.~~
  - ✓ ~~A term of 12 months may not be executed by any executive or judicial branch agency unless the agency head, executive director, or chief judge, as appropriate, determines that the contract is in compliance with the requirements~~~~

~~of this chapter and certifies such compliance in writing within the contract or agreement.~~

- ~~✓ The CATEGORY FIVE threshold amount provided in s. 287.017 must require the written acceptance or rejection of contract deliverables.~~
- ~~➤ Providing that any contract or other agreement in violation of this section is null and void.~~
- ~~➤ Providing that any public officer or employee who willfully enters into a contract or other agreement in violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~
- ~~➤ Prohibiting an agency from entering into a lease or deferred payment purchase arrangement for the acquisition of equipment that has a total cost greater than \$500,000 unless the Legislature has expressly authorized such lease or deferred payment purchase arrangement in the General Appropriations Act.~~
- ~~➤ Prohibiting an agency from entering into a master equipment financing agreement that has a total cost exceeding \$500,000 unless the Legislature has expressly authorized such agreement in the General Appropriations Act.~~

**Effective Date: July 1, 2009**

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**HB 7051 - Social Security Numbers  
CH. 2009--237, Laws of Florida**

The bill amended statutory language by:

- Clarifying that social security numbers of all current and former agency employees held by the employing agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This language is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.
- Requiring agencies to identify in writing the specific federal or state law governing the collection, use, or release of social security numbers for each purpose for which the agency collects the social security number, including any authorized exceptions that apply to such collection, use, or release. Each agency shall ensure that the collection, use, or release of social security numbers complies with the specific applicable federal or state law.
- Requiring agencies collecting an individual's social security number to provide that individual with a copy of the required written statement stating whether collection of the individual's social security number is authorized or mandatory under federal or state law.
- Clarifying that the exemption required by s. 119.07(1) and s. 24(a), Art. I of the State Constitution does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemption for social security numbers existing prior to May 13, 2002, or created thereafter.

- Authorizing disclosure of social security numbers by an agency if any of the following apply:
  - ✓ The disclosure of the social security number is expressly required by federal or state law or a court order.
  - ✓ The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.
  - ✓ The individual expressly consents in writing to the disclosure of his or her social security number.
  - ✓ The disclosure of the social security number is made to comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or Presidential Executive Order 13224.
  - ✓ The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq., or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., provided that the authorized commercial entity complies with the requirements of this paragraph.
  - ✓ The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or his or her dependents.
  - ✓ The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, deferred compensation plan, or defined contribution plan.
  - ✓ The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.
- Redefining the term "Commercial activity" to mean the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq., or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the accuracy of personal information received by a commercial entity in the normal course of its business, including identification or prevention of fraud or matching, verifying, or retrieving information. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.
- Requiring that the written request for social security numbers submitted by a commercial entity include the identification of any specific federal or state law that permits such use.
- Deleting the required annual report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

**Effective Date: October 1, 2009**

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**HB 7089 - Exceptional Students  
CH. 2009--238, Laws of Florida**

The bill amended statutory language by:

- Authorizing school personnel to consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a student who has a disability and violates a district school board's code of student conduct. School personnel may remove and place such student in an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:
  - ✓ Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the school district;
  - ✓ Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the school district; or
  - ✓ Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school district.
- Providing a definition of the following terms:
  - ✓ "Controlled substance" means a drug or other substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s. 812(c) and s. 893.02(4).
  - ✓ "Weapon" means a device, instrument, material, or substance, animate or inanimate, which is used for, or is readily capable of, causing death or serious bodily injury; however, this definition does not include a pocketknife having a blade that is less than 2 1/2 inches in length.
- Requiring the State Board of Education to comply with the Individuals with Disabilities Education Act (IDEA), as amended, and its implementing regulations after evaluating and determining that the IDEA, as amended, and its implementing regulations are consistent with the following principles:
  - ✓ Ensuring that all children who have disabilities are afforded a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
  - ✓ Ensuring that the rights of children who have disabilities and their parents are protected; and
  - ✓ Assessing and ensuring the effectiveness of efforts to educate children who have disabilities.

**Effective Date: July 1, 2009**

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If you have any questions or need further information, please contact the Legislative Affairs Office:

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This information is available on the Agency's website:  
[www.apdcares.org/news](http://www.apdcares.org/news)

More information about the bills referenced in this document and the legislative process can be found on the Legislative website:

<http://www.leg.state.fl.us/Welcome/index.cfm>