



Journal of the Senate

Number 35

Friday, May 27, 1977

The Senate was called to order by the President at 9:00 a.m.
A quorum present—36:

Mr. President	Gorman	Peterson	Thomas, Jon
Barron	Graham	Plante	Thomas, Pat
Chamberlin	Hair	Poston	Tobiassen
Childers, Don	Henderson	Renick	Trask
Childers, W. D.	Holloway	Sayler	Vogt
Dunn	Johnston	Scarborough	Ware
Firestone	Lewis	Scott	Williamson
Gallen	MacKay	Skinner	Winn
Glisson	McClain	Spicola	Zinkil

Excused: Senators Castor, Wilson, Myers and Gordon

Prayer by Senator Zinkil:

Bless us, heavenly Father,
 forgive our erring ways,
 Grant us strength to serve thee,
 put purpose in our days ...
 Give us understanding
 enough to make us kind
 So we may judge all people
 with our heart and not our mind ...
 And teach us to be patient
 in everything we do,
 Content to trust your wisdom
 and to follow after you ...
 And help us when we falter
 and hear us when we pray
 And receive us in thy Kingdom
 to dwell with thee some day.
 Amen.

The President recognized Senator Henderson who presented the Sarasota Boys Choir to the Senate. Senator Henderson stated that the Sarasota Boys Choir was founded by the Sarasota Choral Society as a bicentennial project in September of 1975. Mrs. Julia Rohr, director of the Choral Society and a retired public school instrumental teacher became the group's first director, a post she still holds. Mrs. Rohr is a graduate of Shenandoah Conservatory of Music, and has studied choral and instrumental music at several other colleges, including Florida State University and the University of Florida. In 1976 Mrs. Rohr received the Governor's Award for the Arts.

The purpose of forming the Sarasota Boys Choir was to encourage the musical abilities of boys through their participation in choral activities and provide a superior musical experience for interested boys, ages 9-13, with acceptable, trainable voices. Since the choir's conception they have made over 66 appearances in mobile home parks, churches and for local service clubs. An invitation to perform as guests of Disney World, was one of the highlights of the Choir's winter season. Also, several boys recently attended an International Boy Choir Federation Convention in Monterrey, Mexico. There, with other boy choirs from all over the United States and Canada, they sang with the massed choir in Monterrey Cathedral. Today, these fine young men will have an opportunity to study their state government in action and meet their elected officials. These educational opportunities are a part of the established goals of the group.

Following a performance by the Choir, Senator Henderson was presented with an honorary membership on the choir's board of directors.

By direction of the President, Senator Poston escorted the Honorable and Mrs. Claude Pepper to the rostrum where Congressman Pepper addressed the Senate.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be placed on the Reviser's Bill Calendar for Friday, May 27, 1977:

SB 636	HB 967	HB 1581	HB 1575
HB 961	HB 1571	HB 1584	HB 1576
HB 962	HB 1572	HB 1586	HB 1577
HB 963	HB 1573	HB 1587	HB 1585
HB 964	HB 1578	HB 1588	HB 960
HB 965	HB 1579	HB 1589	
HB 966	HB 1580	HB 1574	

Respectfully submitted,
 Tom Gallen, Chairman

The Committee on Rules and Calendar recommends the following pass:

SB 1479	SB 1483	SB 1478
SB 1482	SB 1484	

The bills were placed on the calendar.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Barron, the rules were waived and by two-thirds vote Senate Bills 1173 and 528, and HB 2202 were withdrawn from the Committee on Governmental Operations.

On motion by Senator Williamson, the rules were waived and by two-thirds vote SB 1045 was withdrawn from the Committee on Commerce.

On motions by Senator Lewis, the rules were waived and by two-thirds vote HB 2280 was withdrawn from the Committee on Finance, Taxation and Claims and by two-thirds vote placed at the beginning of the Special Order Calendar.

On motion by Senator Gallen, the rules were waived and by two-thirds vote HB 640, SB 831, SM 446 and HB 1594 were withdrawn from the Committee on Rules and Calendar.

On motion by Senator Pat Thomas, the rules were waived and by two-thirds vote HB 1946 was withdrawn from the Committee on Finance, Taxation and Claims.

REQUESTS FOR EXTENSION OF TIME

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following:

SB 98 by Senator Sayler, et al	SB 816 by Senator Lewis (by request)
SB 103 by Senator Sayler	SB 859 by Senator Firestone
SB 107 by Senator Pat Thomas	SB 897 by Senator Plante, et al
SB 119 by Senator Glisson	SB 961 by Senator Castor
SB 323 by Senator Pat Thomas	SB 1046 by Senator Williamson
SB 335 by Senator Spicola (by request)	SB 1125 by Senator Sayler, et al
SB 415 by Senator Tobiassen	SB 1197 by Senator Gordon (by request)
SB 568 by Senator Lewis (by request)	SB 1271 by Senator McClain
SB 728 by Senator Spicola	

SB 1276 by Senator Plante
 SB 1305 by Senator MacKay
 SB 1311 by Senator Plante
 HB 133 by Representative Grizzle
 HB 628 by Representative Hazelton
 HB 1107 by Representative Girardeau
 HB 1601 by Committee on Transportation, et al

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1563 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Fortune and others—

HCR 1563—A concurrent resolution honoring Miss Venetia Green, Florida's Junior Miss for 1977.

—was read the first time by title. On motion by Senator Tobiassen, the rules were waived and the concurrent resolution was placed on the calendar.

On motion by Senator Tobiassen, the President appointed Senators W. D. Childers and Tobiassen as a committee to escort Miss Venetia Green, Florida's Junior Miss for 1977 to the rostrum.

On motion by Senator Tobiassen, by unanimous consent HCR 1563 was taken up out of order.

On motion by Senator Tobiassen, by two-thirds vote HCR 1563 was read the second time in full, adopted and certified to the House. The vote on adoption was:

Yeas—31

Mr. President	Glisson	MacKay	Spicola
Barron	Gorman	McClain	Thomas, Jon
Chamberlin	Graham	Peterson	Tobiassen
Childers, Don	Hair	Plante	Trask
Childers, W. D.	Henderson	Poston	Vogt
Dunn	Holloway	Renick	Williamson
Firestone	Johnston	Sayler	Winn
Gallen	Lewis	Scott	

Nays—None

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for SB 563 as amended by the Conference Committee Report.

Allen Morris, Clerk

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Pat Thomas and others—

SB 1230—A bill to entitled An act relating to the State University System; creating s. 240.145, Florida Statutes, prohibiting the merger of state universities without legislative approval; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 16 insert: New Section 2 and renumber subsequent sections

Section 2. Section 240.146, Florida Statutes, is created to read:

240.146 Curriculum Screening Committee—There is hereby created a curriculum screening committee in each university and community college to review films and course curricula to determine the compliance with community standards on pornography. Said committee shall be composed of 12 faculty members which shall be chosen by the President of each university and community college and shall be representative of the entire faculty.

Amendment 2—On page 1 in title, line 5, after the semicolon insert: creates a Curriculum Screening Committee in each com-

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following:

SB 874 by Senator Henderson
 SB 1422 by Senators Gordon and Plante
 SB 1440 by Senator W. D. Childers
 HB 246 by Representatives Hyatt Brown and John Lewis
 HB 621 by Representatives Hieber and Hugo Black, III

The Committee on Judiciary-Criminal requests an extension of 7 days for consideration of the following:

SB 1250 by Senator Dunn
 SB 1292 by Senator McClain
 SB 1424 by Senator Jon Thomas
 SB 1441 by Senator Dunn

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 8 days for consideration of the following:

SB 680 by Senator Pat Thomas
 SB 702 by Senator Peterson
 SB 716 by Senator McClain
 SB 736 by Senator Dunn
 SB 756 by Senator Skinner
 SB 959 by Senator Sayler
 SB 1013 by Senator Vogt
 SB 1043 by Senator Tobiassen
 SB 1103 by Senator Henderson
 SB 1143 by Senator Winn
 SB 1150 by Senator Pat Thomas
 SB 1153 by Senator Gorman
 SB 1160 by Senator Pat Thomas
 SB 1185 by Senator Graham
 SB 1220 by Senator Plante
 SB 1224 by Senator Graham
 SB 662 by Senator Scarborough
 HB 399 by Representative Melvin
 HB 495 by Representative Richard
 HB 617 by Representative Malloy

The Committee on Judiciary-Civil requests an extension of 15 days for consideration of the following:

SB 47 by Senator Tobiasen
 SB 123 by Senator Plante
 SB 192 by Senator Henderson
 SB 194 by Senator Scott
 SB 331 by Senator Sayler
 SB 390 by Senator Skinner
 SB 421 by Senator Graham
 SB 507 by Senator Henderson
 SB 534 by Senators Winn and Scott
 SB 652 by Senator Skinner
 SB 719 by Senator Graham
 SB 729 by Senator Wilson
 SB 783 by Senator Holloway
 SB 941 by Senator Myers
 SB 1353 by Senator Williamson
 HB 513 by Representative Martin

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed in the office of the Secretary of State SB 249 which he had approved May 26, 1977.

Appointment Subject to Confirmation by the Senate

The Secretary of State on May 26, 1977 certified that pursuant to the provisions of Section 112.071(1)(b), Florida Statutes, a commission subject to confirmation by the Senate had been prepared for the following:

Willie J. Bruton, Orlando; Member, Board of Trustees of the Valencia Community College, for term ending May 31, 1979

—which was referred to the Committee on Executive Business.

munity college and state university to review course curricula and films for compliance with community standards on pornography;

On motions by Senator Pat Thomas, the Senate concurred in the House Amendments.

SB 1230 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Graham	Poston	Trask
Barron	Hair	Renick	Vogt
Chamberlin	Henderson	Sayler	Ware
Childers, Don	Holloway	Scarborough	Williamson
Childers, W. D.	Lewis	Scott	Winn
Firestone	MacKay	Spicola	Zinkil
Glisson	McClain	Thomas, Pat	
Gorman	Peterson	Tobiassen	

Nays—1

Johnston

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Spicola—

SB 56—A bill to be entitled An act relating to the State Wilderness System Act; amending ss. 258.17, 258.19, 258.21, 258.22, 258.23, 258.25, 258.26, 258.28, 258.29, 258.30, 258.32, Florida Statutes; providing for administration of the act by the Department of Natural Resources; changing the duties of the interagency advisory committee; providing management and use criteria for the system; providing for withdrawal of lands from the system; prohibiting any use of land leased by the department for incorporation in the system which is incompatible with the provisions of the act; providing a penalty clause; repealing s. 258.20, Florida Statutes, which designates the types of wilderness areas; repealing s. 258.27, Florida Statutes, which requires consideration of competing uses of potential wilderness areas; repealing s. 258.33, Florida Statutes, which requires review of land holdings by governmental units prior to 1973; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 7, line 28, strike “or drilling for oil or gas;” and insert: ; drilling for oil or gas may be allowed in formally designated wilderness areas provided the applicant complies with permit requirements established by law.

Amendment 2—On page 5, line 27, strike “adequate” and insert: full

Amendment 4—On page 2, line 5, strike “a relatively large area” and insert: an area

Amendment 5—On page 8, line 28, insert new Section 13 and renumber subsequent sections: Section 13. Nothing in this act shall be construed so as to prevent the lawful management of water resources by any governmental agency or so as to divest any lawful rights acquired prior to the effective date of this act.

Senator Spicola moved the following amendment to House Amendment 1 which was adopted:

Amendment 1—On page 1, strike all of lines 1 through 3 and insert: ;

Senator Spicola moved the following amendment to House Amendment 5 which was adopted:

Amendment 5—On page 1, lines 2 and 3, strike “governmental agency” and insert: water management district created pursuant to chapter 373, Florida Statutes,

On motions by Senator Spicola, the Senate concurred in House Amendments 1 and 5 as amended and the House was requested to concur in the Senate amendments. On motions by Senator Spicola, the Senate concurred in House Amendments 2 and 4. SB 56 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—25

Mr. President	Graham	Sayler	Ware
Barron	Henderson	Scarborough	Williamson
Chamberlin	Lewis	Scott	Winn
Childers, W. D.	MacKay	Spicola	Zinkil
Firestone	McClain	Thomas, Pat	
Gallen	Peterson	Tobiassen	
Gorman	Renick	Trask	

Nays—3

Childers, Don Johnston Vogt

Vote after roll call:

Yea—Dunn

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended HB 1129.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

SB 269	SB 687	SB 931
CS for SB 1193	SB 495	SB 1035
SB 682	SB 206	

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has adopted SM 1061.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

SB 164	SB 63	SB 37
SB 527	SB 1196	SB 836
CS for SB 645	SB 65	SB 1232

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

CS for SB 569	CS for SB 593	SB 82
SB 967	SB 68	SB 651
SB 1067	SB 1062	SB 660
SB 690		

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

CS for SB 486	SB 337	SB 158
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Allen Morris, Clerk

The bills contained in the foregoing messages were ordered enrolled.

MATTERS ON RECONSIDERATION

The motion by Senator Johnston to reconsider the vote by which SB 734 passed May 26 was not taken up and therefore considered abandoned.

The motion by Senator Skinner on May 26 that the Senate reconsider the vote by which—

CS for HB 273—A bill to be entitled An act relating to Citizen Dispute Settlement Centers; authorizing boards of county commissioners to establish mediation centers for the resolution of minor criminal or civil disputes between citizens; establishing objectives for the centers; authorizing an advisory body to promulgate rules; authorizing the chief judge of the circuit to oversee operations of the center and providing for the appointment of a director for each center; establishing eligibility for participation in the mediation programs; authorizing the establishment of procedures; providing confidentiality of information received by the center from participants; providing for written settlements; providing for funding of centers; providing an effective date.

—passed on May 25, was taken up and adopted by the following vote:

Yeas—19

Barron	Henderson	Saylor	Tobiassen
Childers, W. D.	Lewis	Scarborough	Trask
Gallen	McClain	Scott	Ware
Glisson	Peterson	Spicola	Williamson
Gorman	Poston	Thomas, Pat	

Nays—13

Chamberlin	Graham	MacKay	Zinkil
Childers, Don	Hair	Renick	
Dunn	Holloway	Vogt	
Firestone	Johnston	Winn	

The Senate reconsidered the vote and CS for HB 273 failed to pass. The vote was:

Yeas—14

Chamberlin	Glisson	Johnston	Winn
Childers, Don	Graham	MacKay	Zinkil
Dunn	Hair	Poston	
Firestone	Holloway	Vogt	

Nays—17

Barron	Lewis	Scott	Ware
Childers, W. D.	McClain	Spicola	Williamson
Gallen	Peterson	Thomas, Pat	
Gorman	Saylor	Tobiassen	
Henderson	Scarborough	Trask	

The motion by Senator McClain to reconsider the vote by which SB 1449 as amended passed on May 26 was taken up. The motion failed.

The bill was ordered engrossed and then certified to the House.

On motion by Senator Gallen, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

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

By Senator Lewis (by request) and others—

SB 553—A bill to be entitled An act relating to the Administrative Procedures Committee; adding paragraph (i) to s. 11.60(2), Florida Statutes, to grant standing to the commit-

tee to seek judicial review of the validity or invalidity of certain administrative rules and to authorize the expenditure of public funds therefor; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike all of lines 23 and 24 and insert: the objection. Judicial review under this paragraph shall not be initiated until the Governor and the agency head of the agency have been notified of the committee's proposed action and have been given a reasonable opportunity for consultation with the committee. The committee is hereby authorized to expend public funds from its appropriation for the purpose of seeking judicial review.

Amendment 2—On page 1, strike all of lines 25 and 26 and insert: Section 2. Paragraph (c) of subsection (14) of section 120.52, Florida Statutes, 1976 Supplement, is amended to read:

120.52 Definitions.—As used in this act:

(14) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(c) The preparation or modification of:

1. Agency budgets.
2. Contractual provisions reached as a result of collective bargaining.
3. Agricultural marketing orders under chapter 573 or chapter 601.
4. Curriculum by an educational unit.

Section 3. Paragraph (a) of subsection (9) and subsections (11) and (12) of section 120.54, Florida Statutes, 1976 Supplement, are amended to read:

120.54 Rulemaking; adoption procedures.—

(9)(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.
2. The agency takes only that action necessary to protect the public interest under the emergency procedure.
3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one county or a part thereof, shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(11)(a) The adopting agency shall file with the committee a copy of each rule it proposes to adopt, a detailed written statement of the facts and circumstances justifying the proposed rule, a copy of the estimate of economic impact required by subsection (1), and the notice required by subsection (1) at least 21 days prior to the proposed adoption date. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. This paragraph shall not apply to educational units other than units of the State University System, to local units of government with jurisdiction in only one county or a part thereof, or to emergency rules adopted pursuant to subsection

[(9)]. However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule with the Department of State. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule and the other material required above in the office of the agency head, and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made not less than 21 days nor more than 45 days after the notice required by subsection (1) if no public hearing is held. If a public hearing is held, the adopting agency shall file within 21 days after receipt of all material authorized to be submitted at the hearing or receipt of the transcript, if one is made, whichever is later. Not less than 21 days or more than 45 days after the notice required by subsection (1), or not more than 10 days after the conclusion of the final public hearing, if the hearing extends beyond the 45 days, the adopting agency, if it is required to publish its rules in the Florida Administrative Code, shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file all the above material with the Department of State, except that only one certified copy of the proposed rule shall be filed.

(12) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute. After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule by publishing a notice in the Florida Administrative Weekly and notifying the Department of State, and may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, or changes in response to a proposed objection by the committee. Changes supported by the record of a hearing or made in response to a proposed committee objection may include withdrawal of the rule in whole or in part. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

Section 4. Subsection (1) of section 120.545, Florida Statutes, 1976 Supplement, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by paragraph 120.54[(11)](a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether the rule is within the statutory authority upon which it is based, whether the rule is in proper form, and whether the notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule. The committee shall set its agenda of possible objections at least 7 days prior to its meeting and shall send a copy of the agenda to each agency which has a rule thereon. In the case of a proposed rule, the committee shall in all cases notify the agency of any staff recommendation for objection prior to the date on which the proposed rule becomes a rule, if the agency is headed by an individual, or prior to the date on which the proposed rule is to be submitted to the agency head for approval, if the agency is headed by a collegial body. If the committee objects to a [proposed or existing] rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

Section 5. Paragraph (b) of subsection (1) of section 120.55, Florida Statutes, 1976 Supplement, is amended to read:

120.55 Publication.—

(1) The Department of State shall:

(b) Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8), and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. Rules general in form but applicable to only one school district, community college district, county, or a part thereof, or to the Florida School for the Deaf and Blind shall not be published in the Florida Administrative Code. Rules so omitted shall be filed in the Department of State, and Exclusion from publication in the Florida Administrative Code shall not affect their validity or effectiveness. The department shall publish a compilation of, and index to, all rules so omitted at least annually. The department shall also publish, at the beginning of the section of the code dealing with an agency, any exemptions granted that agency pursuant to s. 120.63, including the termination date of the exemption and whether the exemption can be renewed pursuant to s. 120.63(2)(b).

Section 6. Paragraph (b) of subsection (1) of section 120.57, Florida Statutes, 1976 Supplement, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section shall apply in all proceedings in which the substantial interests of a party are determined by an agency. Unless waived by all parties, subsection (1) shall apply whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) shall apply in all other cases.

(1) FORMAL PROCEEDINGS.—

(b) In cases to which this subsection is applicable, the following procedures shall apply:

1. Requests for hearings shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In hearings involving student disciplinary suspensions or expulsions conducted by educational units, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for proceedings conducted as prescribed in subsection 120.54[(4)] or s. 120.56, all petitions or requests for hearings under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall notify the division within 10 days of receipt of the petition or request, requesting the assignment of a hearing officer and, with the concurrence of the division, [set] the time, date, and place of the hearing. On request of any agency, the division shall assign hearing officers with due regard to the expertise required for the particular matter. Any party may request the disqualification of any hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may

be given an opportunity to present oral or written communications. If the agency proposes to consider such material then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. The record in cases governed by this subsection shall consist only of:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;
- g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under subsection 120.66(1), if such communications are public records;
- h. All matters placed on the record after an ex parte communication pursuant to subsection 120.66(2); and
- i. The official transcript.

6. The agency shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost.

7. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

8. The hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

9. The agency may adopt the recommended order as the agency's final order. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a recommended order, but may not increase it without a review of the complete record. In the event a court reverses, ~~in reversing~~ an agency's order, ~~finds that such agency action was done in bad faith or maliciously,~~ the court in its discretion may award attorney's fees and costs to the aggrieved prevailing party.

10. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

11. A hearing officer who is a member of an agency head may participate in the formulation of the agency's final order, provided he has completed all his duties as hearing officer.

12. *The hearing officer may award a reasonable attorney's fee and costs if it is determined that a party has abused the procedures of this chapter for purposes of delay, harassment, or intimidation. Any such award shall specify the reasons therefor and shall be deemed to be final agency action.*

Section 7. Subsections (2) of section 120.60, Florida Statutes, 1976 Supplement, is amended, a new subsection (3) is created, subsection (3) is renumbered subsection (4), subsection (4) is amended and renumbered (5), and subsections (5) and (6) are renumbered subsections (6) and (7) and a new subsection (8) is created to read:

120.60 Licensing.—

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Within 30 days after receipt of an application for a license, the agency shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the agency is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the license unless the agency timely notified the applicant within this 30 day period. The agency shall notify the applicant if the activity for which he seeks a license is exempt from the licensing requirement and return any tendered application fee within 30 days after receipt of the original application or within 10 days after receipt of the timely requested additional information or correction of errors or omissions. Every application for license shall be approved or denied within 90 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. *The 90-day period shall be tolled by the initiation of a proceeding under s. 120.57 and shall resume 10 days after the recommended order is submitted to the agency and the parties.* Any application for a license not approved or denied within the 90-day period or within 15 days after conclusion of a public hearing held on the application, *or within 45 days after the recommended order is submitted to the agency and the parties,* whichever is latest, shall be deemed approved and, subject to the satisfactory completion of an examination, if required as a prerequisite to licensure, [the license] shall be issued. The Public Service Commission, when issuing a license, and any other agency, if specifically exempted by law, shall be exempt from the time limitations within this subsection. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of same, except where issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.

(3) *Unless otherwise specified in this subsection, proceedings for licensing or for approving mergers pursuant to title XXXVI and title XXXVII, Florida Statutes, shall not be subject to sections 120.57(1) and 120.58, Florida Statutes.*

(a) *In cases to which this subsection is applicable, the agency shall adopt rules of procedure which will require:*

1. *The publication of notice within 21 days of receipt of application in the Florida Administrative Weekly;*

2. *That within 21 days of publication of notice, any person may request a public hearing as provided by agency rule;*

3. *That upon the timely asserted request of any party the person presiding at the hearing shall swear witnesses and take their testimony under oath, and permit the parties to conduct cross-examination.*

4. *That the record shall contain those items specified in s. 120.57(1)(b)(5), Florida Statutes.*

5. *That the agency shall accurately and completely preserve all testimony and evidence and, on the request of any person, it shall make a full or partial transcript available at no more than cost.*

(b) *Review of the final agency order shall be in accordance with section 120.68, Florida Statutes.*

(c) *Notwithstanding subsection (2) above, every application for license for a new bank, new trust company, new credit union, or new savings and loan association shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing held on the application, whichever is the latest, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts by the Federal Deposit Insurance Corporation for a new bank, and by the Federal Savings and Loan Insurance Corporation for a new savings and loan association.*

(3)(4) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency [or], in case the application is denied or the terms of the license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(4)(5) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order institution of agency proceedings, the agency has given reasonable notice by certified mail or actual service to the licensee of facts or conduct which warrant the intended action and the licensee has been given an opportunity to show that he has complied with all lawful requirements for the retention of the license.

(5)(6) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension of a license, it shall show compliance in its order with the requirements imposed by subsection 120.54(9) on agencies making emergency rules. Summary suspension may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(6)(7) If the Administrative Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

(8) This section shall not apply to certification of employee organizations pursuant to s. 447.307.

Section 8. This act shall not apply to any contested application which has been referred to the Division of Administrative Hearings by the agency on the effective date of this act, nor shall the time limit for automatic approval contained in paragraph (c) of section 120.60(3), Florida Statutes, as created by this act begin until the effective date of this act for those new bank, trust company, savings and loan or credit union applications which were on file with the department on the effective date of this act.

Section 9. Paragraphs (a) and (b) of subsection (2) of section 120.63, Florida Statutes, 1976 Supplement, are amended to read:

120.63 Exemption from act.—

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in subsection 120.54(1). Upon the conclusion of the hearing, the commission, through the Secretary of Administration, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption, and shall transmit to the committee and to the Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed and shall give notice of the petition and the commission's response in the Florida Administrative Weekly.

(b) An exemption, and any alternative procedure prescribed, shall terminate 90 days following adjournment sine die of the current or next regular legislative session after issuance of the exemption, or upon the effective date of any subsequent legislation incorporating the exemption of any partial exemption related thereto, whichever is earlier. The exemption issued by the commission and it shall be renewable upon the same or similar facts not more than once. Such renewal shall terminate as would an original exemption. 90 days following adjournment sine die of the next regular legislative session following the renewal

Section 10. This act shall take effect upon becoming a law, and the provisions of s. 120.60(3), Florida Statutes, 1976 Supplement, as created by this act shall be void and inoperative on June 30, 1978.

Amendment 3—On page 1 in title, strike all of lines 2 through 9 and insert: A bill to be entitled An act relating to the

Administrative Procedure Act; amending s. 11.60(2)(e), Florida Statutes, and adding paragraph (i) to said subsection, to grant standing to the Administrative Procedure Committee to seek judicial review of the validity or invalidity of certain administrative rules and to authorize the expenditure of public funds therefor; providing that such judicial review shall not be initiated until the Governor and the agency head have been notified of the committee's proposed action and have been given an opportunity for consultation; amending s. 120.52 (14)(c), Florida Statutes, 1976 Supplement, relating to the definition of "rule"; amending s. 120.54(9)(a), (11), and (12), Florida Statutes, 1976 Supplement; exempting educational and local units of government from required publication of notice of emergency rules in the Florida Administrative Weekly and from required filing of copies with the Administrative Procedure Committee; providing for filing of such rules by an adopting agency with the Department of State or with the agency head and providing effective dates; amending s. 120.545(1), Florida Statutes, 1976 Supplement, requiring the Administrative Procedure Committee to set its agenda of possible objections in advance and notify affected agencies; amending s. 120.55(1)(b), Florida Statutes, 1976 Supplement, conforming language; requiring publication in the Florida Administrative Code of history notes as authorized in s. 120.545(8), Florida Statutes, 1976 Supplement, and requiring publication of all exemptions granted pursuant to s. 120.63, Florida Statutes, 1976 Supplement, in the code or compilation of omitted rules; amending s. 120.57(1)(b), Florida Statutes, 1976 Supplement; broadening the court's discretion to award attorney's fees and costs to an aggrieved party; empowering a hearing officer to award attorney's fees and costs in certain circumstances; amending s. 120.60(2) and (4), Florida Statutes, 1976 Supplement, and adding two new subsections; tolling the 90-day period for licensing when certain proceedings are initiated and allowing an agency 45 days after receipt of a recommended order to act on a license application; changing the notice requirement for revocation, suspension, annulment, or withdrawal of a license; exempting certification of certain employee organizations from licensing requirements; to provide proceedings for licensing or for approving mergers pursuant to title XXXVI and title XXXVII, Florida Statutes; providing time limitations for agency action for approval of a new bank trust company, credit union, or savings and loan association; providing for nonapplicability; amending s. 120.63(2)(a) and (b), Florida Statutes, 1976 Supplement, requiring the Administration Commission, through the Secretary of Administration, to issue an order specifically granting or denying the exemption and specifying the extent of any exemption granted; providing an effective date.

Amendment 4—On page 1, line 13, strike all of lines 13 through 17 and insert: Section 1. Paragraph (e) of subsection (2) of section 11.60, Florida Statutes, is amended and paragraph (i) is added to said subsection to read:

11.60 Administrative procedures Committee; creation; membership; powers; duties.—

(2) The committee shall:

(e) Report to the legislature at least annually, no later than the first week of the regular session, and recommend needed legislation or other appropriate action. The report shall include, but not be limited to, a listing of agency rules and regulations which establish standards more restrictive than federal standards.

Senators Ware and Lewis offered the following amendments to House Amendment 2 which were moved by Senator Ware and adopted:

Amendment 1—On pages 4 and 5, strike all of lines 26 through 31 on page 4 and all of lines 1 through 20 on page 5

(Renumber subsequent sections.)

Amendment 2—On page 10, strike all of lines 10 through 15

Amendment 3—On page 13, line 17, strike the word "entry" and on line 18, strike: "of a final order institution of agency proceedings" and insert: institution of agency proceedings

Amendment 4—On page 15, line 20, strike "1976 Supplement,"

Senators Ware and Lewis offered the following amendment to House Amendment 3 which was moved by Senator Ware and adopted:

Amendment 1—On pages 1 and 2, strike on page 1, line 27: everything after the semicolon and on page 1, lines 28 through 30: all of lines 28 through 30 and on page 1, line 31: “and notify affected agencies;” and on page 2, line 13: everything after the semicolon and on page 2, line 14: all of line 14 and on page 2, line 15: “circumstances;” and on page 2, line 21: everything after the semicolon and on page 2, line 22: all of line 22 and on page 2, line 23: all of line 23

On motions by Senator Ware, the Senate concurred in House Amendments 2 and 3 as amended and the House was requested to concur in the Senate amendments.

On motions by Senator Ware, the Senate concurred in House Amendment 1, refused to concur in House Amendment 4 and the House was requested to recede.

SB 553 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—25

Mr. President	Gorman	Plante	Spicola
Barron	Hair	Poston	Thomas, Jon
Chamberlin	Henderson	Renick	Ware
Childers, W. D.	Holloway	Sayler	Williamson
Dunn	Johnston	Scarborough	
Firestone	Lewis	Scott	
Glisson	McClain	Skinner	

Nays—1

Graham

Votes after roll call:

Yeas—Pat Thomas, Trask, Winn

The Honorable Lew Brantley, President

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

By Senator Graham—

SB 40—A bill to be entitled An act relating to condominiums; amending s. 718.501(3)(b), Florida Statutes, 1976 Supplement; reducing from \$25 to \$10 the fee required for filing with the Division of Florida Land Sales and Condominiums a complaint alleging a violation of the Condominium Act and seeking investigation, arbitration or enforcement by the division; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 23, add new section 2 and renumber subsequent sections.

Section 2. Section 718.112, Florida Statutes, 1976 Supplement is amended to read:

(2) The bylaws shall provide for the following, and if they do not do so, shall be deemed to include the following:

(b) *Unless otherwise provided in the bylaws, the* The percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be a majority of the units constitute a quorum, and decisions shall be made by owners of a majority of the units represented at a meeting at which a quorum is present. Unit owners may vote proxy.

Amendment 2—On page 1 in title, line 9, after the semicolon “;” insert: amending s. 718.112(2)(b), Florida Statutes, 1976 Supplement, providing that condominium bylaws may provide for the percentage of unit owners or voting rights required to make decisions;

Amendment 3—On page 1, line 23 Add a new Section 2 and renumber subsequent Sections

Section 2. Paragraph (d) of subsection (2) of section 718.112, Florida Statutes, 1976 Supplement, is amended to read:
718.112 Bylaws.—

(2) The bylaws shall provide for the following, and if they do not do so, shall be deemed to include the following:

(d) There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancies on the board of administration caused by the expiration of a director’s term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by certified mail, the notice of the annual meeting shall be sent by certified mail to each unit owner and the post office certificate of mailing shall be retained as proof of such mailing. Unit owners may waive notice of specific meetings and may take action by written agreement without meetings, if allowed by the bylaws, the declaration of condominium, or any Florida statute.

Amendment 4—On page 1 in title, line 9, after the semicolon “;” insert: amending s. 718.112(2)(d), Florida Statutes, 1976 Supplement, providing that notice of the annual meeting of the unit owners must be sent by regular mail rather than certified mail and the post office certificate of mailing must be retained as evidence of such mailing;

Amendment 5—On page 1, line 23, insert a new Section 2 and renumber subsequent sections.

Section 2. Subsection (2) of section 718.119, Florida Statutes, 1976 Supplement, is amended to read:

718.119 Limitation of liability.—

(2) The owner of a unit may be personally liable for the acts or omissions of the association in relation to the use of the common elements, but only to the extent of his pro rata share of that liability in the same percentage as his interest in the common elements, and then in no case shall that liability exceed the value of his unit.

Amendment 6—On page 1 in title, line 9, after the semicolon “;” insert: amending s. 718.119(2), Florida Statutes, 1976 Supplement, providing for limitations of liability with respect to the acts or omissions of condominium associations;

Amendment 7—On page 1, line 23 insert new section 2 and renumber subsequent sections

Section 2. Subsection (1) of section 718.301, Florida Statutes, 1976 Supplement, is amended to read:

718.301 Transfer of association control.—

(1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) When all the units that will be operated ultimately by the association have been completed, some of them have

been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business; or

(d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business *at least 5 percent in condominiums with fewer than 500 units and two percent in condominiums with more than 500 units any unit* in a condominium operated by the association.

Amendment 8—On page 1 in title, line 9, after the semicolon “;” insert: amending s. 718.301(1), Florida Statutes, 1976 Supplement, providing that developers must hold a certain percentage of condominium units for sale in order to elect a representative to the board of administration;

Amendment 9—On page 1, line 23, Add a new Subsection 2 and renumber subsequent sections.

Section 2. Subsection (4) of section 718.110, Florida Statutes, 1976 Supplement, is amended and subsection (7) is added to said section to read:

718.110 Amendment of declaration.—

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment *and unless all the record owners of all other units approve the amendment.*

(7) *The declarations, bylaws and common elements of two or more independent associations of a single complex may be merged to form a single association upon the approval of 80 percent of all the unit owners of each association and of all record owners of liens and upon the recording of new or amended articles of incorporation, declaration, and bylaws.*

Amendment 10—On page 1 in title, line 9, after the semicolon “;” insert: amending s. 718.110(4), Florida Statutes, 1976 Supplement, and adding subsection (7) thereto, relating to amendments to the declaration of condominium;

Amendment 11—On page 1, line 22, after the period “.” insert: Section 2. Subsection (9) is added to section 718.116, Florida Statutes, 1976 Supplement, to read:

718.116 Assessments; liabilities; lien and priority; interest; collection.—

(9) *Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.*

Amendment 12—On page 1 in title, line 9, after the semicolon “;” insert: adding subsection (9) to s. 718.116, Florida Statutes, 1976 Supplement, providing that unit owners shall have the right to require that the association provide them with a certificate showing certain unpaid assessments;

Amendment 13—On page 1, line 12, after the colon “:” insert: Section 1. Subsection (6) of section 718.203, Florida Statutes, 1976 Supplement, is amended to read:

(Substantial rewording of subsection. See s. 718.203(6), F.S., 1976 Supplement, for present text.)

718.203 Warranties.—

(6) This section shall not apply to residential condominiums which are covered by an insured warranty program underwritten by a licensed insurance company registered in

Florida and approved for said warranty program by the Department of Insurance. Said warranty shall be for no less than 10 years duration and shall include the roof, electrical components, and all the structural components of a building or other improvements except mechanical elements serving only one unit.

(and renumber the subsequent sections)

Amendment 14—On page 1 in title, line 2, after the semicolon “;” insert: amending s. 718.203(6), Florida Statutes, 1976 Supplement, providing for the applicability of warranties on condominiums; requiring specified provisions;

Amendment 15—On page 1, line 23, insert new section 2 and renumber subsequent sections.

Section 2. Section 718.122, Florida Statutes, is created to read:

718.122 Unconscionability of certain leases; rebuttable presumption.—

(1) A lease pertaining to use by condominium unit owners of recreational or other common facilities, irrespective of the date on which such lease was entered into, is presumptively unconscionable if all of the following elements exist:

(a) the lease was executed by persons none of whom at the time of the execution of the lease were elected by condominium unit owners, other than the developer, to represent their interests;

(b) the lease requires either the condominium association or the condominium unit owners to pay real estate taxes on the subject real property;

(c) the lease requires either the condominium association or the condominium unit owners to insure buildings or other facilities on the subject real property against fire or any other hazard;

(d) the lease requires either the condominium association or the condominium unit owners to perform some or all maintenance obligations pertaining to the subject real property or facilities located upon the subject real property;

(e) the lease requires either the condominium association or the condominium unit owners to pay rents to the lessor for a period of 21 years or more;

(f) the lease provides that failure of the lessee to make payments of rents due under the lease either creates, establishes, or permits establishment of, a lien upon individual condominium units of the condominium to secure claims for rent;

(g) the gross rent over the life of the lease exceeds the fair market value of the leased property at the time the lease is executed. For purposes of this paragraph rent shall not be considered in determining fair market value;

(h) the lease provides for a periodic rental increase based upon reference to a price index;

(i) the lease or other condominium documents require that every transferee of a condominium unit must assume obligations under the lease.

(2) The Legislature expressly finds that many leases involving use of recreational or other common facilities by residents of condominiums were entered into by parties wholly representative of the interests of a condominium developer at a time when the condominium unit owners not only did not control the administration of their condominium, but also had little or no voice in such administration. Such leases often contain numerous obligations on the part of either or both a condominium association and condominium unit owners with relatively few obligations on the part of the lessor. Such leases may or may not be unconscionable in any given case. Nevertheless, the Legislature finds that a combination of certain onerous obligations and circumstances warrants the establishment of a rebuttable presumption of unconscionability of certain leases, as specified in subsection (1). The presumption may be rebutted by a lessor upon the showing of additional facts and circumstances to justify and validate what otherwise appears to be an unconscionable lease under this section. Failure of a lease to contain all enumerated elements shall neither preclude a determination of unconscionability of the lease nor raise a

presumption as to its conscionability. It is the intent of the Legislature that this section is remedial and does not create any new cause of action to invalidate any condominium lease, but shall operate as a statutory prescription on procedural matters in actions brought on one or more causes of action existing at the time of the execution of such lease.

Amendment 16—On page 1 in title, line 9, after the word "division" insert: creating s. 718.122, Florida Statutes; providing that a condominium lease of recreational or other common facilities is presumptively unconscionable if it contains all of certain enumerated elements; providing that such presumption is rebuttable; providing legislative intent;

Senator Firestone moved the following amendment to House Amendment 9 which was adopted:

Amendment 1—On page 1, lines 6-10, strike "(7) The declarations, bylaws and common elements of two or more independent associations of a single complex may be merged to form a single association upon the approval of 80 percent of all the unit owners of each association and of all record owners of liens and upon the recording of new or amended articles of incorporation, declaration, and bylaws." and insert: (7) The declarations, bylaws and common elements of two or more independent condominiums of a single complex may be merged to form a single condominium upon the approval of 80 percent of all the unit owners of each condominium and of all record owners of liens and upon the recording of new or amended articles of incorporation, declaration, and bylaws.

Senator Graham moved that the Senate concur in House Amendments 1 through 16 including House Amendment 9 as amended by the Senate amendment.

Senator W. D. Childers moved as a substitute motion that the Senate concur in House Amendments 1 through 14, including House Amendment 9 as amended and the House be requested to concur in the Senate amendment to House Amendment 9. The motion was adopted.

Senator Graham moved that the Senate concur in House Amendments 15 and 16.

Senator W. D. Childers moved the following amendment to House Amendment 15 which failed:

Amendment 1—On page 1, line 9, strike "all" and insert: any

Senator W. D. Childers moved the following amendment to House Amendment 15 which failed:

Amendment 2—On page 1, strike all of lines 11 through 14, inclusive and redesignate subsequent paragraphs

Senator Glisson moved that debate on the amendments be limited to thirty seconds per side. The motion failed.

Senator W. D. Childers moved that further consideration of SB 40 be deferred. The motion failed.

Point of Order

Senator W. D. Childers raised a point of order stating that amendments added to SB 40 by the House were actually bills which still reside in the Senate Commerce Committee and have not been heard by that committee, so the bill, with all amendments, should be referred to the Commerce Committee.

Senator Dunn spoke to the point as follows: "Mr. President, I think rule 7.7 is clear. It says a House bill may be amended in the same manner as a Senate bill and a Senate bill may be amended in the House in the same manner. A bill is not a bill if it's an amendment. If it's an amendment and meets the germanity requirements of the bill and of the Constitution, it is germane and can be voted on as an amendment. The fact that something has been in committee and been considered as a bill in committee and voted up or down is totally immaterial. The test is whether the amendment is pertinent to the bill and, if it is, that amendment is subject to vote before this Senate or, with respect to a Senate bill, before the House. So I think the point ought to be ruled not well taken."

Senator Gallen, speaking to the point, said "Mr. President, Senators, this point of order raises a very difficult question which perhaps many of us agree with in concept, because it is an ability to do, indirectly, that which cannot be done directly, i.e., pull a bill from a committee without the necessary two-thirds vote, circumvent the committee process, deny public input, and force us to vote on a subject that we have not before considered, or even one we have considered and disapproved.

However, I've researched the rules on this and we have a rule that gives us three options when an amendment is put on a Senate bill and returned to us. I can't find in the rule any authority that would justify a point of order allowing the presiding officer to refer the bill to a committee.

Perhaps if the amendment affected appropriations or taxation, the amendment would cause the bill to be referred back to Appropriations and Finance and Tax Committees. However, in this case none of these amendments have the effect of touching Appropriations or Finance and Tax so that rule would not be applicable.

I think this is a very serious area that needs to be addressed in the rules because, it could be an entirely new concept, but in my research of the rules and the precedents, although the concept and the theory is good, I can't find any justification to support the particular point raised by Senator Childers."

Senator Vogt stated, to the point, that in the 1973 Session a bill that Senator Gillespie and he had filed was laid on the table by a committee and later amended on to another bill on the floor, and was not ruled out of order so a committee laying a bill on the table does not necessarily preclude it from consideration in amendment form.

Mr. President ruled on the point as follows: "The Chair will take the advice of Senator Gallen because we did contemplate the point and we did do some research on it.

There is no question in the Chair's mind that this is a mechanism that tends to authorize one house to override the rules of the other. However, as Senator Gallen pointed out, our rules do not speak to a point of order with regard to consideration of a subject matter being amended on to any bill. He is going to look at the existing rules to attempt to do something about the problem. I did ask staff to research the amendments the House put on the Senate bill to determine if, any of them had been killed by a committee even though that, as you point out, Senator Vogt, might also be a logical subject to consider. That was not the case here.

So the Chair would have to rule the point not well taken."

Senator Glisson moved that time of adjournment be extended until final consideration of SB 40. The motion failed.

Senator Ware moved the following amendment to House Amendment 15 which was adopted:

Amendment 3—On page 2, line 3-6, strike all of paragraph (g) and insert: (g) the lease requires an annual rental which exceeds 25% of the appraised value of the leased property as improved; provided that for purposes of this paragraph "annual rental" means the amount due during the first twelve months of the lease for all units regardless of whether such units were in fact occupied or sold during that period and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the condominium;

Senator Ware moved that further consideration of SB 40 be deferred.

Senator Graham moved as a substitute motion that time of adjournment be extended until final consideration of HB 2280. The motion failed.

The motion by Senator Ware was adopted by the following vote:

Yeas—15

Mr. President	Henderson	Scarborough	Trask
Barron	Lewis	Skinner	Ware
Childers, W. D.	McClain	Spicola	Williamson
Gorman	Plante	Thomas, Pat	

Nays—14

Chamberlin	Glisson	Johnston	Thomas, Jon
Childers, Don	Graham	MacKay	Winn
Dunn	Hair	Poston	
Firestone	Holloway	Scott	

Vote after roll call:

Nay—Renick

SPECIAL ORDER

Senator Hair presiding

HB 2280—A bill to be entitled An act relating to taxation; amending s. 212.02(3)(c), Florida Statutes, 1976 Supplement, redefining the term "retail sales", etc.; amending s. 212.03(1), (3) and (6), Florida Statutes, increasing certain transient rental taxes; amending s. 212.031(1), Florida Statutes, increasing the tax on the lease or rental of certain real property; amending s. 212.04(1) and (5), Florida Statutes, increasing certain admissions taxes; amending s. 212.05(1)(a), (2), (3), (4), (5) and (6), Florida Statutes, 1976 Supplement, and the introductory paragraph thereof, increasing the sales, storage and use tax; amending s. 212.055(1), Florida Statutes, 1976 Supplement, conforming language to tax increases; amending s. 212.06(1)(a), Florida Statutes, increasing the sales, storage and use tax collectible from dealers; amending s. 212.08(3) and (4), Florida Statutes, increasing the tax on the rental of certain farm equipment, providing an exemption; amending s. 212.12(1), (10) and (11), Florida Statutes, 1976 Supplement, reducing the dealer's credit for collecting tax, amending and creating brackets applicable to taxable transactions; amending s. 125.0165(1), Florida Statutes, 1976 Supplement, relating to discretionary sales taxes; providing legislative intent; providing an effective date.

—was read the second time by title. On motion by Senator Lewis, by two-thirds vote HB 2280 was read the third time by title, and failed to pass. The vote was:

Yeas—None

Nays—32

Barron	Gorman	McClain	Thomas, Jon
Chamberlin	Graham	Plante	Thomas, Pat
Childers, Don	Hair	Poston	Tobiassen
Childers, W. D.	Henderson	Renick	Trask
Dunn	Holloway	Sayler	Vogt
Firestone	Johnston	Scott	Ware
Gallen	Lewis	Skinner	Williamson
Glisson	MacKay	Spicola	Winn

Votes after roll call:

Nays—Mr. President, Peterson

The President presiding

By the Committee on Judiciary-Civil and Senator Scott—

CS for SB 1167—A bill to be entitled An act relating to trusts; amending s. 737.101, Florida Statutes; eliminating the duty to register a trust; repealing ss. 737.102, 737.103, and 737.104, Florida Statutes; relating to registration procedure, effect of registration and effect of failure to register; amending s. 737.201, Florida Statutes; eliminating reference to registration; amending s. 737.202, Florida Statutes; eliminating reference to registration; amending s. 737.303, Florida Statutes; providing notice to current income beneficiary and vested remaindermen of a trustee's acceptance of the trust; defining beneficiary; providing that vested beneficiaries receive relevant information about the trust; requiring that the beneficiary named therein be vested; amending s. 737.304, Florida Statutes; eliminating reference to registration; amending s. 737.305, Florida Statutes; eliminating reference to registration; adding s. 737.306(4), Florida Statutes; providing that issues of liability between a trust

estate and trustee individually may be determined in certain proceedings; amending s. 737.401, Florida Statutes; eliminating the provision that an instrument that is not a trust may incorporate any part of the trust part by reference; amending s. 737.405, Florida Statutes; providing for clarification; renumbering and amending s. 738.151, Florida Statutes; relating to final accounting under the Trust Accounting Law; providing an effective date.

—was read the first time by title and SB 1167 was laid on the table.

On motions by Senator Scott, by two-thirds vote CS for SB 1167 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Barron	Hair	Renick	Tobiassen
Childers, Don	Henderson	Sayler	Trask
Childers, W. D.	Johnston	Scarborough	Vogt
Dunn	Lewis	Scott	Ware
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	
Gorman	Plante	Thomas, Jon	
Graham	Poston	Thomas, Pat	

Nays—None

Votes after roll call:

Yeas—Chamberlin, Glisson, Peterson, Williamson

On motion by Senator Gallen the Senate proceeded to consideration of—

REVISER'S BILL CALENDAR

SB 636—A bill to be entitled An act relating to the official Florida Statutes; amending sections 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 1977 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 1977 shall be effective immediately upon publication; providing that general laws enacted during the regular session of 1975 and prior thereto and not included in the Florida Statutes 1977 are repealed; providing that general laws enacted during the 1976 and 1977 regular sessions are not repealed by this adoption act.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote SB 636 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Mr. President	Gorman	Peterson	Trask
Chamberlin	Hair	Renick	Vogt
Childers, Don	Henderson	Scott	Ware
Childers, W. D.	Johnston	Spicola	Winn
Firestone	Lewis	Thomas, Jon	
Gallen	MacKay	Thomas, Pat	
Glisson	McClain	Tobiassen	

Nays—1

Plante

Votes after roll call:

Yeas—Graham, Williamson

HB 961—A revisor's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections to conform them to chapter 75-48, Laws of Florida, which reorganized the Department of Health and Rehabilitative Services; repealing sections 381.011, 381.131, 381.141, 391.02, 391.03, 395.10, 395.11, 401.28, 402.01, 402.02, 402.03, 402.11, 402.15, 402.303, 402.304, 409.046, 409.047, 409.115, 409.125, 468.124, 468.125, 483.081, and 959.07, all Florida Statutes, relating to abolished advisory councils; repealing sections 381.221 and 413.45, Florida Statutes, relating to annual reports; and repealing

sections 409.035 and 959.031, Florida Statutes, relating to directors of abolished divisions.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 961 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Mr. President	Hair	Renick	Tobiassen
Chamberlin	Henderson	Sayler	Trask
Childers, Don	Johnston	Scarborough	Vogt
Childers, W. D.	Lewis	Scott	Ware
Firestone	MacKay	Skinner	Winn
Gallen	Peterson	Thomas, Jon	
Gorman	Poston	Thomas, Pat	

Nays—None

Votes after roll call:

Yeas—Graham, McClain, Spicola, Williamson

HB 962—A reviser's bill to be entitled An act relating to occupational and professional licensing; conforming the language of various sections of the Florida Statutes to chapter 74-37, Laws of Florida, which provides that no person may be disqualified from practicing an occupation or profession that is regulated by the State of Florida because he is not a United States citizen.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 962 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Mr. President	Gorman	Poston	Tobiassen
Chamberlin	Hair	Renick	Trask
Childers, Don	Henderson	Sayler	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Firestone	Lewis	Scott	Winn
Gallen	MacKay	Skinner	
Glisson	Peterson	Thomas, Pat	

Nays—None

Votes after roll call:

Yeas—Graham, McClain, Spicola, Williamson

HB 963—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections to delete references to the parts of Chapter 120, Florida Statutes, consistent with the revision of that chapter by Chapter 74-310, Laws of Florida.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 963 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Glisson	Peterson	Thomas, Jon
Barron	Gorman	Poston	Thomas, Pat
Chamberlin	Hair	Renick	Tobiassen
Childers, Don	Henderson	Sayler	Trask
Childers, W. D.	Johnston	Scarborough	Vogt
Firestone	Lewis	Scott	Ware
Gallen	MacKay	Skinner	Winn

Nays—None

Votes after roll call:

Yeas—Graham, McClain, Spicola, Williamson

HB 964—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections of the Florida Statutes to conform them to chapter 76-281, Laws of Florida, which transferred the powers, duties, and functions of the Bureau of Financial Responsibility of

the Division of Consumer Services of the Department of Insurance to the Department of Highway Safety and Motor Vehicles.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 964 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	Poston	Thomas, Pat
Barron	Hair	Renick	Tobiassen
Chamberlin	Henderson	Sayler	Trask
Childers, Don	Johnston	Scarborough	Vogt
Childers, W. D.	Lewis	Scott	Ware
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	
Glisson	Peterson	Thomas, Jon	

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 965—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections of the Florida Statutes to reflect the abolition of municipal courts as of January 3, 1977, by Art. V, s. 20(d)(4), of the Florida Constitution; repealing ss. 34.192, 43.40, 924.41, 924.42, and 951.20 as having been rendered obsolete by said Art. V, s. 20(d)(4).

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 965 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Hair	Renick	Tobiassen
Chamberlin	Henderson	Sayler	Trask
Childers, Don	Johnston	Scarborough	Vogt
Childers, W. D.	Lewis	Scott	Ware
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	
Glisson	Peterson	Thomas, Jon	
Gorman	Poston	Thomas, Pat	

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 966—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections of the Florida Statutes to conform to Section 1. (d) of Article VIII, State Constitution, as amended by H.J.R. 1907, 1973, adopted in 1974, changing the name of "tax assessor" to "property appraiser."

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 966 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gorman	Plante	Thomas, Jon
Barron	Hair	Poston	Thomas, Pat
Chamberlin	Henderson	Renick	Tobiassen
Childers, Don	Johnston	Sayler	Trask
Childers, W. D.	Lewis	Scarborough	Vogt
Firestone	MacKay	Scott	Ware
Gallen	McClain	Skinner	Winn
Glisson	Peterson	Spicola	

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 967—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections of the Florida Statutes to conform them to ch. 75-49, Laws of Florida, which created the Department of Offender Rehabilitation; repealing ss. 944.12 and 944.56 as having been rendered obsolete by ch. 75-49.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 967 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Glisson	Poston	Thomas, Pat
Barron	Gorman	Renick	Tobiassen
Chamberlin	Hair	Saylor	Trask
Childers, Don	Henderson	Scarborough	Vogt
Childers, W. D.	Johnston	Scott	Ware
Dunn	Lewis	Skinner	Winn
Firestone	MacKay	Spicola	
Gallen	Peterson	Thomas, Jon	

Nays—None

Votes after roll call:

Yeas—Graham, McClain, Williamson

HB 1571—A Reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits of sections of the Florida Statutes to conform them to bracketed words and phrases editorially inserted or substituted in the interest of clarity in the Florida Statutes 1973, the 1974 Supplement to the Florida Statutes, the Florida Statutes 1975, and the 1976 Supplement to the Florida Statutes.

—was read the second time by title.

Senator Gallen moved the following amendment which was adopted:

Amendment 1—On page 24, strike lines 6 and 7 and insert: because the sale is made *without* ~~with~~ court approval or confirmation or under a will or codicil. The title

Senator Gorman presiding

On motion by Senator Gallen, by two-thirds vote HB 1571 as amended was read the third time by title, passed, and certified to the House. The vote on passage was:

Yeas—28

Barron	Gorman	Peterson	Thomas, Jon
Chamberlin	Hair	Poston	Thomas, Pat
Childers, Don	Henderson	Renick	Tobiassen
Childers, W. D.	Johnston	Saylor	Trask
Firestone	Lewis	Scarborough	Vogt
Gallen	MacKay	Skinner	Ware
Glisson	McClain	Spicola	Winn

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 1572—A reviser's bill to be entitled An act relating to the Florida Statutes; amending or repealing various sections of the Florida Statutes pursuant to section 11.242, Florida Statutes; replacing incorrect cross-references; deleting obsolete or expired provisions; correcting grammatical and typographical errors; conforming the statutory language to previous legislation and correcting errors in the editing, publishing, and printing of the Florida Statutes; repealing sections 2.02; 2.03; 20.20; 27.324; 29.09; 30.48(2); 88.301; 112.07; 112.531(3); 121-171; 122.351(1); 130.25; 193.052(1)(c); 193.062(3); 193.114(1)(c); 193.14(1)(c) and (8); 197.326; 197.361(1); 198.43; 199.302; 205.072; 215.22(18); 218.33(3); 231.607(2); 240.211; 241.475(3); 241.476(3); 253.23; 265.18; 367.181; 373.069(2) and (4); 373-323(5); 375.042; 377.246; 380.09; 381.151; 381.181; 381.221; 454-01; 454.022; 454.023; 458.06(7); 459.17; 460.28; 462.20; 474.47; 475.361; 477.29(1), (2), and (3); 479.025; 482.221; 500.031; 516.28; 583.15; 680.102; 680.106; 680.107; 695.02(4); 717.12(7);

812.071; 941.36; 944.023(1); and 959.022(2)(f), all Florida Statutes; and chapter 74-2, Laws of Florida, and providing reviser's notes following each section.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1572 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Barron	Glisson	McClain	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Hair	Renick	Tobiassen
Childers, W. D.	Henderson	Saylor	Trask
Dunn	Johnston	Scarborough	Vogt
Firestone	Lewis	Skinner	Ware
Gallen	MacKay	Spicola	Winn

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 1573—A reviser's bill to be entitled An act relating to the disability of nonage; amending various sections of the Florida Statutes to conform them to chapter 73-21, Laws of Florida, which defined "minor" to include persons under age eighteen (18) and removed the disabilities of nonage for all persons of eighteen (18) years of age or older; repealing section 62.011, Florida Statutes.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1573 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Barron	Glisson	MacKay	Thomas, Pat
Chamberlin	Gorman	McClain	Tobiassen
Childers, Don	Graham	Saylor	Trask
Childers, W. D.	Hair	Scarborough	Vogt
Dunn	Henderson	Skinner	Ware
Firestone	Johnston	Spicola	Winn
Gallen	Lewis	Thomas, Jon	

Nays—None

Votes after roll call:

Yeas—Peterson, Williamson

The President presiding

HB 1578—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.14, Florida Statutes, relating to the Department of Agriculture and Consumer Services; deleting transient provisions which are not of general and permanent nature and which have served their purpose relating to governmental reorganization; consolidating organizationally related provisions and conforming functionally related sections for clarity.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1578 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Gallen	Lewis	Spicola
Chamberlin	Glisson	McClain	Thomas, Jon
Childers, Don	Gorman	Poston	Trask
Childers, W. D.	Hair	Scarborough	Vogt
Dunn	Henderson	Scott	Ware
Firestone	Johnston	Skinner	Winn

Nays—None

Votes after roll call:

Yeas—Graham, Peterson, Williamson

On motion by Senator Gallen, the rules were waived and time of adjournment was extended until final consideration of the reviser's bill calendar, announcements, motions and the local bill calendar.

HB 1579—A reviser's bill to be entitled An act relating to the Florida Statutes; conforming section 13.9984(1)(h), Florida Statutes, to chapter 69-106, Laws of Florida; amending section 20.15, Florida Statutes, relating to the Department of Education; deleting transient provisions which are not of general and permanent nature and which have served their purpose relating to governmental reorganization; consolidating various provisions to reduce redundancy; and transferring section 229.15(3), Florida Statutes, to section 20.15(3), Florida Statutes.

—was read the second time by title.

The Committee on Education offered the following amendment which was moved by Senator Gallen and adopted:

Amendment 1—On page 2, lines 18 and 19, strike "Elementary and Secondary Education" and insert: Public Schools

On motion by Senator Gallen, by two-thirds vote HB 1579 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Mr. President	Gallen	McClain	Tobiassen
Barron	Gorman	Peterson	Trask
Chamberlin	Graham	Poston	Vogt
Childers, Don	Hair	Scott	Ware
Childers, W. D.	Henderson	Skinner	Winn
Dunn	Johnston	Spicola	
Firestone	Lewis	Thomas, Jon	

Nays—None

Vote after roll call:

Yea—Williamson

HB 1580—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.16, Florida Statutes, relating to the Department of Business Regulation; deleting transient provisions which are not of general and permanent nature and which have served their purpose relating to governmental reorganization, deleting redundant provisions, and transferring a provision to a functionally related location for clarity; repealing section 112.07, Florida Statutes; and conforming section 399.02(5)(a), Florida Statutes, to chapter 71-157, Laws of Florida.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1580 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Gorman	Peterson	Thomas, Jon
Chamberlin	Hair	Poston	Thomas, Pat
Childers, Don	Henderson	Scarborough	Tobiassen
Childers, W. D.	Johnston	Scott	Trask
Firestone	Lewis	Skinner	Vogt
Gallen	MacKay	Spicola	Ware

Nays—1

Barron

Votes after roll call:

Yeas—Graham, McClain, Williamson

HB 1581—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.17, Florida Statutes, relating to the Department of Commerce; deleting transient provisions which are not of general and permanent nature and which have served their purpose relating to governmental reorganization; consolidating organizationally related provisions,

transferring provisions to functionally related locations, and conforming functionally related sections for clarity.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1581 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Glisson	Peterson	Thomas, Jon
Childers, Don	Gorman	Poston	Thomas, Pat
Childers, W. D.	Hair	Scarborough	Tobiassen
Dunn	Henderson	Scott	Trask
Firestone	MacKay	Skinner	Vogt
Gallen	McClain	Spicola	Ware

Nays—None

Votes after roll call:

Yeas—Graham, Williamson

HB 1584—A reviser's bill to be entitled An act relating to the Florida Statutes; repealing section 20.20, Florida Statutes, relating to the Department of Law Enforcement which was effectively replaced by the Department of Criminal Law Enforcement created by chapter 74-386, Laws of Florida, and amending section 20.201, Florida Statutes, relating to the Department of Criminal Law Enforcement, to correct editorial error.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1584 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Glisson	McClain	Thomas, Pat
Barron	Gorman	Peterson	Tobiassen
Chamberlin	Graham	Renick	Trask
Childers, Don	Hair	Scarborough	Vogt
Childers, W. D.	Henderson	Scott	Ware
Dunn	Johnston	Skinner	
Firestone	Lewis	Spicola	
Gallen	MacKay	Thomas, Jon	

Nays—None

Vote after roll call:

Yea—Williamson

HB 1586—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.25, Florida Statutes, relating to the Department of Natural Resources; deleting transient provisions which are not of a general and permanent nature and which have served their purpose relating to governmental reorganization and transferring provisions to functionally related locations.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1586 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Glisson	McClain	Thomas, Jon
Barron	Gorman	Peterson	Thomas, Pat
Chamberlin	Graham	Poston	Tobiassen
Childers, Don	Hair	Sayler	Trask
Childers, W. D.	Henderson	Scarborough	Vogt
Dunn	Johnston	Scott	Ware
Firestone	Lewis	Skinner	
Gallen	MacKay	Spicola	

Nays—None

Vote after roll call:

Yea—Williamson

HB 1587—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.261, Florida Stat-

utes, relating to the Department of Environmental Regulation; deleting transient provisions which are not of general and permanent nature and which have served their purpose relating to governmental reorganization and transferring provisions to functionally related locations.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1587 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Glisson	McClain	Thomas, Pat
Barron	Gorman	Peterson	Tobiassen
Chamberlin	Graham	Saylor	Trask
Childers, Don	Hair	Scarborough	Vogt
Childers, W. D.	Henderson	Scott	Ware
Dunn	Johnston	Skinner	
Firestone	Lewis	Spicola	
Gallen	MacKay	Thomas, Jon	

Nays—None

Vote after roll call:

Yea—Williamson

HB 1588—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.30, Florida Statutes, relating to the Department of Professional and Occupational Regulation; deleting a transient provision which is not of a general and permanent nature and which has served its purpose relating to governmental reorganization, consolidating related provisions; and transferring provisions to functionally related locations.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1588 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Glisson	MacKay	Spicola
Chamberlin	Gorman	McClain	Thomas, Jon
Childers, Don	Graham	Peterson	Thomas, Pat
Childers, W. D.	Hair	Saylor	Tobiassen
Dunn	Henderson	Scarborough	Trask
Firestone	Johnston	Scott	Vogt
Gallen	Lewis	Skinner	Ware

Nays—None

Vote after roll call:

Yea—Williamson

HB 1589—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.31, Florida Statutes, relating to the Department of Administration; deleting transient provisions which are not of a general and permanent nature and which have served their purpose relating to governmental reorganization and transferring provisions to functionally related locations; conforming section 20.31(3), Florida Statutes, to chapter 74-310, Laws of Florida.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Gallen and adopted.

Amendment 1—On page 5, line 10, insert: Section 4. Paragraph (e) of subsection (2) of Section 110.041, F.S. is amended to read:

110.041. Career Service Commission; appointment, duties and reimbursement for expenses.—A Career Service Commission of five members shall be appointed by the Governor.

(2) The Career Service Commission shall:

(e) Hold public hearings on *personnel proposed* rules and regulations, or amendments thereof, *proposed by it* and make recommendations to the Administration Commission which may approve, amend, or reject said recommendations.

Amendment 2—On page 1, line 11, before the period (.) insert: ; amending paragraph (e) of subsection (2) of section 110.041, Florida Statutes, relating to the career service commission

On motion by Senator Gallen, by two-thirds vote HB 1589 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Glisson	MacKay	Spicola
Chamberlin	Gorman	Peterson	Thomas, Jon
Childers, Don	Graham	Poston	Thomas, Pat
Childers, W. D.	Hair	Saylor	Tobiassen
Dunn	Henderson	Scarborough	Trask
Firestone	Johnston	Scott	Vogt
Gallen	Lewis	Skinner	Ware

Nays—None

Votes after roll call:

Yeas—McClain and Williamson

HB 1574—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.10, Florida Statutes, relating to the Department of State; deleting transient provisions which are not of a general and permanent nature and which have served their purpose relating to governmental reorganization; transferring various provisions to functionally related locations for clarity.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1574 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Gallen	MacKay	Thomas, Jon
Barron	Glisson	McClain	Thomas, Pat
Chamberlin	Gorman	Peterson	Tobiassen
Childers, Don	Graham	Saylor	Trask
Childers, W. D.	Hair	Scarborough	Vogt
Dunn	Henderson	Scott	Ware
Firestone	Johnston	Skinner	

Nays—None

Vote after roll call:

Yea—Williamson

HB 1575—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.11, Florida Statutes, relating to the Department of Legal Affairs; deleting a transient provision which is not of a general and permanent nature and which has served its purpose relating to governmental reorganization; transferring a provision to a functionally related location for clarity.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1575 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Glisson	MacKay	Thomas, Jon
Barron	Gorman	Peterson	Thomas, Pat
Chamberlin	Graham	Saylor	Tobiassen
Childers, Don	Hair	Scarborough	Trask
Childers, W. D.	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware
Gallen	Lewis	Spicola	

Nays—None

Votes after roll call:

Yeas—McClain, Williamson

HB 1576—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.12, Florida Statutes, relating to the Department of Banking and Finance; deleting a

transient provision which is not of general and permanent nature and which has served its purpose relating to governmental reorganization; transferring a provision to a functionally related location for clarity.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1576 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Glisson	MacKay	Thomas, Jon
Barron	Gorman	Peterson	Thomas, Pat
Chamberlin	Graham	Saylor	Tobiassen
Childers, Don	Hair	Scarborough	Trask
Childers, W. D.	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware
Gallen	Lewis	Spicola	

Nays—None

Votes after roll call:

Yeas—McClain, Williamson

HB 1577—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.13, Florida Statutes, relating to the Department of Insurance; deleting transient provisions which are not of a general and permanent nature and which have served their purpose relating to governmental reorganization, consolidating related provisions, and transferring a provision to a functionally related location; amending section 284.40, Florida Statutes, to delete redundant provisions.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1577 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Saylor	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

Votes after roll call:

Yeas—McClain, Williamson

HB 1585—A reviser's bill to be entitled An act relating to the Florida Statutes; amending section 20.22, Florida Statutes, relating to the Department of General Services; deleting transient provisions which are not of a general and permanent nature and which have served their purpose relating to governmental reorganization, repealing redundant provisions, and transferring provisions to functionally related locations.

—was read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1585 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Saylor	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

Votes after roll call:

Yeas—McClain, Williamson

HB 960—A reviser's bill to be entitled An act relating to the Florida Statutes; amending various sections and subunits

of sections of the Florida Statutes to conform them to chapter 75-22, Laws of Florida, which created a new Department of Environmental Regulation; repealing ss. 193.501(6)(d); 253.015; 253.66; 298.70; 298.71; 298.72; 298.73; 370.017; 370.02(3)(a), (b), and (e); 373.175(5); and 403.045, Florida Statutes, as being redundant or obsolete.

—was read the second time by title.

The Committee on Natural Resources and Conservation offered the following amendments which were moved by Senator Spicola and adopted:

Amendment 1—On page 60, strike all of lines 25-31 and insert: public interest. Anything in this section to the contrary notwithstanding, lands defined herein ~~lying between the ordinary mean high water line and any bulkhead line established hereunder~~ shall be sold only to the upland riparian owner and to no other person, firm, or corporation; and such sale to said upland riparian owner shall be made pursuant to the provisions herein.

Amendment 2—On page 64, lines 22-24, strike "affirmative vote of at least five of the seven votes of the Governor and Cabinet sitting as head of the Department of Natural Resources members of the board of trustees" and insert: affirmative vote of at least five of the seven Secretary of the Department of Environmental Regulation members of the board of trustees

On motion by Senator Gallen, by two-thirds vote HB 960 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Glisson	MacKay	Thomas, Jon
Barron	Gorman	Peterson	Thomas, Pat
Chamberlin	Graham	Saylor	Tobiassen
Childers, Don	Hair	Scarborough	Trask
Childers, W. D.	Henderson	Scott	Vogt
Dunn	Johnston	Skinner	Ware
Gallen	Lewis	Spicola	

Nays—None

Votes after roll call:

Yeas—McClain, Williamson

LOCAL BILL CALENDAR

SB 1479—A bill to be entitled An act relating to the Florida Inland Navigation District; amending section 5, ch. 14723, Laws of Florida, 1931, as amended; providing for an increase in the per diem allowance for commissioners; providing a maximum yearly sum for each commissioner, the chairman, and the treasurer; providing for annual audits by the Auditor General; providing compensation for such audits; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote SB 1479 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Saylor	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

SB 1482—A bill to be entitled An act relating to the Hillsborough County Civil Service Board; amending ss. 9 and 23, chapter 69-1121, Laws of Florida, as amended by chapter 70-1003, Laws of Florida, relating to approval of plans by the Board of County Commissioners, now requiring independent approval by the Board of Public Instruction on certain plans pro-

pounded by the Hillsborough County Civil Service Board and specifically allowing for rejection of such plans by either the Board of County Commissioners or the Board of Public Instruction; providing for financial contribution by the Board of Public Instruction; providing an effective date.

—was read the second time by title. On motion by Senator Spicola, by two-thirds vote SB 1482 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Gallen	Lewis	Thomas, Jon
Barron	Glisson	MacKay	Thomas, Pat
Chamberlin	Gorman	Peterson	Tobiassen
Childers, Don	Graham	Sayler	Trask
Childers, W. D.	Hair	Scarborough	Vogt
Dunn	Henderson	Scott	Ware
Firestone	Johnston	Skinner	

Nays—1

Spicola

SB 1483—A bill to be entitled An act relating to the Gulf Mosquito Control District; abolishing said district and providing for disposition of assets and for the assumption of its obligations by Bay County; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote SB 1483 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Sayler	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

SB 1484—A bill to be entitled An act relating to Okaloosa County, Destin Fire Control District; amending ss. 3, 5, 7(1)(d), 9, and 10 of chapter 63-1685, Laws of Florida, as amended by chapter 71-787, Laws of Florida; relating to membership of the board of commissioners, audits of the board's books and records, ad valorem taxing power, and indebtedness; providing a referendum.

—was read the second time by title. On motion by Senator Tobiassen, by two-thirds vote SB 1484 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Sayler	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

SB 1478—A bill to be entitled An act abolishing the City of Williston, Levy County, Florida, and creating a new municipality to be known as the City of Williston, Levy County, Florida; providing for council and mayor form of government; providing for the powers and duties of the city council; providing for alternate method of annexation; providing for control of city owned property outside city limits; providing for franchises not to exceed fifteen (15) years; providing for eligibility and election of city council and mayor; providing for the appointment of officers and employees of the city; providing for compensation of council and mayor, such compensation amount to be approved by the electorate; providing for meeting of

council, voting, records to be kept, audit, and procedures there-to; providing for city clerk and city manager and their duties, powers, and appointment; providing for employment of department heads and the creation of departments of the city government; providing for the financial procedures, preparation and adoption of the budget and hearing thereon, and transfer of funds within the budget; providing for purchasing equipment and the borrowing of money by the council; providing for planning and zoning; providing for recall of councilmen and mayor upon petition and the vote on recall of such; providing for removal for cause of councilmen, mayor, and officers of the city; providing for issuance of general obligation bonds, revenue bonds, excise and assessment bonds; providing for utilities, and the ownership, operation and maintenance thereof; providing for ownership and operation of a city hospital, the appointment of a board of trustees, officers of the board of trustees; providing that the hospital will be a body corporate, that the hospital is a public purpose, regulation of staff, authority of the hospital board to borrow money within limitations; providing for minimum housing code; providing for financial conflicts of interest; providing prohibitions of officers of the city in the performance of their duties; providing for amendments to the charter; providing for the orderly transition from the old to the new charter, transfer of obligations, contracts, claims, and the like; providing penalties; providing a severability clause; providing for the repeal of laws in conflict; repealing chapter 14476, Laws of Florida, 1929; chapter 16764, Laws of Florida, 1933; chapter 21627, Laws of Florida, 1941; chapter 24989, Laws of Florida, 1947; chapter 63-2038, Laws of Florida; chapter 63-2039, Laws of Florida; chapter 67-2175, Laws of Florida; chapter 73-658, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator MacKay, by two-thirds vote SB 1478 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Lewis	Spicola
Barron	Glisson	MacKay	Thomas, Jon
Chamberlin	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Sayler	Tobiassen
Childers, W. D.	Hair	Scarborough	Trask
Dunn	Henderson	Scott	Vogt
Firestone	Johnston	Skinner	Ware

Nays—None

Senator Graham moved that the Senate reconsider the vote by which SB 1230 passed this day.

The motion was placed on the calendar for consideration May 30.

On motion by Senator Ware, the rules were waived and by two-thirds vote CS for HB's 406 and 491 was withdrawn from the Committee on Judiciary-Criminal.

On motion by Senator Johnston, the rules were waived and by two-thirds vote SB 109 was withdrawn from the Committee on Appropriations.

On motions by Senator Lewis, the rules were waived and by two-thirds vote Senate Bills 178 and 1034 were withdrawn from the Committee on Appropriations.

On motion by Senator Lewis, the rules were waived and by two-thirds vote HB 949 was withdrawn from the Committee on Finance, Taxation and Claims.

By permission Senator Peterson was recorded as voting yea on the passage of the following bills on May 26: HB 1317, CS for SB 288, SB 1317, SB 875, SB 1117, SB 1348, HB 2217, CS for SB 1453 and SB 1449.

By permission Senator Hair was recorded as voting yea on the passage of the following bills on May 26: CS for SB 585, HB 617, SB 621, SB 634, SB 715, SB 727, SB 734, SB 492, SB 797,

SB 799, SB 800, SB 804, SB 810, SB 844, CS for HB 1142, HB 2127, SB 521, HB 1317, CS for SB 288, CS for HB 1250, SB 1317, SB 875, SB 1117, SB 1348, HB 2217 and CS for SB 1453.

CO-INTRODUCERS

Senator Renick—CS for SB 773, SB 608; Senator Tobiassen—SB 1423; Senator Chamberlin—SB 525

ENROLLING REPORTS

SB 487	SB 458	SB 867	SB 1465
SB 656	SB 506	SB 868	SB 1469
CS for SB 946	SB 710	SB 1155	SB 1470
SB 27	SB 713	SB 1463	SB 1471
	SB 851	SB 1464	

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on May 27, 1977.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 26 was corrected and approved.

The Journal of May 9 was further corrected and approved as follows: Page 361, from bottom of column 2, line 23, insert: Gorman

Page 361, from bottom of column 2, line 32, strike "Gorman"

Pursuant to the motion by Senator Gallen, the Senate adjourned at 12:10 p.m. to convene at 9:00 a.m., May 30, 1977.