

# JOURNAL OF THE FLORIDA SENATE

Thursday, April 18, 1974

The Senate was called to order by the President Pro Tempore at 8:30 a.m. for the purpose of conducting the order of business of introduction and reference of resolutions, memorials, bills and joint resolutions pursuant to Rule 4.3.

## INTRODUCTION

The following measures were read the first time by title and referred to committee(s) as indicated:

By Senator Zinkil—

**SJR 672**—A joint resolution proposing an amendment to section 6(a) of article VII of the state constitution, relating to homestead tax exemption; requiring a five year residency in the state prior to claiming the exemption.

—to Ways and Means.

By Senator Gillespie—

**SJR 673**—A joint resolution proposing an amendment to Article VI of the State Constitution by adding Section 7 thereto to provide for the removal of elected public officers through a recall procedure.

—to Judiciary.

By Senators Myers, de la Parte, Horne and McClain—

**SB 674**—A bill to be entitled An act relating to elections; creating sections 100.4501 through 100.4509, F.S.; creating the Florida Voters' pamphlet act; providing definitions; providing required information; providing candidate's portrait cut and statement; providing for inclusion of referendum measures and arguments; providing fees; providing for preparation and distribution; providing a committee to draft an explanatory statement; providing registered voters lists furnished by supervisors of elections; providing an additional racing day; providing a voters' pamphlet fund; providing an appropriation; providing an effective date.

—to Judiciary and Ways and Means.

By Senator Smathers—

**SB 675**—A bill to be entitled An act relating to the public broadcasting program system; adding paragraph (f) to §229-8051(1), Florida Statutes, to provide for coverage of the highlights of state cabinet meetings by the state public broadcasting program system; providing an effective date.

—to Governmental Operations.

By Senator Johnson—

**SB 676**—A bill to be entitled An act relating to fraudulent practices; amending ss817.482, Florida Statutes, 1971, by creating a new subsection (3), renumbering existing subsections (3) and (4) to (4) and (5) and amending the new subsection (5); providing for penalties for possession of equipment used to evade telecommunications service fees; providing an effective date.

—to Criminal Justice.

By Senator Plante—

**SB 677**—A bill to be entitled An act relating to the "Motor Vehicles Sales Finance Act", under Part I of Chapter 520, Florida Statutes; amending Section 520.03(3), Florida Statutes; to provide that each sales finance company shall pay a license fee of \$50.00 for each principal place of business and an additional fee of like amount for each branch office maintained in this state; and providing that each retail installment seller of motor vehicles shall pay a license fee in the sum of \$25.00 for the principal place of business and for each branch office there-

of. However, if a retail installment seller has more than one location located in the same county, only one license fee shall be paid for that county; providing an effective date.

—to Ways and Means.

By Senators Poston, Peterson and Sims—

**SB 678**—A bill to be entitled An act relating to highway designation; designating that portion of State Road 50 in Orange county, Florida, from the Lake county line to the Brevard county line as the "William B. McGee Highway;" authorizing and directing the state department of transportation to erect suitable markers; providing an effective date.

—to Transportation.

By Senator Brantley—

**SB 679**—A bill to be entitled An act relating to foods, drugs, and cosmetics; amending §500.15(2)(a), Florida Statutes, to provide for labeling of packages; providing an effective date.

—to Commerce.

By Senator Trask—

**SB 680**—A bill to be entitled An act relating to clearing corporations as defined in the Uniform Commercial Code and the manner of transferring securities deposited with clearing corporations by amending §678.102 (3), Florida Statutes; providing an effective date.

—to Commerce.

By Senators Gruber, Poston, Winn, Firestone, Weber and Myers—

**SB 681**—A bill to be entitled An act relating to special elections; amending §100.101, Florida Statutes, providing for reimbursement from the state general revenue fund to counties holding special elections or special primary elections to fill a vacancy in the legislature or U. S. House of Representatives; providing an effective date.

—to Ways and Means.

By Senator Trask—

**SB 682**—A bill to be entitled An act relating to banks and banking; adding paragraph (f) to subsection (5) of §659.20, Florida Statutes, relating to the authority of banks and trust companies to invest in the stock of a clearing corporation as defined in the Uniform Commercial Code; providing an effective date.

—to Commerce.

By the Committee on Agriculture—

**SB 683**—A bill to be entitled An act relating to the department of agriculture and consumer services; authorizing the department to establish a state standard of enrichment for certain flours and related food products; providing definitions; prohibiting sale at retail of such products not meeting the state standard; providing exceptions; providing the department with enforcement and investigatory powers; providing a penalty; providing an effective date.

—to Agriculture.

By Senators Saunders and Williams—

**SB 684**—A bill to be entitled An act relating to purchasing; amending subsection (2) of section 287.042, Florida Statutes, to provide that the department of general services, division of purchasing, may rather than shall require state agencies to purchase under state contracts; providing an effective date.

—to Governmental Operations.

By Senator Deeb—

SCR 685—A concurrent resolution commending the secretaries of the State of Florida during International Secretaries Week.

—to calendar.

By Senator Brantley—

SB 686—A bill to be entitled An act relating to prescription drugs; creating §465.30, Florida Statutes; providing for substitution of generic and brand name drugs; providing an effective date.

—to Health and Rehabilitative Services.

By the Committee on Transportation—

SB 687—A bill to be entitled An act relating to transportation; amending subsection (2) of section 334.21, Florida Statutes, to except department of transportation construction and maintenance plan expenditures from some provisions of chapter 216, Florida Statutes, budget requirements; providing an effective date.

—to Transportation and Ways and Means.

By Senator Ware—

SB 688—A bill to be entitled An act relating to game and fresh water fish; amending §372.57(4)(d), Florida Statutes, 1971, to exempt nonresident military personnel while on leave for thirty (30) days or less from purchasing fishing or hunting licenses; providing an effective date.

—to Ways and Means.

By Senators Brantley and Sykes—

SB 689—A bill to be entitled An act relating to the regulation of aircraft and pilots; amending §330.46(2), Florida Statutes, by redefining "class 1 aircraft" as aircraft seating in excess of 99 passengers; amending §330.46(3), Florida Statutes, by redefining "airport" as an area designed for landing aircraft; repealing §330.46(7), Florida Statutes, pertaining to the definition of area; amending §330.48(2), Florida Statutes, by providing that the commission shall have authority to approve all rates and schedules; amending §330.49(1), and paragraphs (b) and (d), Florida Statutes, by providing that an applicant for a certificate or an extension of a certificate specify the airports it intends to serve and the proposed rates and schedules between those airports; amending §330.49(2), Florida Statutes, by providing a fee of up to \$500 for certificate extension applications; amending §330.49(4), Florida Statutes, by providing an annual certificate renewal fee of \$100; amending §330.49(5), Florida Statutes, by providing for notice of applications to all persons serving airports involved; amending §330.49(6)(h), Florida Statutes, by providing that the commission shall take into consideration the experience of existing certificated carriers in granting new certificates; amending §330.49(6)(i), Florida Statutes, by providing that the commission may consider public convenience and necessity in issuing a certificate; substantial rewording of §330.49(7), Florida Statutes, to provide that the commission may issue certificates with or without modifications, and that when an application is denied, an identical or similar application may not be considered for six months; amending §330.49(8), Florida Statutes, by providing that all certificates list the airports to be served; creating §330.491, Florida Statutes, to provide that certificated air carriers maintain a tariff on file, to authorize the commission, after hearing, to prescribe reasonable rates, to supersede rates found to be unreasonable, to authorize the commission to adopt rules governing the filing of tariffs, to provide that general rate increases may not be authorized by the commission without public hearing, to prohibit carriers from charging other than approved rates; creating §330.492, Florida Statutes, to provide for transfer of a certificate after application and approval; amending §330.52(1), Florida Statutes, by authorizing the commission to suspend a certificate where holder fails to conform to the law, commission rules and regulations, by requiring one bona fide flight per week between authorized airports to prevent certificate dormancy, by providing procedure for declaring certificate dormancy and for obtaining approval to suspend certificated operations; amending §330.52(3), Florida Statutes, by authorizing the commission to

grant authority to temporarily suspend or delete a certificated route or airport; amending §330.52(4), Florida Statutes, by authorizing the commission to adopt rules applicable to carriers, provide for taking testimony and depositions, prescribe procedure, exercise all judicial powers, and issue writs to enforce commission orders or requirements, by authorizing the courts of this state to enjoin the illegal operation of air carriers at the instance of the commission; amending §330.52(5), Florida Statutes, by providing that the evidentiary rules of the circuit courts shall apply to commission hearings, except as otherwise provided by commission rule; amending §330.52(6), Florida Statutes, by authorizing parties aggrieved by actions of the commission to request reconsideration within fifteen days, deleting the requirement that the commission act on requests for reconsideration within thirty days, and providing for review of commission orders by the supreme court of Florida; providing an effective date.

—to Commerce.

By Senator McClain—

SJR 690—A joint resolution proposing an amendment to Article VI of the State Constitution by adding Section 7 thereto to provide for the removal of elected public officers through a recall procedure.

—to Judiciary.

By Senator Trask—

SB 691—A bill to be entitled An act relating to the authorization for the deposit of securities with clearing corporations; the deposit and transfers of securities held by certain fiduciaries and others; creating §518.115, Florida Statutes, authorizing fiduciaries and custodians for fiduciaries to deposit securities in a clearing corporation and providing methods for transferring securities so deposited; creating §518.116 relating to the authority of certain fiduciaries and custodians for fiduciaries to deposit certain securities with a federal reserve bank and providing a method for transferring securities so deposited; and providing an effective date.

—to Commerce.

By Senator Lane (31st)—

SR 692—A Senate resolution commending Mr. James L. Casale, of Naples, Florida teacher of the year 1974.

—to calendar.

By Senator Deeb—

SB 693—A bill to be entitled An act relating to Pinellas County; providing that no governmental unit or housing authority in Pinellas County shall construct or contract to construct housing or contract to lease housing to be constructed except after a referendum; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 693.

—to Commerce.

By Senator Deeb—

SB 694—A bill to be entitled An act relating to the city of St. Petersburg, Florida; providing definitions; providing a statement of policy and legislative findings; defining the downtown area; creating a board to be known as the St. Petersburg downtown improvement authority; providing for composition of the board; providing for appointment, term of office, compensation, bonding and liability of the members of the board; providing for filling vacancies in office; providing for bylaws and internal governance of the board; prescribing the functions and powers of the board; providing for the county to levy an ad valorem tax of not more than one and one-half mill; providing for records and fiscal management; providing for the issuance of revenue certificates; providing for succession by the city if the board ceases to exist or operate; providing for a referendum; prescribing the scope of this act; providing for liberal interpretation; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 694.

—to Commerce.

By Senator Brantley—

**SB 695**—A bill to be entitled An act relating to drugs and prescriptions; creating §500.152, Florida Statutes, to control the distribution of complimentary drugs; providing an effective date.

—to Health and Rehabilitative Services.

By Senator Smathers—

**SB 696**—A bill to be entitled An act relating to the Florida psychological practice act; amending §490.16, Florida Statutes, 1971; deleting portions of expenses for members and providing for reimbursement for actual expenses incurred in the performance of the board's official duties and providing for traveling expenses as provided in §112.061, Florida Statutes, 1971; amending §490.18, Florida Statutes, 1971; relating to the examination fee each applicant to practice psychology shall pay; amending §490.20, Florida Statutes, 1971, relating to fees of license certificates; amending §490.25(1), (2)(a), and (3), Florida Statutes, 1971, relating to fees for renewal of licenses to practice psychology and providing for annual renewal of licensure; adding a new subsection (2) to §490.26, Florida Statutes, 1971; providing for a civil penalty to be imposed by the Florida state board of examiners of psychology for violations of board rules and regulations or statutory violations; providing an effective date.

—to Ways and Means.

By Senators Poston, Horne, Scarborough and Glisson—

**SB 697**—A bill to be entitled An act relating to workmen's compensation; amending §440.02(1)(c), (2), and (13), Florida Statutes, 1973, extending coverage to all employees except professional athletes and domestic servants in private homes not covered by social security; allowing an officer of a corporation to exempt himself from the workmen's compensation act and allowing partners and proprietors to make an election to be included in the definition of "employee"; providing that the words "child," "grandchild," "brother," and "sister" include certain persons up to twenty-two (22) years of age; adding a subsection (3) to §440.04, Florida Statutes, 1973, allowing an officer of a corporation who has elected exemption from the workmen's compensation act to revoke such exemption; amending §440.05, Florida Statutes, 1973, requiring corporate officers electing an exemption or revoking an exemption from the chapter or members of partnerships seeking coverage to give notice to the division of labor of the department of commerce; amending §440.06, Florida Statutes, 1973, prohibiting employers failing to secure coverage from asserting a defense of comparative negligence; creating §440.075, Florida Statutes, providing for application of common law in suits involving exempt corporate officers; amending §440.09(1) and (2), Florida Statutes, 1973, relating to the payment of workmen's compensation for accidents which occur elsewhere than in this state; providing that compensation will not be paid when the employee is already covered by certain federal compensation acts; amending §440.10(1), Florida Statutes, 1973, providing that a subcontractor is not responsible for payment of compensation to employees of another subcontractor; providing that the liability provisions of §440.11, Florida Statutes, do not protect a subcontractor other than the employer of an injured employee; amending §440.11(1), Florida Statutes, 1973, prohibiting certain employees failing to secure coverage from asserting a defense of comparative negligence; amending §440.12(2) and (3), Florida Statutes, 1973, providing a formula for relating maximum compensation rate to a state average weekly wage; amending §440.13(1) and (2), Florida Statutes, 1973, providing that an injured employee shall have the right to select a physician reasonably necessary for medical treatment furnished by the employer; providing that, after initial treatment, the employer may exercise one (1) peremptory objection to the physician selected; providing that the division of labor may order a change in remedial care for cause; adding a new subsection (3) to §440.14, Florida Statutes, 1973, providing alternative method of computation of compensation for seasonal workers; amending §440.15(1) and (2), Florida Statutes, 1973, increasing compensation for certain employees; providing additional temporary total disability compensation for certain serious injuries; amending §440.151(1)(a) and (2), Florida Statutes, 1973, expanding the type of diseases covered by the act; amending §440.16(2), Florida Statutes, 1973, removing dollar limit on compensation for a death; reducing compensation to surviving spouse without children; providing

coverage for surviving children where surviving spouse dies or remarries; adding subsection (5) to §440.18, Florida Statutes, 1973, requiring certain employers to give notification to their insurance carriers in case of accident; providing a civil penalty; amending §440.20(5), Florida Statutes, 1973, providing that the ten percent penalty for late payments may be assessed against the insurer or employer; amending §440.24(4), Florida Statutes, 1973, permitting the division of labor to dismiss certain claims or payments for noncompliance; amending §440.25(3)-(a), Florida Statutes, 1973, permitting employers to require reasonable medical examinations of employees; providing for free copies of certain medical reports to an employee or his attorney; adding subsection (3) to §440.29, Florida Statutes, 1973, providing rules of procedure for the division of labor and the industrial relations commission; amending §440.30, Florida Statutes, 1973, providing for deposition of parties and payment of fees; amending §440.39(3)(a), Florida Statutes, 1973, providing for recovery for the employer and the insurance carrier from a judgment obtained by an employee against a third party in certain cases; amending §440.44(8), Florida Statutes, 1973, relating to the designation of an advisory council to aid the division; amending §440.45(1), (2) and (3), Florida Statutes, 1973, removing restriction on the number of judges of industrial claims and providing at least one (1) judge for each judicial circuit in the state; providing for review of judges by the judicial nominating commission; providing for report of a vacancy to the division; increasing the salary of each full-time industrial claims judge; amending §440.49(4)(b), (c), (d), (e), (f), and (g), Florida Statutes, 1973, defining "permanent physical impairment," "merger," and "excess permanent compensation"; providing for reimbursement from the special disability trust fund in permanent disability cases; providing for reimbursement in death cases; providing for reimbursement of certain temporary disability compensation and medical benefits; requiring a minimum reimbursement of three thousand dollars (\$3,000) and employer's prior knowledge of the employee's pre-existing physical condition; providing for apportionment credit; establishing a procedure for filing and determining a claim for reimbursement; amending §440.50(1)(a), Florida Statutes, 1973, providing for payments under §440.15(1)(e), Florida Statutes, from the workmen's compensation administration trust fund; amending §440.51(1)(b), Florida Statutes, 1973, allowing insurance companies to elect to make payments under §440.15(1)(e), Florida Statutes; repealing §440.151(6), Florida Statutes, 1973, relating to disability from certain dust diseases; providing an effective date.

—to Judiciary and Ways and Means.

By Senator Firestone—

**SB 698**—A bill to be entitled An act relating to the accessibility of buildings; providing for building classifications; adopting the American National Standards Institute standard "Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped"; providing for access to buildings; providing for permissive compliance; providing exceptions; amending §193.011(5), Florida Statutes; providing that specified improvements not be considered in arriving at just valuation for ad valorem taxation; providing an effective date.

—to Ways and Means.

By Senators Childers and Johnston—

**SCR 699**—A concurrent resolution commending Mrs. Jewell Wells Golden for being designated "Florida's Mother of the Year for 1974."

—to calendar.

By Senators Firestone and Trask—

**SB 700**—A bill to be entitled An act relating to solar energy, setting standards for testing solar energy systems, setting testing fees, requiring disclosure, providing an appropriation, providing an effective date.

—to Consumer Affairs and Ways and Means.

By Senators Horne, Henderson, Lane (31st), Winn, Stolzenburg and Trask—

**SB 701**—A bill to be entitled An act relating to school pedestrian crossing guards and school safety patrol; amending section 316.184, F. S., by creating a new subsection (5) and renum-

bering existing subsection (5) as subsection (6); providing that flags, belts, apparel and devices supplied to school safety patrol, school police officers, and special school police be visible both day and night; providing an effective date.

—to Transportation.

By Senators Peterson, Plante and Graham—

SB 702—A bill to be entitled An act relating to education; providing for bilingual education; providing a declaration of intent; providing for a census; providing for content of programs; providing for duties of the department of education; providing for review of proposals; providing for grants; providing an appropriation; providing an effective date.

—to Education and Ways and Means.

By Senator Smathers—

SB 703—A bill to be entitled An act relating to voter registration and polling procedures; creating subsection (1)(b) of section 98.031, Florida Statutes, relating to facilitation of registration and voting of physically handicapped; subsequent renumbering of subsection (1) of section 98.031, Florida Statutes; providing an effective date.

—to Governmental Operations.

By Senator Smathers—

SB 704—A bill to be entitled An act relating to school bus safety; amending section 234.02, Florida Statutes, 1972 Supplement, by adding subsection (3) to said section; eliminating children standing on school buses; providing exceptions under emergency conditions; providing for a study by the department of education to be made to determine costs of providing transportation in hazardous situations within the two mile limit; providing an effective date.

—to Transportation.

By Senator Poston—

SB 705—A bill to be entitled An act relating to transportation; providing for an appropriation to the department of transportation for construction of bicycle trails and footpaths along state roads; providing an effective date.

—to Transportation and Ways and Means.

By Senators Sykes and Johnson—

SB 706—A bill to be entitled An Act relating to historic preservation; creating Part V, chapter 266, Florida Statutes, creating the historic Boca Raton board of commissioners; declaring its purpose and functions; providing for the appointment, terms of office, bonding and payment of the expenses of its members; describing the powers and duties of said board; providing for the establishment of historical districts and an architectural review board for same; providing for the right of eminent domain; and for the coordination of activities with a state division of archives and history; and providing an effective date.

—to Ways and Means.

By Senator Ware—

SB 707—A bill to be entitled An act relating to local government; requiring the filing of county, municipal and special district charters or articles of incorporation, or amendments or revisions thereof with the secretary of state; providing duties of secretary of state; adding subsection (6) to §166.031, Florida Statutes, 1973, authorizing governing bodies of municipalities to amend by ordinance, without referendum, any charter provision declared unconstitutional or inconsistent with general law under certain circumstances; providing conditions and filing with the attorney general of the state; amending §166.041(6), Florida Statutes, 1973, providing for preemption; repealing any charter or special law in conflict with the provisions of the section as of July 1, 1974, to the extent of such conflict; providing an effective date.

—to Governmental Operations.

By Senator Winn—

SB 708—A bill to be entitled An act relating to family services; directing the division of family services to provide an annual clothing replacement allowance to foster parents of one hundred dollars (\$100) per child to be allocated by the division on August 1 of each year; providing an effective date.

—to Health and Rehabilitative Services and Ways and Means.

By Senator de la Parte—

SB 709—A bill to be entitled An act relating to Florida's emergency petroleum allocation; creating an office of petroleum allocation; providing powers and duties; providing for rule-making authority; creating a joint legislative select committee with power to approve, reject or modify rules and regulations; providing powers and duties of the director; providing powers of the governor; providing penalties; providing an appropriation; providing an effective date and for automatic repeal.

—to Ways and Means.

The Senate was called to order by the President Pro Tempore at 9:30 a.m.

A quorum present—38:

Mr. President	Gordon	Peterson	Sykes
Barron	Graham	Pettigrew	Trask
Brantley	Gruber	Plante	Vogt
Childers	Henderson	Poston	Ware
Deeb	Johnson	Saunders	Weber
de la Parte	Johnston	Saylor	Williams
Firestone	Lane (31st)	Scarborough	Wilson
Gallen	Lewis	Sims	Zinkil
Gillespie	McClain	Smathers	
Glisson	Myers	Stolzenburg	

Excused: Senators Winn and Lane (23rd)

Prayer by the Senate Chaplain:

The wise man Solomon has taught us, our God, that wisdom is the greatest attainment in human experience and that the pursuit of understanding is greater than material wealth. We constantly seek these qualities, our God, not only for our own lives but also for our public responsibilities.

We are humbled that so many have voted to place us in this chamber for they have placed their trust in us. We are ever conscious of our weaknesses yet we are here because of certain strengths we possess that have attracted others in our respective districts. We dedicate these anew to you and our people and would seek to perfect them that we may not only be worthy servants but efficient in our task. To this end we seek your help. Amen.

#### REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Thursday, April 18, 1974, at 9:00 a.m.:

HB 980	SB 532	CS/SB 132	HB 308
SB 337	SB 176	SB 133	SB 468
SB 522	SB 384	SB 189	

*Respectfully submitted,  
Dempsey J. Barron, Chairman*

The Committee on Agriculture recommends the following pass: SB 544 with 2 amendments, SB 554

The Committee on Consumer Affairs recommends the following pass: SB 578 with 2 amendments

The Committee on Criminal Justice recommends the following pass: SB 538 with 1 amendment

The Committee on Governmental Operations recommends the following pass: SB 556 with 5 amendments

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Agriculture recommends the following pass: HB 1364

The Committee on Consumer Affairs recommends the following pass:

HB 2155 with 2 amendments      HB 1459

The Committee on Criminal Justice recommends the following pass:

SB 71 with 4 amendments      HB 615 with 3 amendments

The Committee on Health and Rehabilitative Services recommends the following pass: SB 63 with 3 amendments

The Committee on Governmental Operations recommends the following pass: HB 488 with 1 amendment, HB 1474

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Education recommends a Committee Substitute for the following: SB 364

The Committee on Governmental Operations recommends a Committee Substitute for the following: SB 547

The bills with Committee Substitutes attached contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Governmental Operations recommends a Committee Substitute for the following: SB 278

The bill with Committee Substitute attached was placed on the calendar.

The Committee on Health and Rehabilitative Services recommends the following not pass: SB 405

The bill was laid on the table.

**MOTIONS RELATING TO COMMITTEE REFERENCE**

On point of order by Senator Vogt, SB 278 was removed from the calendar and referred to the Committee on Ways and Means pursuant to Rule 4.6.

On point of order by Senator Saunders, SB 464 was removed from the calendar and referred to the Committee on Ways and Means pursuant to Rule 4.6.

On motion by Senator Pettigrew, SB 375 was withdrawn from the Committee on Criminal Justice by two-thirds vote and referred to the Committee on Judiciary.

On motion by Senator Graham, by two-thirds vote SB 487 was also referred to the Committee on Education.

On motion by Senator Zinkil, SJR 672 was withdrawn from the Committee on Ways and Means by two-thirds vote and from further consideration of the Senate.

**ENGROSSING REPORTS**

Your Engrossing Clerk to whom was referred—

CS for SB 96 with 4 amendments	SB 206 with 3 amendments
SB 100 with 3 amendments	SB 210 with 2 amendments
SB 146 with 3 amendments	SB 239 with 1 amendment
SB 192 with 1 amendment	SB 264 with 1 amendment
	SB 267 with 4 amendments

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

JOE BROWN, Secretary

The bills were certified to the House.

Your Engrossing Clerk to whom was referred—

SB 2 with 5 amendments	SB 255 with 4 amendments
SB 80 with 14 amendments	CS for SB 371 with 2 amendments
CS for SB 99 with 4 amendments	SB 392 with 5 amendments
SB 103 with 2 amendments	SB 470 with 1 amendment
SB 105 with 1 amendment	SB 475 with 1 amendment
SB 227 with 2 amendments	SB 497 with 1 amendment

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

JOE BROWN, Secretary

The bills were certified to the House.

**MESSAGE FROM THE GOVERNOR**

The Governor advised that he had filed in the office of the Secretary of State SB 184 which he had approved.

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Mallory E. Horne, President*      April 17, 1974

I am directed to inform the Senate that the House of Representatives has passed SB 61.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President*      April 18, 1974

I am directed to inform the Senate that the House of Representatives has passed SB 76.

*Allen Morris, Clerk*

The bills contained in the above messages were ordered enrolled.

*The Honorable Mallory E. Horne, President*      April 17, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senators Zinkil (by request) and Pettigrew—

SB 165—A bill to be entitled An act relating to landlords and tenants; amending §83.70(3), Florida Statutes, (former §83.281(3), Florida Statutes, 1972 Supplement,) to restrict the charging of entrance fees by a mobile home park owner or operator; prohibiting the splitting of certain fees between mobile home park owners or operators and mobile home dealers; providing a penalty; providing an effective date.

Amendments attached.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

**Amendment 1**—On page 2, line 11, strike paragraph and insert the following: section

**Amendment 2**—On page 1, line 19, strike 83.281 and insert the following: 83.70

**Amendment 3**—On page 2, line 14, strike All of Section 2. and insert the following:

Section 2. Section 83.71, Florida Statutes, 1973, is amended to read:

83.71 Mobile home parks; restrictions on disposal of mobile homes, proceedings.—No mobile home park shall make or enforce any rule which shall deny or abridge any resident of such mobile home park or any owner of a mobile home located

in such park the right to sell said resident's mobile home within the park or which shall require the resident or owner to remove the mobile home from the park solely on the basis of the sale thereof. The purchaser of said mobile home, if said purchaser would otherwise qualify with the requirements of entry into the park under the park rules and regulations, may become a tenant of the park, subject to the approval of the park, but such approval may not be unreasonably withheld. The park shall not exact a commission or fee with respect to the price realized by the seller unless the park owner or operator has acted as agent for the mobile home owner in the sale pursuant to a written contract. If for any reason the park refuses permission to any resident or owner to sell to a qualified buyer and prospective tenant after three (3) bona fide offers, then the next offer may be accepted as a matter of course.

Section 3. This act shall take effect July 1, 1974.

**Amendment 4**—On page 1, lines 5—12, strike all and insert the following:

amending section 83.70(3), Florida Statutes, 1973, to restrict the charging of entrance fees by a mobile home park owner or operator; providing a penalty; amending section 83.71, Florida Statutes, 1973, entitling mobile home owners as well as residents in mobile home parks to protections regarding prohibited restrictions by mobile home park owners upon the sale of mobile home; providing an effective date.

**Amendment 5**—On page 2, line 6—10, strike *It is unlawful for any mobile home park owner, operator or mobile home dealer to make any agreement, written or oral, whereby the fees authorized in this subsection shall be split between any such mobile home park owner or operator and any mobile home dealer.*

**Amendment 6**—On page 2, line 1 insert after "entrance": or exit

**Amendment 7**—On page 2, line 3 insert the following: after upon "or removal from"

On motions by Senator Zinkil, the Senate concurred in House amendments 1, 2, 3, 6 and 7 to SB 165.

Senator Zinkil moved the following amendment to House amendment 4 which was adopted:

**Amendment 4a**—On page 1, strike everything following "amending section 83.70(3), Florida Statutes, 1973," and insert: to restrict the charging of entrance fees by a mobile home park owner or operator; prohibiting the splitting of certain fees between mobile home park owners or operators and mobile home dealers; providing a penalty; amending section 83.71, Florida Statutes, entitling mobile home owners as well as residents in mobile home parks to protections with respect to prohibited restrictions by mobile home park owners upon the sale of mobile homes; providing an effective date.

The Senate concurred in Amendment 4 as amended

On motion by Senator Zinkil, the Senate refused to concur in House amendment 5 to SB 165, and the House was requested to recede therefrom.

SB 165 passed as amended, and the action of the Senate was certified to the House. The vote was:

Yeas—29

Brantley	Gruber	Poston	Vogt
Childers	Henderson	Saunders	Ware
de la Parte	Johnson	Saylor	Weber
Firestone	Lane (31st)	Sims	Wilson
Gallen	McClain	Smathers	Zinkil
Gillespie	Peterson	Stolzenburg	
Gordon	Pettigrew	Sykes	
Graham	Plante	Trask	

Nays—None

By unanimous consent Senators Glisson and Lewis were recorded as voting yea.

*The Honorable Mallory E. Horne, President* April 16, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 3031 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Natural Resources and Representative Fulford and others—

**HB 3031**—A bill to be entitled An act relating to public lands; creating §253.115, Florida Statutes, requiring the board of trustees of the internal improvement trust fund to give public notice of the receipt of an application requesting the board to sell, lease, or exchange any land to which the board holds title; requiring certain notice to riparian owners; requiring a public hearing if objections are filed to an application received by the board; providing an effective date.

—was read the first time by title and referred to the Committee on Natural Resources and Conservation.

*The Honorable Mallory E. Horne, President* April 16, 1974

I am directed to inform the Senate that the House of Representatives has passed CS for HB 2929 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Insurance and Representative Culbreath and others—

**CS for HB 2929**—A bill to be entitled An act relating to insurance contracts; amending §627.419(3), Florida Statutes, to provide for inclusion of chiropractic physicians; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

*The Honorable Mallory E. Horne, President* April 16, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 2430 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representative Brown and others—

**HB 2430**—A bill to be entitled An act for the relief of Pearl Eisentrager; providing an appropriation to compensate her for expenses incurred and for the loss of services and companionship of her only son, Jesse D. Daniels, as a result of his wrongful imprisonment; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

*The Honorable Mallory E. Horne, President* April 16, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 259 (cs) and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Natural Resources and Representative Conway—

**HB 259 (cs)**—A bill to be entitled An act relating to marine turtles; amending §370.12(1), Florida Statutes, by adding a new sub-paragraph (e); prohibiting the taking, killing, molesting, mutilation or destruction of marine turtles on land or within one-half mile of the coastline; providing an effective date.

—was read the first time by title and referred to the Committee on Natural Resources and Conservation.

*The Honorable Mallory E. Horne, President* April 18, 1974

I am directed to inform the Senate that the House of Representatives has passed HB 3030 and requests the concurrence of the Senate.

*Allen Morris, Clerk*



By the Committee on Judiciary and Representative Crabtree—

CS for HB 895(cs)—A bill to be entitled An act relating to limitations of actions; creating sections 95.011, 95.031 and 95.091, Florida Statutes; prescribing the periods of time for limitations; the conditions under which the periods of time apply, the times when actions accrue, the applicability of limitations and laches; repealing sections 95.02, 95.021, 95.08, 95.09, 95.112, 95.113, 95.15, 95.20, 95.24, 95.251, 95.27, 95.33, 95.34, 95.38, 353.06, 356.09, 475-49, 478.191 (5), 672.725, 676.111, 768.04, 849.27, 849.28, Florida Statutes 1971, amending sections 65.081, 95.03, 95.04, 95.10, 95.11, as amended by chapter 73-333, Laws of Florida, 95.111, 95.12, 95.13, 95.14, 95.16, 95.17, 95.18, 95.19, 95.21, 95.22, 95.241, 95.35, 95.36, 192.053, 206.14 (5), 206.15, 206.175, 211.11, 517.21 (1), 377.33 (3), Florida Statutes 1971, transferring section 95.37, Florida Statutes 1971 to chapter 11, Florida Statutes; amending and transferring sections 95.05, 95.06, 95.07, 95.23, 95.26, 95.28, 95.29, 95.30, 95.31, 95.32 and 337.31, Florida Statutes 1971; providing an effective date.

—was read the first time by title and referred to the Committee on Criminal Justice.

By the Committee on Retirement, Personnel & Claims—

HB 1940—A bill to be entitled An act relating to the Florida retirement system; amending §121.021(15), Florida Statutes, providing that the administrator shall approve certain positions as falling within the definition of special risk positions; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

By the Committee on Education—

HB 2892—A bill to be entitled An act relating to the State University System, authorizing the acceptance of credit cards in payment for goods, services, tuition and fees; providing certain restrictions; providing for the establishment of accounts in credit card banks, amending §240.042, Florida Statutes, 1971, creating new paragraph 240.042(2)(p), providing an effective date.

—was read the first time by title and referred to the Committee on Education.

**SPECIAL ORDER**

On motion by Senator Poston, HB 980 was removed from the calendar by two-thirds vote and indefinitely postponed.

Consideration of SCR 337 was deferred.

SB 522—A bill to be entitled An act relating to elections; public employees; amending §104.31(1)(d), F.S., to remove the authority of municipalities to regulate certain political activities; creating §104.31(3), F. S., to assure freedom of expression and participation in the political process by public employees to the extent compatible with the public welfare; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote SB 522 was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Brantley	Gruber	Plante	Vogt
Childers	Henderson	Poston	Ware
de la Parte	Johnson	Saunders	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lewis	Sims	Wilson
Gillespie	McClain	Smathers	Zinkil
Glisson	Myers	Stolzenburg	
Gordon	Peterson	Sykes	
Graham	Pettigrew	Trask	

Nays—None

By unanimous consent Senator Johnston was recorded as voting yea.

SB 532—A bill to be entitled An act relating to highway designation; designating that portion of State Road 836 from Interstate Highway 95 to State Road 826, as the "Dolphin Expressway"; authorizing and directing the department of transportation to erect suitable markers; providing an effective date.

—was read the second time by title. On motion by Senator Poston, by two-thirds vote SB 532 was read the third time by title, passed and certified to the House. The vote was:

Yeas—31

Childers	Henderson	Plante	Sykes
de la Parte	Johnson	Poston	Trask
Firestone	Lane (31st)	Saunders	Vogt
Gallen	Lewis	Sayler	Ware
Gillespie	McClain	Scarborough	Weber
Glisson	Myers	Sims	Wilson
Gordon	Peterson	Smathers	Zinkil
Graham	Pettigrew	Stolzenburg	

Nays—1

Gruber

By unanimous consent Senators Johnston and Williams were recorded as voting yea; Senator Gruber changed his vote from nay to yea.

Consideration of SB 176 was deferred.

SB 384—A bill to be entitled An act relating to survey and location maps prepared by the department of transportation; amending §335.02(2), Florida Statutes; providing for the filing of revised maps and a statement certifying abandonment of previously filed maps; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following amendment which was adopted on motion by Senator Poston:

Amendment 1—On page 2, underline lines 1 through 15

On motion by Senator Lewis, by two-thirds vote SB 384 as amended was read the third time by title, passed and ordered engrossed. The vote was:

Yeas—33

Brantley	Henderson	Plante	Trask
Childers	Johnson	Poston	Vogt
de la Parte	Johnston	Saunders	Ware
Firestone	Lane (31st)	Sayler	Weber
Gallen	Lewis	Scarborough	Williams
Gillespie	McClain	Sims	Wilson
Glisson	Myers	Smathers	
Gordon	Peterson	Stolzenburg	
Gruber	Pettigrew	Sykes	

Nays—None

By unanimous consent Senator Zinkil was recorded as voting yea.

On motion by Senator Johnson, SB 561 was withdrawn from the Committee on Commerce by two-thirds vote and from further consideration of the Senate.

On motion by Senator Brantley, the rules were waived and Stephen S. Poche and David Barrett were granted privileges of the floor.

CS for SB 132—A bill to be entitled An act relating to the oil spill prevention and pollution control act; amending §376.09, Florida Statutes, to delete references to navigable waters of the United States and to department of natural resources incurred costs of removal, to provide references to current federal water pollution law; amending §376.11(6)(b), Florida Statutes, to require waiver by the department of natural resources of the right to reimbursement for oil spills resulting from an act of

war, an act of government, or an act of God; creating §376.11 (6)(c), Florida Statutes, to authorize the department to waive the right to reimbursement to the fund for abatement costs due to the act of a third party; amending §376.12, Florida Statutes, to limit liability to \$14,000,000; providing an effective date.

—was taken up with pending amendment, which was withdrawn by Senator Saylor.

Senators Brantley, Barron and de la Parte offered the following amendment which was moved by Senator Brantley:

**Amendment 11**—On page 1, line 22, strike everything after the enacting clause and insert: Section 1. Section 376.011, Florida Statutes, 1971, is amended to read:

376.011 Short title.—This chapter shall be known as “the oil pollutant spill prevention and ~~pollution~~ control act.”

Section 2. Paragraph (a) of subsection (3) and subsections (5) and (6) of section 376.021, Florida Statutes, 1971, are amended to read:

376.021 Legislative intent.—

(3) The legislature further finds and declares that:

(a) The transfer of pollutants between vessels, between on-shore facilities and vessels, and between offshore facilities and vessels, and between terminal facilities within the jurisdiction of the state and state waters is a hazardous undertaking;

(5) The legislature further finds and declares that the preservation of the public uses referred to herein is of grave public interest and concern to the state in promoting its general welfare, preventing diseases, promoting health, and providing for the public safety and that the state's interest in such preservation outweighs any burdens of absolute liability imposed by the legislature upon those engaged in transferring pollutants and related activities.

(6) The legislature further declares that it is the intent of this chapter to support and complement applicable provisions of the Federal Water Quality Improvement Act of 1970, Pollution Control Act specifically those provisions relating to the national contingency plan for removal of oil and other pollutants.

Section 3. Subsections (5), (7), (9), (10), (11), and (13) of §376.031, Florida Statutes, 1971, are amended, subsections (14) and (15) of said section are amended and renumbered, and new subsections (15), (16) and (17) are added to said section to read:

376.031 Definitions.—When used in this chapter, unless the context clearly requires otherwise:

(5) “Discharge” means shall include but not be limited to any spilling, leaking, seeping, pouring, emitting, emptying, or dumping, which occurs either within or without the territorial limits of the state of Florida.

(7) “Pollutants” shall include, but not be limited to, oil of any kind and in any form, gasoline, pesticides, ammonia, chlorine, and derivatives thereof ~~other hazardous materials~~.

(9) “Terminal facility” means any waterfront facility of any kind, other than vessels not owned or operated by such facility, and related appurtenances located on land, including submerged lands, or on or under the surface of any kind of water, which facility and related appurtenances are used or capable of being used for the purpose of drilling for, pumping, storing, handling, transferring, processing, or refining oil or other pollutants, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi-governmental body. An underwater pipeline transferring pollutants within the territorial limits of the state shall be considered a terminal facility for the purpose of this act. A vessel shall be considered a terminal facility only in the event of a ship-to-ship transfer of oil, petroleum products or their by-products, and other pollutants, and only that vessel going to or coming from the place of transfer and the terminal facility. For the purposes of this act “terminal facility” shall not be construed to include waterfront facilities owned and operated by governmental entities acting as agents of public convenience for operators engaged in the drilling for, pumping, storing, handling, transferring, processing or refining of pollutants; however, each operator engaged in the drilling for, pumping, storing, handling, transferring, processing or refining of pol-

lutants through a waterfront facility owned and operated by said governmental entity shall be construed as a terminal facility. With respect solely to application registration fees for licenses and annual license fees as required in this chapter, the term “terminal facility” shall not be construed to include the fuel storage tanks or other facilities of any marine service station having no more than twelve hundred gallons two hundred (200) barrels of pollutants motor fuels in storage on the premises.

(10) “Owner” or “operator” means any person owning a terminal facility; “operator” means any person owning or operating a terminal facility whether by lease, contract, or other form of agreement.

(11) “Transfer” or “transferred” includes both onloading and or offloading between terminal facility and vessel, and vessel to vessel or terminal facility to terminal facility.

~~(13) “Port manager” means the manager or director of the port or his designee, to be approved by the department to carry out the requirements of this chapter.~~

~~(13)~~ (14) “Person in charge” means the person on the scene who is in direct, responsible charge of a terminal facility or vessel from which oil or other pollutants are discharged when the discharge occurs.

~~(14)~~ (15) “Discharge cleanup organization” means any group, incorporated or unincorporated, of owners or operators of waterfront terminal facilities in any port or harbor of the state, and any other person who may elect to join, organized for the purpose of containing and cleaning up discharges of oil and other pollutants through cooperative efforts and shared equipment and facilities.

(15) “Board” means the board of arbitration.

(16) “Person” means any individual, partner, joint venture, corporation, any group of the foregoing organized or united for a business purpose, or governmental entity.

(17) “Registrant” is a terminal facility required to possess a valid registration certificate to operate as a terminal facility.

Section 4. Section 376.041, Florida Statutes, 1971, is amended to read:

376.041 Pollution and ~~corruption~~ of waters and lands of the state prohibited.—The discharge of oil, petroleum products or their by-products, and other pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state is prohibited.

Section 5. Subsections (3) and (4) of section 376.051, Florida Statutes, 1971, are amended, and subsection (5) is added to said section to read:

376.051 Powers and duties of the department.—

(3) Licenses Registration certificates required under this chapter shall be issued from the department subject to such terms and conditions as are set forth in this chapter and as set forth in rules and regulations promulgated by the department as authorized herein.

(4) Whenever it becomes necessary for the state to protect the public interest under this chapter, it shall be the duty of the department to keep an accurate record of costs and expenses incurred and thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the government of the United States under any applicable federal act.

(5) The department may bring an action on behalf of the state to enforce the liabilities imposed by §376.12. The department of legal affairs shall represent the department in any such proceeding.

Section 6. Section 376.06, Florida Statutes, 1971, is amended to read:

376.06 Operation without registration license prohibited.—

(1) No person shall operate or cause to be operated a terminal facility as defined in §376.031(9) without a license registration certificate.

(2) Registration certificates Licenses shall be issued on an annual basis and shall expire on December 31 annually, subject to such terms and conditions as the department may determine are necessary to carry out the purposes of this chapter.

(3) As a condition precedent to the issuance or renewal of a *registration certificate* license, the department shall require satisfactory evidence that the applicant has implemented, or is in the process of implementing, state and federal plans and regulations for *prevention and control of pollution related to oil, petroleum products or their by-products, and other pollutants* and the abatement thereof when a discharge occurs.

(4) *Registration certificates* Licenses issued to any terminal facility shall include vessels used to transport *oil, petroleum products or their by-products, and other pollutants* between the facility and vessels within state waters.

(5) The department shall ~~may~~ require, in connection with the issuance of a terminal facility *registration certificate, license* the payment of a reasonable fee for processing applications for registration certificates. *This fee shall be in addition to the excise tax imposed by §376.11(4).* The fee shall be reasonably related to the administrative costs of verifying data submitted pursuant to obtaining the certificates and reasonable inspections; however, the fee shall not exceed \$250 per terminal facility per year.

(6) No later than October 1, ~~1970~~ 1974, every owner or operator of a terminal facility shall obtain a *registration certificate, license.* The department shall issue a *registration certificate license* upon the showing that the registrant can provide all ~~necessary~~ required equipment to prevent, contain, and remove discharges of *oil and other pollutants.*

(7) On or after a date to be determined by the department, but in no case later than October 1, ~~1970~~ 1974, no person shall operate or cause to be operated any terminal facility without a terminal facility registration certificate issued by the department. No registration certificate shall be valid for more than one year unless revalidated by the department. Each applicant for a terminal facility registration certificate shall pay the *registration certificate application annual license* fee and shall submit information, in a form satisfactory to the department, describing the following:

(a) The barrel or other measurement capacity of the terminal facility.

(b) All *prevention, containment and removal equipment, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communication devices* to which the facility has access, whether through direct ownership or by contract or membership in an approved discharge cleanup organization.

(c) The terms of agreement and operation plan of any discharge cleanup organization to which the owner or operator of the terminal facility belongs.

(8) Upon showing of satisfactory containment and cleanup capability under this section, and upon payment of ~~any~~ the registration *certificate application* fee required by the department under this section, ~~chapter~~ and the license fee the applicant shall be issued a registration certificate covering the terminal facility and related appurtenances, including vessels as defined in §376.031(12).

Section 7. Section 376.07, Florida Statutes, 1971, is amended to read:

376.07 Regulatory powers of department.—The department shall from time to time adopt, amend, repeal, and enforce reasonable regulations insofar as they relate to ~~oil spills or discharges or the spills or discharges of other pollutants~~ into the waters of this state or onto the coast of this state.

(1) The regulations shall be adopted in accordance with the administrative procedure act, chapter 120.

(2) The department shall adopt regulations including, but not limited to, the following matters:

(a) Operation and inspection requirements for *terminal facilities, vessels, personnel, and other matters relating to licensee certification operations* under this chapter, *but shall not require vessels to maintain spill prevention and containment gear in excess of federal requirements, and specifically requiring that vessels transporting pollutants within state waters shall maintain on board such containment gear as may be required by the department with a crew trained in the use of the gear.*

(b) Procedures and methods of reporting discharges and other occurrences prohibited by this chapter.

(c) Procedures, methods, means, and equipment to be used by persons subject to regulation by this chapter in the removal of pollutants.

(d) Development and implementation of criteria and plans to meet ~~oil, petroleum, and other~~ pollution occurrences of various degrees and kinds.

(e) ~~The establishment of eleven regional control districts, one for each of the eleven deep water ports of the state, with a response team in each district and the establishment of rules and regulations to meet the particular requirements of each district.~~ The department shall create *by contract or administrative action* a state response team which shall be responsible for creating and maintaining a contingency plan of response, organization, and equipment for handling emergency cleanup operations. The state plans shall include detailed emergency operating procedures for the state as a whole ~~and for the eleven regional control districts,~~ and the team shall from time to time conduct practice alerts. These plans shall be filed with the governor; ~~and all coast guard stations in the state, on or before January 1, 1975, and the head of each regional team.~~ The contingency plan shall include all necessary information for the total containment and cleanup of pollution, including but not limited to an inventory of equipment and its location, a table of organization with the names, addresses, and telephone numbers of all persons responsible for implementing every phase of the plan, a list of available sources of supplies necessary for cleanup, and a designation of priority zones within each region to determine the sequence and methods of cleanup. The state response team shall act independently of agencies of the federal government but is directed to cooperate with any federal cleanup operation.

(f) Requirements for minimum weather and sea conditions for permitting a vessel to enter port and for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment, and other equipment relating to the use and operation of terminals, facilities, and refineries, the approach and departure from terminals, facilities, and refineries and requirements that containment gear approved by the department be on hand and maintained by terminal facilities and refineries with adequate personnel trained in its use.

(g) Requirements that, prior to being granted entry into any port in this state, the master of a vessel shall report:

1. Any discharges of ~~oil or other~~ pollutants the vessel has had since leaving the last port;

2. Any mechanical problem on the vessel which creates the possibility of a ~~spill~~ discharge; and

3. Any denial of entry into any port during the current cruise of the vessel.

*Any person who shall make or cause to be made any false statement in response to requirements of this section or any other provisions of this chapter with a fraudulent intent shall be guilty of a felony of the second degree punishable as provided in §775.082, §775.083 or §775.084, as required in §837.01.*

*(h) Requirements that any terminal facility causing or permitting the discharge of a pollutant in violation of the provisions of this chapter and at other reasonable times be subject to a complete and thorough inspection. If the department determines there are unsatisfactory preventive measures or containment and cleanup capabilities, it shall, a reasonable time after notice and hearing in compliance with chapter 120, suspend the registration until such time as there is compliance with the department requirements.*

~~(i)~~ Such other rules and regulations as the exigencies of any condition may require or as may reasonably be necessary to carry out the intent of this chapter.

Section 8. Section 376.08, Florida Statutes, 1971, is hereby repealed.

Section 9. Section 376.09, Florida Statutes, 1971, is amended to read:

376.09 Removal of prohibited discharges.—

(1) Any person discharging pollutants as prohibited by §376.041 shall immediately undertake to *contain and remove* the discharge to the department's satisfaction. Notwithstanding the above requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.

(2) Whenever oil or any other pollutant is discharged from any terminal facility or vessel in violation of §376.041, the person in charge of the terminal facility or vessel shall promptly remove, or arrange for the removal of, the oil or other pollutant. If the person in charge fails so to act, the department may arrange for the removal of such pollutant, except that if the oil or other pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of oil or other such pollutant as established pursuant to the Federal Water Quality Improvement Act of 1970, Pollution Control Act, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of said law.

(3) In the event of discharge the source of which is unknown, any local discharge cleanup organization shall, upon the request of the department or its designee, immediately contain and remove the discharge. No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.

(4) No person who, voluntarily or at the request of the department or its designee, renders assistance in containing or removing oil or other pollutants shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.

(5) Nothing in this chapter shall affect in any way the right of any person who renders assistance in containing or removing oil or other pollutants to reimbursement for the costs of the containment or removal under the applicable provisions of this law or the Federal Water Quality Improvement Act of 1970 Pollution Control Act or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the oil or other pollutants.

Section 10. Section 376.10, Florida Statutes, 1971, as amended by chapter 73-326, Laws of Florida, is amended to read:

376.10 Personnel and equipment.—The department shall establish and maintain at such ports within the state and other places as it shall determine such employees and equipment, other than equipment furnished by the registrant licensee, as in its judgment may be necessary to carry out the provisions of this chapter. The department may employ and prescribe the duties of such employees, subject to the rules and regulations of the division of personnel of the department of administration. The salaries of the employees and the cost of the equipment shall be paid from the Florida coastal protection fund established by this chapter. The department shall periodically consult with other departments of the state and specifically with the department of pollution control relative to procedures for the prevention of discharges of oil and other pollutants into the coastal waters of the state from offshore drilling production facilities.

Section 11. Section 376.11, Florida Statutes, 1971, is amended to read:

376.11 Florida coastal protection fund.—

(1) The purpose of this section is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation after a pollutant has been discharged, to prevent further damage by the pollutant, and to pay for damages. It is the legislative intent that this section be liberally construed to effect the purposes set forth, such interpretation being especially imperative in light of the danger to the environment and resources.

(2)(1) The Florida coastal protection fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this chapter. The fund shall be limited to the sum of thirty-five million dollars (\$35,000,000). To this fund shall be credited all excise taxes, license registration fees, penalties, judgments, and other fees and charges related to this chapter, including administrative expenses, and costs of removal of discharges of pollution. Charges against the fund shall be in accordance with this section.

(3)(2) Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its responsibilities under this chapter shall be deposited with the

treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the Florida coastal protection fund.

(4)(a)(3) There is hereby levied, to be collected from and paid by each registrant, an excise tax upon each registrant for the privilege of operating a terminal facility and the handling of all pollutants covered by this chapter. Each registrant shall obtain from the department a license for each of the terminal facilities of the registrant in the state and shall pay therefor an annual license fee, the amount of which is to be determined by the department upon the basis of as measured by the tax units of the volume in barrel units [forty-two (42) U.S. gallons at 60° Fahrenheit] of liquid pollutants transferred to or from the registrant.

(b) The excise tax shall be one cent (1¢) per unit transferred until the balance in the fund equals or exceeds thirty-five million dollars (\$35,000,000.00). The fiscal year immediately following the period in which the balance in the fund equals or exceeds thirty-five million dollars (\$35,000,000.00), no excise tax per unit shall be levied unless:

1. The balance in the fund is less than or equal to thirty million dollars (\$30,000,000.00). The fiscal year immediately following the period in which the balance in the fund is less than or equal to thirty million dollars (\$30,000,000.00), the excise tax shall be and shall remain one cent (1¢) per unit transferred until the fund again equals or exceeds thirty-five million dollars (\$35,000,000.00). The fiscal year immediately following the period in which the fund again is equal to or exceeds thirty-five million dollars (\$35,000,000.00), the excise tax and fund shall be controlled as when the fund first was equal to or exceeded thirty-five million dollars (\$35,000,000.00), or

2. There is a discharge of catastrophic proportions, the results of which could significantly reduce the balance in the fund. In the event of such a catastrophic occurrence, the governor and cabinet as the head of the department of natural resources may, by rule, relevel the excise tax in an amount not to exceed one cent (1¢) per unit for a period of time sufficient to maintain the fund at a balance of thirty-five million dollars (\$35,000,000.00) after payment of the costs and damages related to the catastrophic discharge. The excise tax provided for in this section shall be collected monthly by the department of revenue on the basis of records certified to the department of revenue and department of natural resources and shall be credited to the Florida coastal protection fund; provided, however, that for the purposes of this section, the excise tax on each unit of the pollutant shall be imposed only once at the first transfer of the specific pollutant. Each tax unit of the specific pollutant shall only be considered once for the purpose of this excise tax. This excise tax shall be in addition to all other taxes imposed upon or paid by the registrant. The total capacity of the terminal facility for oil and other pollutants, but in no event to exceed \$500. License fees for a part of a year shall be prorated.

(4) Whenever the balance in the fund has reached the limit provided under this section, and as long as it remains so, license fees shall be proportionately reduced to cover only administrative expenses.

(5) Moneys in the Florida coastal protection fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of this chapter, subject to §376.18.

(b) All immediate costs involved in the abatement of pollution related to the discharge of oil or petroleum products or their by-products and other pollutants covered by this chapter and the abatement of other potential pollution hazards as authorized herein.

(c) All costs and expenses of the cleanup and rehabilitation of water fowl, and other wildlife, and all other natural resources damaged by the discharge of pollutants whether performed or authorized by the department or any other state or local agency.

(d) All provable costs and damages which are the proximate results of the discharge of pollutants covered by this chapter to the limit of liability of the fund per occurrence.

(6) The department shall recover to the use of the fund from the person or persons causing the discharge or from the federal government jointly and severally all sums expended therefrom, including overdrafts, under paragraphs (b), and (c) and (d) of subsection (5), except that recoveries resulting from damage due to a discharge of a pollutant or oil pollution or other similar disaster shall be apportioned between the Florida coastal protection fund and the general revenue fund so as to repay the full costs to the general revenue fund of any sums disbursed therefrom as a result of such disaster.

(a) Requests for reimbursement to the fund for the above costs, if not paid within thirty days of demand, shall be turned over to the department of pollution control which, in cooperation with the department of legal affairs, shall undertake the collection.

(b) Upon petition of the person determined to be liable for reimbursement to the fund for abatement costs under this subsection, the department may, after hearing, waive the right to reimbursement to the fund from such person if the department finds that the occurrence was the result of any of the following:

1. An act of war;
2. An act of government, either state, federal, or municipal;
3. An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency;
4. An act or omission of a third party without regard to whether any such act or omission was or was not negligent. The findings of the department shall be conclusive, as it is the legislative intent that the waiver provided in this paragraph is a privilege conferred, not a right granted.

Section 12. Section 376.12, Florida Statutes, 1971, is amended to read:

376.12 Liabilities and defenses of registrants and vessels licensees.—

(1) Because it is the intent of this chapter to provide the means for rapid and effective cleanup and to minimize damages, any vessel licensee and its agents or servants, including vessels destined for or leaving a licensee's terminal facility, who permits or suffers a prohibited discharge or other polluting condition to take place within state boundaries shall be liable to the fund state for all costs of cleanup or other damage incurred by the state up to an amount not to exceed fourteen million dollars (\$14,000,000.00) or one hundred dollars (\$100.00) per gross registered ton of such vessel, whichever is the lesser, and for damages resulting from injury to others, except that where the department can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner or operator or agent thereof, such owner or operator shall be liable to the fund for the full amount of such sums expended. Where a discharge of pollutants occurs from a registrant's terminal facility, recovery of costs of abatement and cleanup shall be limited to an amount not to exceed eight million dollars (\$8,000,000.00), except that where the department can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner or operator, such owner or operator shall be liable to the fund for the full amount of such sums expended. In addition, registrants and vessels shall be liable for damages in accordance with the terms of subsections (2) and (3) of this section.

(2) Any person claiming to have suffered damages as a result of a discharge of pollutants prohibited by §376.041 may apply within six (6) months after the cause of action arises to the fund stating the amount of damage suffered as a result of the discharge. The department shall prescribe appropriate forms and details for such application, which application shall include a provision requiring the applicant to make a sworn verification of the damage claim to the best of his knowledge. The department may, upon petition and for good cause shown, waive the six (6) months limitation for filing damage claims.

(a) If the claimant and the person determined by the executive director to be responsible for the discharge and the executive director or his designee can agree to the damage claim, the department shall certify the amount of the award and the name of the claimant to the treasurer who shall pay the award from

the fund subject to the provisions of §376.12(5). A claimant's submission of his claim to arbitration shall be a waiver of all other remedies.

(b) If the claimant and the person determined by the executive director to be responsible for the discharge and the executive director or his designee cannot agree to the amount of the damage award, the claim shall forthwith be transmitted for action to the board of arbitration as provided herein. A claimant's submission of his claim to arbitration shall be a waiver of all other remedies.

(c) Each person's damage claim arising from a single occurrence shall be stated in one application. Damages omitted from any claim at the time the award is made shall be deemed waived.

(d) A person may bring a cause of action in a court of competent jurisdiction for any remedy allowable under law against a vessel or terminal facility causing or suffering a discharge of pollutants covered by this chapter. If a person damaged by a discharge of a pollutant chooses to make a claim against the fund and accepts payment from the fund, then the department shall be subrogated to any cause of action that the claimant may have had to the extent of such payment and shall diligently pursue recovery on that cause of action pursuant to subsection (4) of this section and §376.11(2). In any such action the amount of damages shall be proved by the department by submitting to the court a written report of the amounts paid from the fund to claimants. Such written report shall be admissible in evidence and the amounts paid from the fund to the claimants stated therein shall be irrebuttably presumed to be the amount of damages.

(e) The fund is absolutely liable for claims proven under this section.

(3) The board of arbitration shall consist of three (3) persons: one (1) to be chosen by the claimants, one (1) to be chosen by the persons determined by the department to have caused the discharge or by the fund if the discharge is of unknown origin and one (1) person chosen by the first two (2) appointed members to serve as a neutral arbitrator. The neutral arbitrator shall serve as chairman. If the two (2) arbitrators fail to agree upon, select, and name the neutral arbitrator within ten (10) days after their appointment, then the department shall request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator.

(a) Arbitrators shall be named by their principals within ten (10) days after the department receives notice of claims arising from a discharge prohibited by §376.041. If either party shall fail to select an arbitrator within the said ten (10) days the other party shall request the American Arbitration Association to utilize its procedures for the selection of such arbitrator and the two (2) arbitrators shall proceed to select the neutral arbitrator as provided in this section.

(b) Hearings before boards of arbitrators shall be informal, and the rules of evidence prevailing in judicial proceedings need not be required. The board shall have the power to administer oaths and to subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination. Such power shall be subject to the applicable Florida Rules of Civil Procedure.

(c) Determinations made by a majority of the board shall only be subject to judicial review for abuse of discretion in the circuit court of the circuit or circuits in which the discharge occurred.

(d) Representation on the board shall not be deemed an admission of liability for the discharge.

(4) It shall be the duty of the fund to diligently pursue the recovery of any sum expended from the fund for damages from the person determined to be responsible in accordance with the provisions of this chapter. All lawful defenses shall be available to a person determined by the executive director to be responsible for a discharge in a suit to recover any sum expended from the fund for damages. In any suit to enforce claims of the fund for costs and expenses of cleanup or abatement or damages state under this chapter, it shall not be necessary for the state fund to plead or prove negligence in any form or manner on the part of the licensee or any vessel person alleged to be responsible for the discharge. If the state fund is damaged by a discharge prohibited by this chapter it

need only plead and prove the fact of the prohibited discharge or other polluting condition and that it occurred. *The only defenses of a person alleged to be responsible for the discharge to an action for costs and expenses of cleanup or abatement shall be to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:*

- (a) *An act of war;*
- (b) *An act of government, either state, federal or municipal;*
- (c) *An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency;*
- (d) *An act or omission of a third party without regard to whether any such act or omission was or was not negligent.*
- (5) *The Florida coastal protection fund shall only be liable for payments of thirty-five million dollars (\$35,000,000.00) per occurrence. In the event the total awards against the fund shall exceed the present balance of the fund, the claimants shall be paid from the future income of the fund to the extent of the liability of the fund.*
- (6) *In the event the total awards for a single occurrence exceed thirty-five million dollars (\$35,000,000.00), the awards shall be paid on a pro rata basis.*

(7) In addition to the civil penalty, the pilot and the master of any vessel or person in charge of any licensee's registrant's terminal facility who fails to give immediate notification of a discharge to the port manager department and or the nearest coast guard station shall be guilty of a felony of the third degree, punishable as provided in §775.082, §775.083 or §775.084. After reporting a discharge a vessel shall remain in the jurisdiction of the department sufficient time to prove financial responsibility for the damages resulting from the discharge. The pilot and master of a vessel which fails to remain in the jurisdiction of the department for a reasonable time after notice of a discharge shall be guilty of a felony of the third degree punishable as provided in §775.082, §775.083 or §775.084. In no event shall the department detain the vessel longer than twelve (12) hours after proving financial responsibility. The department shall, by rules and regulations, require that the licensee registrant designate a person at the terminal facility who shall be the person in charge of that facility for the purposes specified by this section.

Section 13. Section 376.14, Florida Statutes, 1971, is amended to read:

**376.14 Terminal facilities and vessels required to file bond, financial responsibility.—**

(1) Each owner or operator of a terminal facility or vessel, including any barge, using any port in Florida shall be required to establish and maintain under rules and regulations prescribed by the department of natural resources, evidence of financial responsibility pursuant to federal laws and regulations. Such evidence of financial responsibility shall be the only evidence required by the department that such registrant or vessel has the ability to meet the liabilities which may be incurred under this act, based on the capacity of the terminal facility or tonnage of the ship, the cargo carried, and other similar factors to which the vessel could be subjected under this chapter. Financial responsibility may be established and maintained by any one or a combination, of the following methods acceptable to the department:

- (a) ~~Evidence of insurance;~~
- (b) ~~Surety bonds payable to the governor of the state, conditioned to pay all costs and expenses of the cleanup of any discharge as well as damages caused to the state and any person;~~
- (c) ~~Qualification as a self-insurer;~~ or
- (d) ~~Other evidence of financial responsibility satisfactory to the department.~~
- (2) ~~A bond filed with the department shall be issued by a bonding company authorized to do business in the state.~~
- (2)(3) Any claim for costs incurred by a terminal facility or vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility. Any claim for costs of cleanup, civil penalties, or damages by the

state, and any claim for damages by any injured person, may be brought directly against the bond, the insurer, or any other person providing evidence of financial responsibility.

(3)(4) Each owner or operator of a terminal facility or vessel subject to the provisions of this chapter shall designate a person in the state as his legal agent for service of process under this chapter, and such designation shall be filed with the department of state. In the absence of such designation, the secretary of state shall be the designated agent for purposes of service of process under this chapter.

Section 14. Subsection (3) of section 376.16, Florida Statutes, 1971, is amended and subsection (4) is added to said section to read:

**376.16 Enforcement and penalties.—**

(1) It is unlawful for any person to violate any provision of this chapter or any rule, regulation, or order of the department made hereunder. Violation shall be punishable by a civil penalty of up to \$50,000 to be assessed by the department. Each day during any portion of which the violation occurs constitutes a separate offense.

(2) Penalties assessed herein for a discharge shall be the only penalties assessed by the state, and the assessed person or persons shall be excused from paying any additional penalty for water pollution assessable under chapter 403 for the same occurrence.

(3) The penalty provisions of this section shall not apply to any discharge promptly reported and removed by a licensee registrant in accordance with the rules, regulations and orders of the department.

Section 15. Section 376.18, Florida Statutes, 1971, is amended to read:

**376.18 Budget approval.—**The department shall submit to each regular session of the legislature its budget recommendations for disbursements from the fund, pursuant only to §376.11 (5)(a). Upon approval appropriation thereof, by the legislature, the comptroller shall authorize expenditures therefrom as approved by the department. Any funds expended from general revenue pursuant to this act are to be returned to the general revenue fund from the Florida coastal protection fund in increments as funds are generated, but shall be completely repaid within five (5) years from the date of transfer.

Section 16. Section 376.20, Florida Statutes, 1971, is amended to read:

**376.20 Limitation on application.—**Nothing in this chapter shall be deemed to apply to the storage or transportation of liquefied petroleum gas or to industrial effluents discharged into the waters or atmosphere of the state pursuant to either a federal or state permit, a permit issued by department of pollution control.

Section 17. Section 376.21, Florida Statutes, 1971, is amended to read:

**376.21 Construction.—**This chapter, being necessary for the general welfare and the public health and safety of the state and its inhabitants, shall be liberally construed to effect the purposes set forth under this chapter and the Federal Water Quality Improvement Act of 1970, Pollution Control Act.

Section 18. In the event that any provision of application of this act is held to be invalid, it is the legislative intent that the other provisions and applications hereof shall not be thereby affected.

Section 19. This act shall take effect July 1, 1974.

Senators Ware, Sayler, and Myers offered the following amendment to Amendment 11 which was moved by Senator Ware and adopted:

**Amendment 11a—**On page 20, line 21, strike the period and insert: ; provided however that when the amount of proven damages exceeds the amounts available to any claimant from the fund such claimant shall have the right to proceed in the appropriate court for recovery of all proven damages not recovered from the fund. The department shall be a necessary party to all arbitration and court proceedings under this section.

Senator Ware moved the following amendments to Amendment 11 which were adopted:

**Amendment 11b**—On page 20, line 14, strike (period) . and insert: unless otherwise provided by this section.

**Amendment 11c**—On page 21, line 26, insert: The department is a necessary party to any arbitration or legal proceedings held pursuant to the provisions of this chapter. The department shall appear in any such proceedings and shall have the right to appeal any decisions as provided by this chapter.

Senator Brantley moved the following amendment to Amendment 11 which was adopted:

**Amendment 11d**—On page 3, lines 27-28, strike ~~twelve hundred gallons~~ *two hundred (200) barrels* and insert: *twelve hundred barrels*

#### The President presiding

Senator Sayler moved the following amendment to amendment 11 which was adopted:

**Amendment 11e**—On page 10, line 28, strike "terminal facility" and insert: registrant

Senator Sayler moved the following amendment to amendment 11:

**Amendment 11f**—On page 26, line 22 insert: (4) Notwithstanding any other provision of law, it is unlawful to violate sections 376.041, 376.06 or 376.15 or to fail to comply with section 376.14, and any person so doing is guilty of a misdemeanor of the first degree punishable as provided in sections 775.082, 775.083 or 775.084, in addition to the civil penalty. Reporting a prohibited discharge shall not be construed as an admission of guilt for the purposes of this subsection.

Further consideration of Amendment 11f was deferred.

The Journal of April 17 was corrected and approved as follows:

Page 153, column 2, line 21, strike "184" and insert: 321

#### CO-INTRODUCER

Senator Sayler was recorded as a co-introducer of SB 278.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 12:02 p.m. to convene at 8:30 a.m., April 19, 1974, for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions.