Thursday, April 8, 1976

The Senate was called to order by the President at 10:00 a.m. A quorum present—39:

Mr. President	Graham	Myers	Stolzenburg
Brantley	Hair	Peterson	Thomas, J.
Childers, D.	Henderson	Plante	Thomas, P.
Childers, W. D.	Holloway	Poston	Tobiassen
Deeb	Johnston	Renick	Trask
Dunn	Lane, D.	Saunders	Vogt
Firestone	Lane, J.	Sayler	Ware
Gallen	Lewis	Scarborough	Wilson
Glisson	MacKay	Sims	Winn
Gordon	McClain	Spicola	

Excused: Senator Zinkil

Prayer by the Senate Chaplain, Dr. Robert M. McMillan:

Almighty, God our Father, we continue to seek your help in all that we do.

Our very presence as legislators reminds us that laws are necessary because of human weaknesses. So do we humans protect our better selves from our weaker selves.

By necessity, our Father, we legislators have become judges over the actions of people in society. May we always remember that we too are the people and that in knowing ourselves we can better understand others.

Teach us that though we cannot legislate morality, we can be moral in our legislation.

Continue with us in your grace and mercy. In the name of our Lord. Amen.

REPORT OF COMMITTEE

The Committee on Ways and Means recommends the following pass:

SB 48	SB 87	SB 111
SB 73	SB 92	

The bills were placed on the calendar.

Committee Appointment

The President announced the appointment of Senator McClain as a member of the Committee on Commerce and his removal as a member of the Committee on Judiciary-Criminal.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lewis, by two-thirds vote SB 393 was withdrawn from the Committee on Education and indefinitely postponed.

VETOED BILLS 1975 (REGULAR SESSION)

The following message from the Honorable Bruce A. Smathers, Secretary of State, was read:

Honorable Dempsey J. Barron — April 6, 1976
President of the Senate
The Capitol

Dear Mr. President:

In compliance with the provisions of Article III, Section 8(b), of the State Constitution, I am transmitting to you for consideration of the Senate the following vetoed bills, 1975 Regular Session, with the Governor's objections attached thereto:

CS for SB	42	Relating to motor vehicle licenses
SB	107	Relating to the beverage law
CS for SB	158	Relating to public buildings
CS for SB	174	Relating to energy costs
CS for SB	251	Relating to the tax on sales of motor vehicles
SB	293	Relating to the real estate license law
SB	382	Creating a property rights study commission
SB	440	Relating to the sales and use tax on boats
SB	527	Relating to the uniform standards code for mobile homes
CS for SB	559	Relating to the traffic control law
CS for SB	682	Relating to landlord and tenant
SB	1107	Allowing boards of county commissioners to obtain liquor licenses for county-owned facilities used for cultural events.

Sincerely,
Bruce A. Smathers
Secretary of State

CS for SB 251 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers — June 14, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 251 enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to the tax on sales of motor vehicles within this state; amending subsection (2)(a) of s. 212.02, Florida Statutes, defining a taxable sale under chapter 212, Florida Statutes, to exclude the transfer of title or possession, or both, exchange, barter, lease or rental, of a motor vehicle to a resident of another state for use and registration in such other state."

Senate Bill 251 erodes the sales tax base by excluding from the definition of a sale the sale of a new or used motor vehicle to a resident of another state for registration and use in such other state. This exclusion is estimated to reduce general revenue receipts $1,500,000 in 1975-76 due to automobile sales alone. Mobile home and recreational vehicle sales would increase this revenue loss. Although the Legislature believed that it had left unappropriated enough funds to provide for this and other exemptions, it is now apparent that the revenue estimate we were using is too optimistic. May revenue receipts from the sales tax, which were not available at the time the Legislature adjourned, are approximately $5 million below estimate. This indicates we will be about $15-20 million short for the fiscal year ending this June 30. It is reasonable to expect that 1975-76 revenue will fall below the previous estimate by at least this amount.

Also, I am concerned about the excess of recurring expenditures over recurring revenues. This condition is particularly significant since so much of our Federal revenue-sharing funds have been included in appropriations for operations.

Another reason for vetoing this and the other sales tax exemption bills is that many alternative forms of tax relief and reduction exist. It is my opinion that many of them are preferable to these proposed exemptions. For example, the municipal utility tax on households needs revision.

This bill has additional problem areas relating to enforcement and existing interstate taxation procedures. The exclusion is predicated on an act that will take place subsequent to the time of sale, and enforcement is more difficult under that condition. As a result of these difficulties, the prevailing practice is for the sales tax to be collected at the time and point of sale. If interstate considerations are involved, the state of registration recognizes the sales tax paid in the state of sale. This preserves the point-of-sale concept. If the exclusion in Senate Bill 251 were to become law, the state of registration would collect the sales tax at its rate for a sale in Florida of a motor vehicle registered eleswhere. If the reverse situation occurred, the Florida claim would be limited to the tax differential, if any, between the two states—there is no reciprocal arrangement in the Florida exemption.

Senate Bill 251 has two additional features that make it undesirable and difficult to administer. First, the language in lines 14 through 25 on the first page of the bill provides that it has never been the legislative intent to tax the sale of a motor vehicle within this state to a resident of another state for use and registration in such other state. This would appear to make the exclusion retroactive and could result in claims for refunds. The second feature is that the bill provides for an exclusion rather than an exemption. Thus, the dealer is relieved of any responsibility for collection of the tax, and enforcement is accordingly more difficult.

For the above reasons, I am withholding my approval of Senate Bill 251, Regular Session of the Legislature, commencing on April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

CS for SB 251 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Graham	Peterson	Thomas, P.
Brantley	Henderson	Plante	Tobiassen
Childers, D.	Holloway	Renick	Trask
Childers, W. D.	Lane, D.	Sayler	Ware
Deeb	Lane, J.	Sims	Wilson
Gallen	Lewis	Spicola	
Glisson	McClain	Stolzenburg	
Gordon	Myers	Thomas, J.	

Nays—10

Dunn	Johnston	Saunders	Winn
Firestone	MacKay	Scarborough	
Hair	Poston	Vogt	

On motion by Senator Brantley, by two-thirds vote CS for SB 251 with the Governor's objections thereto was immediately certified to the House.

SB 440 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers June 14, 1975
Secretary of State
The Capitol
Tallahassee, Florida

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold by approval of and transmit to you with my objections Senate Bill 440 enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to the sales and use tax; amending s. 212.05 (1), Florida Statutes; providing an exemption from the sales and use tax on the sale of a boat by a registered dealer when the boat is removed from the state within 10 days; providing for proof of removal; providing a penalty; providing an effective date."

Senate Bill 440 erodes the sales and use tax base by creating a sales tax exemption for boats sold by registered dealers to purchasers who remove the boats from the state within ten days. The estimated revenue loss from this bill is $500,000 in 1975-76, a year in which revenue expectations are low and uncertain. Although the Legislature believed that it had left unappropriated enough funds to provide for this and other exemptions, it is now apparent that the revenue estimate we were using is too optimistic. May revenue receipts from the sales tax, which were not available at the time the Legislature adjourned, are approximately $5 million below estimate. This indicates we will be about $15-20 million short for the fiscal year ending this June 30. It is reasonable to expect that 1975-76 revenue will fall below the previous estimate by at least this amount.

Also, I am concerned about the excess of recurring expenditures over recurring revenues. This condition is particularly significant since so much of our Federal revenue-sharing funds have been included in appropriations for operations.

Another reason for vetoing this and the other sales tax exemption bills is that many alternative forms of tax relief and reduction exist. It is my opinion that many of them are preferable to these proposed exemptions. For example, the municipal utility tax on households needs revision.

The bill has additional problems in terms of enforcement and existing interstate taxing procedures. Enforcement problems are increased any time an exemption is allowed on the basis of some action that is expected to occur after the sale. As a result, the prevailing practice is for the sales tax to be collected at the time and point of sale. When interstate considerations are involved, the tax is usually collected at the point of sale and recognized subsequently by other states if the boat or motor vehicle is registered elsewhere. If Florida provides this exemption, the state of registration will collect the tax at its rate for boats sold in Florida and registered elsewhere. If the boat is sold elsewhere and registered here, the Florida claim will be limited to the tax differential, if any, between the two states—there is no reciprocal arrangement to the Florida exemption.

An additional concern that I have with this bill is the restriction of the exemption to registered boat dealers. This creates an inequity between dealers in yachts and occasional sales of pleasure boats by individuals.

For the above reasons, I am withholding my approval of Senate Bill 440, Regular Session of the Legislature, commencing on April 8, 1975, and do hereby veto same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

SB 440 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Graham	Poston	Tobiassen
Brantley	Henderson	Renick	Trask
Childers, D.	Holloway	Sayler	Vogt
Childers, W. D.	Lane, D.	Sims	Ware
Deeb	Lewis	Spicola	Wilson
Gallen	Myers	Stolzenburg	
Glisson	Peterson	Thomas, J.	
Gordon	Plante	Thomas, P.	

Nays—10

Dunn	Johnston	McClain	Winn
Firestone	Lane, J.	Saunders	
Hair	MacKay	Scarborough	

On motion by Senator Brantley, by two-thirds vote SB 440 with the Governor's objections thereto was immediately certified to the House.

SB 107 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers June 13, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution

of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Amendment to Senate Bill 107, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to the beverage law; amending s. 562.13, Florida Statutes; providing persons under 17 years of age may be employed as actors, actresses or musicians in bona fide dinner theaters in which alcoholic beverages are served; amending s. 561.22, Florida Statutes, by establishing subsections (a) and (b) to provide that an individual who applies for a vendor's license or renewal thereof may possess stock not to exceed one percent in corporations that manufacture, distribute or export alcoholic beverages; providing an effective date."

Senate Bill 107 allows one percent stock ownership and affiliation between vendors, wholesalers and manufacturers of alcoholic beverages.

My opposition to this legislation is that it violates the intent and purpose of the "tied house evil laws" as expressed in sections 561.22, 561.24, and 561.42, Florida Statutes, whose purpose it is to maintain a complete separation between the three tiers of the alcoholic beverage industry.

The courts have historically recognized the problem of affiliation between the tiers of the alcoholic beverage industry as it relates to the intention of the beverage laws to avoid creation of monopolies. Federal law also addresses the problem of the "tied house evil." This bill would open the door for the creation of such monopolies.

A one percent stock ownership by an individual, particularly in the case of a large corporation, could render that individual in a strong relationship to concert in controlling supply and prices from the manufacturing level to the consumer. Through the cumulative efforts of vendors to own one percent of stock by each vendor, manipulated control of the voting could be achieved.

For the above reasons, I am withholding my approval of Senate Bill 107, Regular Session of the Legislature, commencing on April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

SB 107 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gordon	Myers	Stolzenburg
Brantley	Graham	Plante	Thomas, J.
Childers, D.	Henderson	Poston	Thomas, P.
Childers, W. D.	Holloway	Renick	Tobiassen
Deeb	Johnston	Saunders	Trask
Dunn	Lane, J.	Sayler	Vogt
Firestone	Lewis	Scarborough	Ware
Gallen	MacKay	Sims	Wilson
Glisson	McClain	Spicola	Winn

Nays—2

Hair	Peterson

On motion by Senator Brantley, by two-thirds vote SB 107 with the Governor's objections thereto was immediately certified to the House.

CS for SB 158 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers June 19, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Committee Substitute for Senate Bill 158, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to public buildings; repealing s. 255.053, Florida Statutes; amending section 253.33, Florida Statutes; granting full authority and responsibility to district school boards for decisions regarding school construction contracts and payments; providing an effective date."

Senate Bill 158 would repeal Section 255.053, Florida Statutes, which requires the State to retain a portion of the amount due a contractor until the project is completed and approved. The retainage provision which would be deleted by this bill encourages the proper and expeditious completion of construction projects, which is a good business practice. Repeal of this provision would force the State to rely upon contractual procedures which are subject to interpretation and litigation. Controversies arising out of defective or incomplete work could be expected to create delays and have the possibility of increasing costs.

The Department of General Services has advised that several recent settlements in which contractors were required to correct defects or adjust grossly inflated claims would not have been possible without the provisions of Section 255.053, Florida Statutes. In order to expedite the proper completion of construction projects and to help avoid costly and time consuming litigation, the Department has advised me that it would not be in the best interests of the State to repeal the provisions of this section.

I recognize the merits of the position of subcontractors who believe that they should not have payments withheld from them to a greater extent than the amounts retained from payments to the contractor. I have asked the Department to review this problem and recommend appropriate procedures to be implemented by rule or legislation if necessary.

For the above reasons, I am withholding my approval of Senate Bill 158, Regular Session of the Legislature, commencing on April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

CS for SB 158 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Hair	Myers	Spicola
Brantley	Henderson	Peterson	Stolzenburg
Childers, D.	Holloway	Plante	Thomas, J.
Childers, W. D.	Johnston	Poston	Thomas, P.
Deeb	Lane, D.	Renick	Tobiassen
Dunn	Lane, J.	Saunders	Trask
Gallen	Lewis	Sayler	Vogt
Glisson	MacKay	Scarborough	Ware
Graham	McClain	Sims	Winn

Nays—2

Firestone	Gordon

By unanimous consent Senator Wilson was recorded as voting yea.

On motion by Senator Brantley, by two-thirds vote CS for SB 158 with the Governor's objections thereto was immediately certified to the House.

CS for SB 682 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers June 26, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Committee Substitute for Senate Bill 682, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to landlords and tenants; amending section 83.59(2), Florida Statutes, 1974 Supplement; providing for legislative intent; providing for an alternate method of service of process by the landlord in actions for possession; amending section 83.60(2), Florida Statutes, providing for the inclusion of certain warning provisions in process in actions for possession; amending section 83.62, Florida Statutes; providing for an alternate method of posting the writ of possession on the premises in actions for possession; providing an effective date."

Committee Substitute for Senate Bill 682 amends Sections 83.59 and 83.62 of the Florida Statutes to allow a landlord or his agent to serve process on a tenant by having a copy of the summons and complaint served by any person who is not a party to the proceeding. Presently, this can only be done by an officer authorized by law to serve process or by a court-appointed non-interested person. Generally, this has meant that the service of process is performed by a deputy sheriff. Often, though, a court upon request will designate some other person who has no interest in the proceeding to serve process.

This bill invites service of process by the landlord's agent. While a party to the proceeding cannot actually serve the process, nevertheless the person who serves process may be the landlord's employee. A dangerous intrusion is created by this bill in procedures that are constitutionally regulated and traditionally reserved for neutral and detached process servers.

This opens the door to what has been commonly called "sewer service." The term originates from the tendency of private persons employed for the purpose of serving process to simply throw the process in the sewer and not serve it at all. Although this bill requires that an affidavit be filed with the court, it offers little assurance that service actually will be made. The result would often be a "swearing match" between the process server and the person who allegedly received service, with the latter unable to prove that the process was not served.

More often, it would not even come to that. The landlord would merely obtain a default judgment against a tenant who would remain totally unaware of the pending action in summary procedure or of any judgment pending against him.

The vast majority of landlords in Florida are honest people. However, to determine whether this bill should become law, we need only consider whether we would feel it appropriate for this important function of process serving to be left in the hands of an employee of the opposing side in the conduct of one of our own personal disputes. There must be fairness in such proceedings and this bill would make fairness more difficult to achieve.

Additionally, I am concerned that the inclusion of the language "or his duly appointed agent" in subsection (2) creates an avenue through which nonlawyers may engage in the practice of law in Florida. Subsection (2) provides that "a landlord *or his duly appointed agent*, applying for the removal of a tenant, shall file in the county court of the county where the premises are situated a complaint describing the dwelling unit and stating the facts that authorize its recovery."

I have been advised by the Florida Bar that Senate Bill 682 would thus appear to authorize nonlawyers to prepare and file legal pleadings. Also, it may contemplate actual representation by nonlawyer agents in legal proceedings involving issues of tenant removal.

Under Article V, Section 15 of the Florida Constitution, the Supreme Court has exclusive power to admit persons to practice law in Florida. The Florida Legislature cannot authorize a nonlawyer to practice law without violating the separation of powers doctrine. In *The Florida Bar v. Higbee*, Case No. 45,344, (opinion filed June 21, 1974), the Supreme Court considered the problem of a nonlawyer "certified property manager" filing and prosecuting tenant eviction cases. The case did not result in a formal opinion. Yet the court's order suggests the propriety of the Florida Bar's legal position.

For these reasons, I am withholding my approval of Senate Bill 682, Regular Session of the Legislature, commencing April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

CS for SB 682 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—26

Mr. President	Henderson	Plante	Thomas, J.
Brantley	Johnston	Renick	Thomas, P.
Childers, D.	Lane, D.	Sayler	Tobiassen
Childers, W. D.	Lane, J.	Scarborough	Trask
Gallen	Lewis	Sims	Ware
Glisson	McClain	Spicola	
Hair	Peterson	Stolzenburg	

Nays—12

Dunn	Graham	Myers	Vogt
Firestone	Holloway	Poston	Wilson
Gordon	MacKay	Saunders	Winn

On motion by Senator Brantley, by two-thirds vote CS for SB 682 with the Governor's objections thereto was immediately certified to the House.

On motion by Senator Brantley, the rules were waived and time of adjournment was extended until 12:30 p.m.

SB 527 (1975 Regular Session), was taken up and read by title, together with the following objections thereto of the Honorable Reubin O'D. Askew, Governor of Florida:

Honorable Bruce Smathers June 18, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 527, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"A bill to be entitled an act relating to the Uniform Standards Code for Mobile Homes; amending section 320.822(1), Florida Statutes, 1974 Supplement; amending the definition of "mobile home manufacturer"; providing an effective date."

Senate Bill 527 amends Section 320.822, Florida Statutes, to define "mobile home manufacturers" and "manufacturers" as persons manufacturing or assembling eight or more mobile homes per year. Also it provides that such persons employ more than two people.

Essentially, this bill would permit manufacturers to assemble or manufacture up to eight mobile homes per year without regard for licensing and bonding requirements. Also, since they would not be subject to regular inspections by the Department of Highway Safety and Motor Vehicles, they could manufacture mobile homes not conforming to the Mobile Home Construction Standards. Because it would thus weaken consumer protection efforts, Executive Director Ralph Davis of the Department of Highway Safety and Motor Vehicles, has recommended that Senate Bill 527 be vetoed.

I appreciate the fact that responsible, small businesses engaged in the manufacture of mobile homes may find it dif-

ficult to comply with new state requirements for licensing, bonding and construction standards. The department will continue to assist these manufacturers and will undertake a review of the requirements to insure that small manufacturers are being treated fairly. I believe these steps can be achieved under the present law and that the exemption of small manufacturers is not in the public interest.

For the above reasons, I am withholding my approval of Senate Bill 527, Regular Session of the Legislature, commencing April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

SB 527 (1975 Regular Session) failed to pass. The vote was:

Yeas—19

Mr. President	Gordon	Plante	Thomas, P.
Brantley	Henderson	Sayler	Tobiassen
Childers, W. D.	Lewis	Sims	Trask
Gallen	McClain	Stolzenburg	Ware
Glisson	Peterson	Thomas, J.	

Nays—18

Childers, D.	Holloway	Poston	Vogt
Dunn	Johnston	Renick	Wilson
Firestone	Lane, J.	Saunders	Winn
Graham	MacKay	Scarborough	
Hair	Myers	Spicola	

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Honorable Dempsey J. Barron, President April 7, 1976

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional two-thirds vote of all Members present on April 7, 1976, the Governor's objections to the contrary notwithstanding—

By the Committee on Appropriations and Representative Craig and others—

CS for HB 874 (1975 Regular Session)—An act relating to state agencies; creating the Florida Economic Impact Disclosure Act of 1975; providing legislative intent; providing definitions; requiring every agency, in advance of any agency action, to prepare an economic impact statement along specified lines; requiring agencies to make an economic impact statement a part of the record in proceedings relative to agency action under the Administrative Procedure Act; authorizing specified elected officials to request economic impact statements from agencies; providing exemptions; providing for judicial review; providing an effective date.

The Governor's objections attached thereto.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Honorable Bruce Smathers June 27, 1975
Secretary of State
The Capitol

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Committee Substitute for House Bill 874, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1975, and entitled:

"An act relating to State agencies; creating the Florida Economic Impact Disclosure Act of 1975; providing legislative intent; providing definitions; requiring every agency, in advance of any agency action, to prepare an economic impact statement along specified lines; requiring agencies to make an economic impact statement a part of the record in proceedings relative to agency action under the Administrative Procedure Act; authorizing specified elected officials to request economic impact statements from agencies; providing exemptions; providing for judicial review; providing an effective date."

Committee Substitute for House Bill 874 would require every State agency to prepare an "economic impact statement" for any proposed agency action which would have a "substantial" economic effect. Although "substantial" is not specifically defined, several specific actions are directed to have an economic impact statement. Included would be all rules, policy statements, agency bulletins, internal agency procedures and other agency decisions which have substantial economic impact.

Additionally, Section 6 provides that any member of the Legislature, the Governor or any member of the Cabinet may request an agency to prepare an economic impact statement upon any proposed or existing agency action or any proposed or existing policy statement. Further, a member of the Legislature could request an agency to prepare an economic impact statement upon any proposed legislation which has a direct relationship to the agency. Section 8 of House Bill 874 then provides that the provisions of the act shall be accomplished within the existing resources and appropriations authorized by the Legislature.

I completely support the basic concept behind the bill. The executive branch of government, as well as the legislative, should be cognizant of the economic impact of its actions and should be able to justify those actions in view of the impact. However, I am deeply concerned about certain aspects of this legislation. It is very obvious that substantial economic and manpower drains will be placed upon agencies. The provision that compliance will be accomplished within existing resources and appropriations is clearly unrealistic. I also believe that a potential exists for the requirement to be used as a tool to stymie the proper operation of government.

Furthermore, the language of the bill that an economic impact statement must contain a determination that the agency action is the least-cost method of achieving a stated purpose may be interpreted as limiting the options open to the agency. A narrow view of the "costs" of a course of action would preclude consideration of non-monetary impacts and not serve the public interest.

Finally, I believe that the requirement of an economic impact statement "in advance of any agency action" to be overly broad. In many areas it would be inefficient and unproductive to formulate such a statement. In some areas, the Legislature has already set up procedures, such as competitive bidding, that set parameters for economic activity. The areas where a statement is required should be narrowly defined in order to minimize the cost upon State government.

I am convinced that the provision in Senate Bill 1320 which I have already approved provides a better vehicle for providing economic accountability while not needlessly impeding the operation of government. Senate Bill 1320 requires an estimate of the economic impact of any proposed rule of an agency on all persons affected by it or a statement of the reasons why the costs cannot be estimated. Thus, the critical discretionary area of administrative action — the rulemaking power — is covered.

Furthermore, while Senate Bill 1320 is effective immediately, Committee Substitute for House Bill 874 would not be effective until July 1, 1976. I invite the involvement of members of the Legislature in agency efforts to demonstrate that decisions are made on an economic basis. Together we have the opportunity to make the process meaningful without it becoming an exercise in paper shuffling that impedes government responsiveness rather than increases it. The Legislature can then readdress the issue during the 1976 session if it feels that further requirements might be necessary. Because of the July 1, 1976 effective date, nothing will have been lost and we will have the benefit of a year's experience.

For the above reasons, I am withholding my approval of Committee Substitute for House Bill 874, Regular Session of the Legislature, commencing April 8, 1975, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The President put the question: "Shall the bill pass the Governor's objections to the contrary notwithstanding?"

CS for HB 874 (1975 Regular Session) passed by the required constitutional two-thirds vote of all members present and was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Henderson	Poston	Tobiassen
Brantley	Holloway	Renick	Trask
Childers, D.	Lane, D.	Sayler	Vogt
Childers, W. D.	Lane, J.	Scarborough	Ware
Deeb	Lewis	Sims	Wilson
Gallen	McClain	Spicola	Winn
Glisson	Myers	Stolzenburg	
Gordon	Peterson	Thomas, J.	
Hair	Plante	Thomas, P.	

Nays—6

Dunn	Graham	MacKay	Saunders
Firestone	Johnston		

On motion by Senator Brantley, by two-thirds vote, CS for HB 874 was immediately certified to the House.

Senator Glisson moved that the Senate reconsider the vote by which CS for SB 527 (1975 Regular Session) failed this day.

Senator J. Thomas announced that the Select Committee on Title Practices would meet at 12:30 p.m. this day.

ENGROSSING REPORT

Your Engrossing Clerk has incorporated amendments to SB 24 and SB 116.

Joe Brown, Secretary

CO-INTRODUCERS

Senators Hair and McClain were recorded as co-introducers of SB 343, Senators Lewis, Renick, Trask, J. Lane and Scarborough as co-introducers of SJR 266 and SB 267; Senator J. Lane as co-introducer of Senate Bills 391, 496, 355, 356, 357, 358, 359, 360 and 361; Senator McClain as a co-introducer of SB 200, Senator Renick as co-introducer of Senate Bills 429 and 496, Senator Tobiassen as co-introducer of Senate Bills 496 and 432, Senator Sayler as a co-introducer of SB 266.

The Journal of April 6 was corrected and approved.

On motion by Senator Brantley, the Senate adjourned at 12:27 p.m. to convene at 8:30 a.m., April 9, 1976 for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions.