



Journal of the Senate

Number 39

Thursday, June 2, 1977

The Senate was called to order by the President at 9:00 a.m. A quorum present— 39:

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

Excused: Senators Lewis, W. D. Childers, Peterson, Plante, Hair, Myers, Barron, Sayler, Gallen, Spicola, Poston, Ware, McClain, Pat Thomas, Scarborough, Johnston, Williamson, Don Childers, Scott, Trask, Henderson and Wilson, periodically, for the purpose of working on conference committee reports; Senator Gordon

Prayer by the Rev. Clyde Owen, pastor, Lakewood Baptist Church, Tallahassee:

O God, we thank you that we can call you our Father through the Lord Jesus Christ. We thank you that all things were made by him and without him was not anything made that was made. We are thankful that you have all power in heaven and in earth and that nothing is hid from your sight.

O God, we realize that we are your creation and wait upon your mercies. "Behold, as the eyes of servants look into the hand of their masters, and as the eyes of a maiden into the hand of her mistress: so our eyes wait upon the lord our God, upon us."

O God, I thank you for our state and the authorities that you have placed over it. We pray for the Governor and cabinet and each member of the legislature. O God, may they realize the great need of godliness, righteousness and morality in our state and country today and be leaders to turn our nation back to the Bible and God.

O God, give them wisdom and strength and patience to carry on the work of the state. May they keep in mind that one day we shall all stand before the great God of the universe and give an account of the deeds done in the body.

O Lord, lead us in the ways of righteousness, protect us for his name sake and for the glory of God. We ask these blessings and favors in the name of the Lord Jesus Christ who died to save the world from sin. Amen.

A SPECIAL RESOLUTION

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

A Resolution honoring Senator Jack D. Gordon on his birthdate.

WHEREAS, on June 3, 1922 in Detroit, Michigan, Senator Jack D. Gordon was born, and

WHEREAS, he moved to the State of Florida in 1940 at the age of 18 and since that time has contributed greatly to the state and its people in various positions of public service, and

WHEREAS, he presently is a member of the Florida Senate having been duly elected in 1972 and reelected subsequently, and

WHEREAS, a minor health problem has caused him to be presently housed in Mount Sinai Hospital at Miami Beach, and

WHEREAS, he will, therefore, be unable to be in the Chamber tomorrow which is the 55th anniversary of his birthdate,

NOW THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That we the members of the Florida Senate do honor and pay tribute to Senator Jack D. Gordon on this occasion, wishing him Happy Birthday, an early recovery, and Godspeed.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be placed on Special Order Calendar for Wednesday, June 2, 1977:

SB 511	SB 613	SB 612	HB 52
SB 512	SB 616	HB 2129	HB 18
HB 507	SB 413	SB 1007	HB 20
CS for HB 647	HB 2202	HB 1241	HB 1619
SB 1413	SB 1426	SB 928	HB 1220
HB 196	SB 256	HB 198	SB 516
HB 671	HB 1641	SB 1091	HB 346
CS for HB 1159	HB 2269	CS for HB's 406 & 491	SB 1345
HB 35	HB 2270	SB 482	SB 1025
SB 923	HB 2192	SB 1135	SB 239
SB 395	CS for HB 936	SB 985	
	HB 1303	HB 636	

Respectfully submitted,
Tom Gallen, Chairman

The Special Master for Claim Bills recommends the following pass: HB 1311.

The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Sayler, by two-thirds vote SB 1125 was withdrawn from the Committee on Governmental Operations.

On motion by Senator W. D. Childers, the rules were waived and by two-thirds vote SB 854 was withdrawn from the Committee on Finance, Taxation and Claims.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed in the office of the Secretary of State Senate Bills 63 and 232 which he had approved May 31, 1977.

INTRODUCTION

By Senator Chamberlin—

SB 1494—A bill to be entitled An act relating to Pinellas County; authorizing the School Board to establish and fund a program of meritorious service awards to employees whose proposed procedures and ideas are adopted and will result in reducing the School Board's expenditures or improving the School Board's operations; providing limitations therein; providing an effective date.

Proof of publication of the required notice was attached.

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

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 as amended HB 553 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Barrett—

HB 553—A bill to be entitled An act relating to public schools; repealing s. 233.064, Florida Statutes, relating to the required high school course "Americanism versus Communism"; providing an effective date.

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

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended by the required Constitutional three-fifths vote of the membership of the House, HJR 177, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Hill and others—

HJR 177—A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution relating to assessment of property for purposes of taxation.

—was read the first time by title and referred to the Committees on Finance, Taxation and Claims; and Rules and Calendar.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1964 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Boyd—

HB 1964—A bill to be entitled An act relating to landlord and tenant law; amending s. 83.49(1), Florida Statutes, 1976 Supplement, authorizing landlords to post an irrevocable letter of credit with the clerk of the circuit court from certain banking institutions as an alternative to the present requirements of the deposit money or advance rent provisions of the landlord and tenant law; amending ss. 83.43(2), 83.46, and 83.57, Florida Statutes, providing for the inclusion of dwelling units provided as an incident of employment; providing an effective date.

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

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 630 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Moffitt and others—

HB 630—A bill to be entitled An act relating to county court judges; amending s. 34.021, Florida Statutes, to require that such judges be members of The Bar of Florida for 5 years; providing an exception; providing an effective date.

—was read the first time by title and referred to the committees on Judiciary-Civil and Judiciary-Criminal.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 2299 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Allen—

HB 2299—A bill to be entitled An act relating to Monroe County; authorizing the district school board to provide group insurance plans for its employees and officers and their dependents; providing for payment of premiums therefor; providing an effective date.

Proof of publication of the required notice was attached.

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

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed HB 1116 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gallagher—

HB 1116—A bill to be entitled An act relating to historic preservation designating portions of South Bayshore Drive and South Miami Avenue, in the City of Miami, as a historic highway; providing definitions; prohibiting use of state funds for certain physical changes on or near the road; requiring approval of the Division of Archives, History and Records Management for other specified changes; limiting the erection of signs; authorizing the Division to erect markers and to obtain historic easement in property along the road; providing severability; providing an effective date.

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

The Honorable Lew Brantley, President

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

HB 1480	HB 1735	HB 1802
HB 1758	HB 1838	HB 1840
HB 1839	HB 1382	HB 1880
HB 1882	HB 1883	HB 1884
HB 1885	HB 1886	HB 2093
HB 2114	HB 1793	HB 1794
HB 1796	HB 1801	HB 1844

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Considine and others—

HB 1480—A bill to be entitled An act creating to the Codes Enforcement Board of Palm Beach County; providing short title; providing legislative intent; providing applicability; providing definitions; providing organization; providing enforcement procedures; providing hearing; providing powers; providing fines; providing for appeal; providing for additional remedies; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Thompson and others—

HB 1735—A bill to be entitled An act relating to the Town of St. Marks, Wakulla County; amending section 15 of chapter 63-1872, Laws of Florida, to provide that three members of the town commission shall constitute a quorum; providing an effective date.

Proof of publication of required notice was attached.

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

By Representative Mica and others—

HB 1802—A bill to be entitled An act relating to the Town of Bithlo in Orange County, Florida; abolishing the Town of Bithlo and transferring all property and assets to Orange County; providing that all debts and obligations be satisfied in accordance with general law; repealing chapter 11407, Laws of Florida, 1925, which validated the incorporation of the town; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Economic, Community and Consumer Affairs.

By Representative Danson and others—

HB 1758—A bill to be entitled An act relating to the City of Sarasota, Sarasota County; amending chapter 73-618, Laws of Florida, by including a portion of North Lido Key within the municipal boundaries of the City of Sarasota; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 1838—A bill to be entitled An act relating to the Fireman's Relief and Pension Fund of the City of Pensacola, Escambia County; amending sections 5 and 20 of chapter 21483, Laws of Florida, 1941, as amended, relating to persons eligible for pensions; providing a schedule of pensions; providing that certain diseases shall be presumed to be service connected; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 1840—A bill to be entitled An act relating to the Firemen's Relief and Pension Fund of the City of Pensacola, Escambia County; amending section 4 of chapter 21483, Laws of Florida, 1941 as amended by chapter 24809, Laws of Florida 1947, chapter 31157, Laws of Florida, 1955, chapters 57-1713, 59-1723 and 61-2653, Laws of Florida, relating to the creation and maintenance of the Firemen's Relief and Pension Fund; providing for increased contributions from firemen and/or the City of Pensacola into said fund; repealing certain special and general laws relating to the Firemen's Relief and Pension Fund; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Personnel, Retirement and Collective Bargaining.

By Representative Hagler and others—

HB 1839—A bill to be entitled An act relating to the Civil Service System of the City of Pensacola, Escambia County; amending section 22 of chapter 63-1775, Laws of Florida, as amended, relating to promotional certification list, promotion and classified service, promotional eligible list; repealing certain special and general laws in conflict; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Personnel, Retirement and Collective Bargaining.

By Representatives Cassens and Patchett—

HB 1382—A bill to be entitled An act relating to the City of Fort Pierce, St. Lucie County; amending section 6 of chapter 59-1806, Laws of Florida, as amended, to provide that the board of county commissioners of St. Lucie county shall be ex officio the board of commissioners of the St. Lucie County-Fort Pierce Fire Prevention and Control District; repealing sections 7 and 9 of chapter 59-1806, Laws of Florida, relating to composition of the board and compensation thereof; providing for a referendum.

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

By Representative Forbes and others—

HB 1880—A bill to be entitled An act relating to the City of Jacksonville; adding article 29 to chapter 67-1320, Laws of Florida, as amended; creating the "Independent Agency Sunset Law of 1977"; providing for the termination of independent agencies of the City of Jacksonville on listed dates; providing a deadline for reaching a recommendation as to continuance, consolidation, or termination; providing that any independent agency which is terminated shall have 1 year in which to conclude its affairs after which time the specified agency and its personnel positions would be abolished and all unexpended funds would revert to the City of Jacksonville General Revenue Fund; providing for a 4-year limit on the life of any continued agency after which time review and evaluation procedures shall be repeated; providing for public hearings; providing for review and evaluation criteria; providing for a committee to assist in the implementation of the provisions of this act and for a report from said committee; providing for voting as to the continuance of any agency by single majority vote of the city council; providing for the council auditor to assist in the review and evaluation processes; providing for repeal of special acts upon such termination; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1882—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Broward County Division of Youth Services to the Board of County Commissioners for Broward County, Florida; repealing the Broward County Division of Youth Services Act; reserving title to property held by the Broward County Division of Youth Services; maintaining in effect and transferring to Broward County all obligations of the abolished Broward County Division of Youth Services; validating existing rules, regulations, orders and ordinances of or for the Broward County Division of Youth Services; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1883—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the function, responsibilities, duties and obligations of the Broward County Water Resources Advisory Board to the Broward County Environmental Quality Control Board; repealing the Broward County Water Resources Development Enabling Act; reserving title to property held by the Broward County Water Resources Advisory Board; maintaining in effect and transferring to Broward County all obligations of the abolished Broward County Water Resources Advisory Board; validating existing rules, regulations, orders and ordinances of or for the Broward County Water Resources Advisory Board; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1884—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the function, responsibilities, duties and obligations of the Broward County Planning Board to the Broward County Planning Council; repealing the Broward County Area Planning Board Act; reserving title to property held by the Broward County Area Planning Board; maintaining in effect and transferring to Broward County Planning Council all obligations of the abolished Broward County Area Planning Board; validating existing rules, regulations, orders and ordinances of or for the Broward County Area Planning Board; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1885—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the function, responsibilities, duties and obligations of the Broward County Central Examining Boards to the Board of County Commissioners for Broward County, Florida; repealing the Broward County Central Examining Board Enabling Act; reserving title to property held by the Broward County Central Examining Boards; maintaining in effect and transferring to Broward County all obligations of the abolished Broward County Central Examining Boards; validating existing rules, regulations, orders and ordinances of or for the Broward County Central Examining Boards; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Fortune and others—

HB 1886—A bill to be entitled An act relating to the operation and administration of the county hospital system in Escambia County; separating Century Memorial Hospital, Century, from University Hospital, Pensacola, by providing a separate Board of Trustees for Century Memorial Hospital; providing for membership of Century Memorial Hospital Board and for the appointment by the Governor of certain persons as members of the Board of Trustees of Century Memorial Hospital; providing terms of office therefor, and method of filling vacancies; providing for certain amount of revenue to be given to said hospital by Escambia County; providing financial responsibility for care of indigents; superseding provisions of chapter 155, Florida Statutes; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representatives Neal and Haben—

HB 2093—A bill to be entitled An act relating to Manatee County, Samoset Fire Control District; amending section 4 of chapter 57-1544, Laws of Florida, as amended, relating to the rate of special assessments to be levied against said lands in said district, to increase the maximum amount which may be levied upon specified categories of property; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative O'Malley and others—

HB 2114—A bill to be entitled An act relating to the City of Tamarac, Broward County, Florida; extending and enlarging the corporate limits of the City of Tamarac by including previously unincorporated lands with said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Mica and others—

HB 1793—A bill to be entitled An act relating to Winter Park, Orange County; amending subsection (4) of section 11 of chapter 59-1992, Laws of Florida, as amended, to provide for the payment of interest on accumulated contributions upon termination of employment of members; amending subsection (5) of section 11 of chapter 59-1992, Laws of Florida, to reduce the time of vesting of interests from 25 years of creditable service to 10 years of creditable service; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Mica and others—

HB 1794—A bill to be entitled An act relating to Orange County; amending section 3 of chapter 26066, Laws of Florida, 1949, authorizing the Board of Trustees of the West Orange Memorial Hospital Tax District to own and operate an ambulance service; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Mica and others—

HB 1796—A bill to be entitled An act relating to the Orange County Civic Facilities Authority; amending section 4 of chapter 71-803, Laws of Florida, to provide that certain enumerated powers of the Orange County Civic Facilities Authority may only be exercised when the cost thereof exceeds the sum of \$25,000 with the prior written consent of the Board of County Commissioners of Orange County, Florida; providing that the Orange County Civic Facilities Authority is required to annually adopt a budget and submit the same to the Board of County Commissioners of Orange County for its approval; providing for an annual report and audit of the functions of the Orange County Civic Facilities Authority; providing for exceptions; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Mica and others—

HB 1801—A bill to be entitled An act relating to the City of Orlando, Orange County; amending provisions relating to the pension fund for the Police Department and Fire Department of said city; amending section 1 of chapter 31086, Laws of Florida, 1955, as amended, providing for continuity of benefits in said fund by making regular contributions into the fund while absent from duty for specified reasons; providing for the reinstatement of pension benefits where members of the Police Department and Fire Department pension fund have severed their employment with said department and have subsequently been rehired; providing for the repayment in lump sum of prior withdrawn pension fund contributions together with interest thereon as a prerequisite for reinstatement in the pension program; amending section 3 of chapter 23444, Laws of Florida, 1945, as amended, providing for qualifications for employment and retirement under said act; repealing section 19 of chapter 23444, Laws of Florida, 1945, relating to a Fire Department age limitation; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 1844—A bill to be entitled An act relating to Escambia County; authorizing the board of county commissioners to contract to provide subsidized medical insurance for medically indigent citizens; providing an effective date.

Proof of publication of the required notice was attached.

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

The Honorable Lew Brantley, President

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

CS for HB 1482	CS for HB 1610	CS for HB 1742
CS for HB 1843	CS for HB 2094	HB 540
HB 541	HB 951	HB 1737
HB 1846	HB 1848	HB 1859
HB 1860	HB 1877	HB 1873
HB 1879	HB 1897	HB 2009
HB 2112	HB 2126	HB 2113

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representative Considine and others—

CS for HB 1482—A bill to be entitled An act relating to the Town of Ocean Ridge, Palm Beach County, and to the South Lake Worth Inlet District created by Chapter 7080, Laws of Florida, 1915; amending the territorial limits of the City of Ocean Ridge to exclude the existing property of the South Lake Worth Inlet District from the territorial limits of said city; providing an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Community Affairs and Representatives Andrews and Martin—

CS for HB 1610—A bill to be entitled An act relating to Alachua County; amending section 4 of chapter 75-325, Laws of Florida, granting the manager of the Alachua County Adult Detention Center and his designees certain powers relating to prisoners, escapees, and arrests; providing an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Community Affairs and Representative T. Lewis and others—

CS for HB 1742—A bill to be entitled An act relating to Palm Beach County; amending section 2 of Chapter 75-473, Laws of Florida, providing declaration of legislative intent; amending section 3 of Chapter 75-473, Laws of Florida, providing for creation of countywide Solid Waste Authority; amending section 4 of Chapter 75-473, Laws of Florida, providing for appropriations; amending section 6 of Chapter 75-473, Laws of Florida, providing definitions; amending section 7 of Chapter 75-473, Laws of Florida, providing purposes and powers; amending section 10 of Chapter 75-473, Laws of Florida, providing enforcement; providing for a referendum and an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Community Affairs and Representative Hagler and others—

CS for HB 1843—A bill to be entitled An act relating to Escambia County; providing for the abolishment of the Board of Hospital Trustees of Escambia County; creating the Department of Medical Services under the Board of County Commissioners of Escambia County; transferring all powers, duties, functions, records, property, personnel, unexpended balances of appropriations, allocations, or other funds of the Board of Hospital Trustees to the Board of County Commissioners; providing qualifications for the director of the Department of Medical Services; providing for appointment of a director of the Department of Medical Services; providing an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Community Affairs and Representatives Neal and Haben—

CS for HB 2094—A bill to be entitled An act relating to Manatee County; amending section 4 of chapter 67-914, Laws of Florida, providing a new schedule of special assessments levied on property located within the Whitfield Fire Control District in order to improve fire protection of property located within said fire control district; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Burrall and others—

HB 540—A bill to be entitled An act relating to Charlotte County; amending section 4 (b) (1) of chapter 69-931, Laws of Florida, as amended, relating to Harbour Heights Fire Control District and reintroducing HB 3281 (Chapter 76-345); changing the rate of assessments on residential dwellings or homes; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Burrall and others—

HB 541—A bill to be entitled An act relating to the Port Charlotte-Charlotte Harbor Fire Control District, Charlotte County; amending section 4 of chapter 65-1355, Laws of Florida, as amended; changing the method and rate of taxation of the Port Charlotte-Charlotte Harbor Fire Control District; establishing a maximum millage upon the assessed value of real estate within the district; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Moffitt and others—

HB 951—A bill to be entitled An act relating to the Tampa Port Authority; amending section 10 of chapter 23338, Laws of Florida, 1945, as amended, removing the requirement that for a 5-year period ending January 1, 1981, the Board of County Commissioners shall, upon request of the Tampa Port Authority, levy a tax not to exceed one-fourth of 1 mill per annum for the use of the authority; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representatives Hutto and Rish—

HB 1737—A bill to be entitled An act relating to Bay County; amending section 2 of chapter 73-404, Laws of Florida, authorizing the use of one try net for the taking of shrimp or prawns in certain waters in Bay County; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 1846—A bill to be entitled An act relating to Escambia County; authorizing the Escambia County University Hospital Board of Trustees to contract with health agencies to transfer, operate, or provide supplemental medical services for indigent patients; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 1848—A bill to be entitled An act relating to Escambia County; providing for the relief of R. S. Hawkins for improvements made on county right-of-way; providing for payment by the board of county commissioners; providing for an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1859—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Broward Industrial Board (formerly and sometimes known variously as Broward County Industrial Development Board and Broward County Industrial Board) to the Board of County Commissioners for Broward County, Florida; repealing the Broward County Industrial Development Board Act; reserving title to property held by the Broward Industrial Board; maintaining in effect and transferring to Broward County all obligations of the abolished Broward Industrial Board; validating existing rules, regulations, orders or ordinances of or for the Broward Industrial Board; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1860—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Court Trustee of Broward County to the Clerk of the Circuit Court for Broward County and subsequently to the Broward County Administrator; repealing the Broward County Court Trustee Act; reserving title to property held by the Court Trustee; maintaining in effect and transferring to the County Administrator for Broward County all obligations of the abolished Court Trustee; validating existing rules, regulations, order and ordinances of or for the Court Trustee; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1877—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Broward County Erosion Prevention District to the Broward County Environmental Quality Control Board; repealing the Broward County Erosion District Act; reserving title to property held by the Broward County Erosion Prevention District; maintaining in effect and transferring to Broward County all obligations of the abolished district; validating existing rules, regulations, orders, ordinances and assessments of or for the Erosion Prevention District; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1878—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Broward County Transportation Authority to the Board of County Commissioners for Broward County, Florida; repealing the Broward County Transportation Authority Law; reserving title to property held by the Broward County Transportation Authority; maintaining in effect and transferring to Broward County all obligations of the abolished

Broward County Transportation Authority; validating existing rules, regulations, orders and ordinances of or for the Broward County Transportation Authority; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young and others—

HB 1879—A bill to be entitled An act relating to Broward County, Florida, ratifying a provision of the Broward County Charter transferring the functions, responsibilities, duties and obligations of the Broward County Pollution Control Board to the Broward County Environmental Quality Control Board; repealing the Broward County Air and Water Pollution Control Act; reserving title to property held by the Broward County Pollution Control Board; maintaining in effect and transferring to Broward County all obligations of the abolished Broward County Pollution Control Board district; validating existing rules, regulations, orders and ordinances of or for the Broward County Pollution Control Board; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Young—

HB 1897—A bill to be entitled An act relating to the City of Dania, Broward County; extending and enlarging the corporate limits of the City of Dania by including previously unincorporated land into said corporate limits; providing the City of Dania with jurisdiction over the territory embraced in said extension; providing that, as a condition precedent to this act taking effect, the Broward County Commission, after March 14, 1977, and prior to December 26, 1978, shall spend at least \$482,500 to provide the territory embraced in said extension with sewer, water, fire protection, and other necessary capital improvements; providing the source from which such funds may be expended; providing the procedure to be followed upon such funds being spent; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hagler and others—

HB 2009—A bill to be entitled An act relating to the Pensacola Civil Service System; repealing s. 29(A)(4) and (5) of chapter 63-1775, Laws of Florida, as created by chapter 76-468, Laws of Florida, relating to persons who have been discharged for cause by the Civil Service Board and the right of such persons to receive a pension if not found guilty of acts which constitute a felony under the laws of the State of Florida; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Allen—

HB 2112—A bill to be entitled An act relating to Monroe County; amending s. 9(3) of chapter 76-441, Laws of Florida, to authorize the Florida Keys Aqueduct Authority to make purchases without competitive bids under certain conditions; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Hodges—

HB 2126—A bill to be entitled An act relating to Taylor and Dixie Counties; permitting certain fishing methods with re-

spect to taking sponges of legal size in Taylor or Dixie Counties; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Allen—

HB 2113—A bill to be entitled An act relating to Monroe County; amending section 1 of chapter 76-441, Laws of Florida, to authorize the Florida Keys Aqueduct Authority to serve customers along its pipeline in Dade County; providing an effective date.

Proof of publication of the required notice was attached.

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

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1606 and HB 2220 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Nuckolls and others—

HB 1606—A bill to be entitled An act relating to Lee County; authorizing the Division of Beverage of the Department of Business Regulation to issue a special alcoholic beverage license to the American Legion Melvin Cowart Post No. 274, Inc., for specified purposes, providing an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Judiciary and Representative Rish—

HB 2220—A bill to be entitled An act relating to Liberty County; authorizing the acquisition, construction, remodeling, improving, furnishing and equipping of capital projects of the district school board of Liberty County; authorizing the issuance of certificates of indebtedness by said school board to finance the cost of such projects; authorizing the pledging to the payment of the principal of and interest on such certificates of indebtedness of the racetrack funds and jai alai fronton funds allocated to the school board out of such funds accruing annually to Liberty County pursuant to chapters 550 and 551, Florida Statutes, and other moneys of the school board derived from sources legally available for such purposes; providing an effective date.

Proof of publication of the required notice was attached.

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

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed SB 1034.

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed SB 1003.

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 1406 SB 1095
SB 1174 SB 540

CS for SB 311

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed SB 406.

Allen Morris, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment to House Amendment 2 and passed SB 595, as amended.

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 concurred in Senate Amendments 1, 3, 4, 5, 7 and 8; has refused to concur in Senate Amendment 2 and requests the Senate to recede; has amended Senate Amendment 6, concurred in same as amended and passed HB 1107, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Girardeau and others—

HB 1107—A bill to be entitled An act relating to public meetings; amending s. 286.011, Florida Statutes, which provides that meetings of state and local agencies shall be open to the public, to include all appellate courts and to provide for assessment of attorneys' fees against agencies and certain individuals found in violation of said section; authorizing the award of attorney's fees under certain circumstances; prohibiting public meetings at certain locations; providing for reimbursement of attorney's fees under certain circumstances; providing an effective date.

House Amendment 1 to Senate Amendment 6—On page 1, lines 7-8, strike *written record* and insert: *tape recording and a written verbatim transcript*

On motion by Senator Hair, the Senate receded from Amendment 2.

Senator Graham moved the following amendment to House Amendment 1 to Senate Amendment 6:

Amendment 1—On page 1, strike lines 1-14 of Senate Amendment 6.

Amendment 1 failed by the following vote:

Yeas—14

Castor	Firestone	MacKay	Wilson
Chamberlin	Graham	Scarborough	Winn
Childers, Don	Hair	Spicola	
Dunn	Johnston	Vogt	

Nays—21

Mr. President	Lewis	Scott	Ware
Barron	McClain	Skinner	Williamson
Childers, W. D.	Peterson	Thomas, Jon	Zinkil
Gallen	Poston	Thomas, Pat	
Gorman	Renick	Tobiassen	
Henderson	Sayler	Trask	

Votes after roll call:

Yeas—Holloway, Myers

On motion by Senator Hair, the Senate concurred in the House Amendment to Senate Amendment 6.

HB 1107 passed as amended and the action of the Senate with the bill and amendments was certified to the House. The vote on passage was:

Yeas—30

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

Nays—6

Castor	Graham	Myers	Scarborough
Firestone	MacKay		

Votes after roll call:

Nay—Holloway

Yea to Nay—Don Childers, Renick, Spicola

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment 1 to House Amendment 2 to SB 94 and requests the Senate to recede.

Allen Morris, Clerk

By Senator Myers and others—

SB 94—A bill to be entitled An act relating to condominiums and cooperatives; creating ss. 718.122—718.124 and 719.109—719.111, Florida Statutes; prohibiting infringement upon right of owners to peaceably assemble at reasonable times and in a reasonable manner on common elements, common areas or recreational facilities; prohibiting infringement upon right of owner to invite public officers or candidates for public office to appear and speak on common elements, common areas or recreational facilities at reasonable times and in a reasonable manner; providing for injunction upon the application of an aggrieved owner; providing an effective date.

On motions by Senator Myers, the Senate receded from Amendment 1 to House Amendment 2 and concurred in House Amendment 2.

SB 94 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

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 refused to recede from House Amendment 1; has further amended and passed SB 810, as further amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Senator Lewis (by request)—

SB 810—A bill to be entitled An act relating to the Florida Clinical Laboratory Law; amending s. 483.031(2), Florida Statutes; to provide that the exemption from chapter 483, Florida Statutes, for clinical laboratories operated by physicians applies to a clinical laboratory operated by one or more physicians; providing an effective date.

Amendment 1—On page 1, line 17, strike all of said line and insert: (2) A clinical laboratory operated by five or less duly

Amendment 2—On page 1, line 7, strike "one or more" and insert: five or less

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

SB 810 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Votes after roll call:

Yeas—Hair, Myers

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 requests the return of SB 127.

Allen Morris, Clerk

On motion by Senator Johnston, SB 127 was returned to the House as requested.

The Honorable Lew Brantley, President

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

By Senator Gallen—

SB 760—A bill to be entitled An act relating to DeSoto and Charlotte counties; repealing chapter 74-454, Laws of Florida, which created the Deer Run Improvement District in DeSoto County and Charlotte County; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 12 and 13, strike "becoming a law." and insert: the adoption of a resolution by the Board of County Commissioners of Charlotte County and the Board of County Commissioners of DeSoto County implementing the provisions of this act.

On motion by Senator Gallen, the Senate concurred in the House Amendment.

SB 760 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Hair

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 concurred in Senate Amendment 5; has refused to concur in Senate Amendments 2 and 4 and requests the Senate to recede; has amended Senate Amendments 1, 3 and 6, concurred in same as amended and passed HB 43, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Rish and Hutto—

HB 43—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021(19), Florida Statutes, 1976 Supplement, expanding the definition of "prior service" for the Florida Retirement System to permit the purchase of retirement credit for employment during which no contributions were made, under certain circumstances, and to permit purchase of service when no contributions were made due to a written rejection of the system; amending s. 121.051(2)(a), Florida Statutes, authorizing certain employees who had rejected membership in the Florida Retirement System to withdraw such rejection and participate in the system; amending s. 121.081(2), Florida Statutes, 1976 Supplement, providing the interest rate at which prior service must be purchased for certain prior employment under which no contributions were made; providing for the purchase of creditable service by certain officers or employees who possess 40 years of creditable service; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 1, line 5, insert after the clause "and who receives a benefit thereof," and who serves in an office covered by the Elected State Officers Class for a period of at least eight years,

House Amendment 2 to Senate Amendment 1—On page 1, line 15, strike the period after "Fund" and insert: ; provided, however, such member may purchase retirement credit under the Elected State Officer's Class only for such service as an Elected State Officer.

House Amendment 3 to Senate Amendment 1—On page 2, line 12, after the period insert: Section 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

and renumber the subsequent section

House Amendment 1 to Senate Amendment 3—Strike all of line 8, and insert: system, and provided such service is not used in any other retirement systems as provided in s. 121.111. F.S.

House Amendment 1 to Senate Amendment 6—after "Allied Forces;" insert: providing a severability clause;

On motions by Senator Pat Thomas, the Senate receded from Senate Amendments 2 and 4, and concurred in House Amendments to Senate Amendments 1, 3 and 6.

HB 43 passed as amended and the action of the Senate, with the bill and amendments, was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

The Honorable Lew Brantley, President

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

By Senator Dunn—

SB 850—A bill to be entitled An act relating to Volusia County; amending chapter 11272, Laws of Florida, 1925, as amended, renaming the Halifax Hospital District as the "Halifax Hospital Medical Center"; amending section 7 of chapter 11272, Laws of Florida, as amended, removing the limitation upon the interest rate on notes of the district and upon the total dollar amount which the district can borrow upon such notes; restricting the amount of such indebtedness to the amount of the district's current annual tax revenues; amending section 8(2) of chapter 11272, Laws of Florida, 1925, as amended, removing the limitation upon the rate of interest which bonds of the district may bear; amending sections 1 and 2 of chapter 59-1953, Laws of Florida, as amended, providing that the administrator and chief fiscal officer of the hospital center, rather than the board of commissioners of the district, the chairman thereof, and the administrator, are authorized to sign checks and warrants of the district; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, lines 19 through 20, strike "to be determined by the board of commissioners" and insert: pursuant to s. 215.685, Florida Statutes

On motion by Senator Dunn, the Senate concurred in the House Amendment.

SB 850 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

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 Scott and others—

SB 711—A bill to be entitled An act relating to Broward County; amending section 2 of chapter 75-350, Laws of Florida; providing that candidates for municipal office shall file qualification papers no earlier than the first work day in January nor later than the 14th day following the first work day in January

of the calendar year in which the election is to be held; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike all of lines 14 and 15 and insert: Section 1. Section 2 of Chapter 75-350, Laws of Florida, as amended by Section 1 of Chapter 76-336, Laws of Florida, is hereby amended to read:

Amendment 2—On page 1, line 3, strike the semicolon, and insert: , as amended;

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

SB 711 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

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 refused to concur in Senate Amendments 1, 2, 3, 4 and 5 to—

By Representatives Dixon and Hazouri—

HB 1157—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.091(1)(a)-(c), Florida Statutes, and adding a paragraph; authorizing the Department of Natural Resources to pay up to 75 percent of specified types of erosion control project costs; removing requirements that local interests pay at least 25 percent of the costs of such projects; authorizing the department to pay up to 75 or 100 percent of certain additional costs relating to navigation channel or dredging projects; authorizing the department to pay the full cost of certain erosion control research; providing an effective date.

—and requests the Senate to recede.

Allen Morris, Clerk

On motions by Senator Hair, the Senate receded from the Senate Amendments.

HB 1157 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Votes after roll call:

Yeas—W. D. Childers, Tobiassen

The Honorable Lew Brantley, President

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

By Senator Zinkil—

SB 148—A bill to be entitled An act relating to unemployment compensation; providing that state, county, and municipal governmental units may elect the experience rating method of financing benefits; amending the introductory paragraph of s. 443.08(5), Florida Statutes; amending s. 443.08(5)(a) and (6), Florida Statutes, establishing a public employers compensation account as part of the Florida Unemployment Compensation Trust Fund, providing a contributory system of financing unemployment compensation benefits to be available for governmental entities at their option; providing for a minimum contribution rate for governmental entities; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 20, strike all after the enacting clause and insert: Section 1. Paragraph (b) of subsection (5) of section 443.03, Florida Statutes, is amended to read:

443.03 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(5) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him.

(b) The term "employment" shall include:

1. Service performed after December 31, 1971 by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one or more other states or their instrumentalities) for a hospital or institution of higher education located in this state, provided such service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of s. 3306(c)(7) of that act and is not excluded from "employment" under paragraph (d) of this subsection.

a. 1. "Institution of higher education," for the purposes of this section, means an educational institution which:

(I) ~~a.~~ Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; and

(II) ~~b.~~ Is legally authorized in this state to provide a program of education beyond high school; and

(III) ~~c.~~ Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(IV) ~~d.~~ Is a public or other nonprofit institution. Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state and recognized as such by this state and institutions of higher education for purposes of this section.

b. 2. "Hospital" means an institution which has been licensed, certified or approved by the Department of Health and Rehabilitative Services as a hospital.

2. Service performed after December 31, 1971, and prior to January 1, 1978, in the employ of this state or any of its wholly owned instrumentalities, provided that such service is excluded from "employment" as defined in s. 3306(c)(7) of the Federal Unemployment Tax Act, and provided that such service is not excluded from "employment" under paragraph (d) of this subsection.

3. Service performed after December 31, 1973, and prior to January 1, 1978, in the employ of any political subdivision of this state or any instrumentality thereof, provided that such service is excluded from "employment" as defined in s. 3306(c)(7) of the Federal Unemployment Tax Act, and provided that such service is not excluded from "employment" under paragraph (d) of this subsection.

4. Service performed after December 31, 1977, in the employ of this state or any of its instrumentalities, or any political subdivision thereof or any of its instrumentalities, or any instrumentality of more than one of the foregoing, or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided that such service is excluded from "employment" as defined in s. 3306(c)(7) of the Federal Unemployment Tax Act, and provided that such service is not excluded from "employment" under paragraph (d) of this subsection.

Section 2. Subsection (5) of section 443.08, Florida Statutes, is amended, and current subsection (6) is repealed and a new subsection (6) is created to read:

443.08 Contributions.—

(5) FINANCING BENEFITS PAID TO STATE EMPLOYEES OF THE STATE AND POLITICAL SUBDIVISIONS OF THE STATE.—Benefits paid to employees of this state or any of its instrumentalities of the state, or to employees of any political subdivision of this state, or any instrumentalities thereof, or of this state and one or more other states or their instrumentalities, based upon service defined in s. 443.03 (5)(b) shall be financed in accordance with this subsection.

(a) Unless an election is made as provided in paragraph (c) of this subsection in lieu of contributions required of employers under this chapter, the state or any political subdivision of the state several departments of the State of Florida shall pay into the unemployment compensation trust fund an amount equivalent to the amount of regular benefits and the state's share of extended benefits paid to individuals based on wages paid by the state or its political subdivisions for service defined in s. 443.03(5)(b).

(b) The provisions of paragraphs (b), (d), and (e) of subsection (4), relating to reimbursement payments, allocation of benefit costs, and group accounts with respect to nonprofit organizations, shall be applicable also, to the extent allowed by federal law as far as practicable, with respect to the duties of this state or any political subdivision of this state this state's duties as an "employer" by reason of s. 443.03(7)(b).

(c) Any employer subject to the provisions of this subsection may elect the contribution financing method as provided by law in lieu of the reimbursement financing method provided in paragraphs (a) and (b) of this subsection.

(d) Upon establishing a financing method as provided by this subsection, such financing method shall be applicable for not less than 2 calendar years. Nothing herein shall be construed to prevent an employer subject to the provisions of this subsection from electing to change its method of financing after completing 2 years under another financing method so long as such new election is timely filed.

(6) PUBLIC EMPLOYERS UNEMPLOYMENT COMPENSATION BENEFIT ACCOUNT.—

(a) There is established a Public Employers Unemployment Compensation Benefit Account which will be maintained with separate accounting as a part of the Florida Unemployment Compensation Trust Fund. All benefits paid to public employees shall be charged to the Public Employers Unemployment Compensation Benefit Account.

(b) Governmental entities subject to the Florida Unemployment Compensation Law under s. 443.03(5)(b) who exercise the option to elect the contributory system of financing unemployment compensation benefits shall have their accounts maintained and shall be subject to the provisions of s. 443.08(1), (2), and (3), except that:

1. The term "taxable wages" shall mean total gross wages.
2. The initial contribution rate shall be two and one-half tenths of one percent.
3. Any election by an employer to be taxed under this subsection shall be effective January 1, and shall be taxed at the initial rate. Effective January 1 of the following year, the rate shall be computed based on two calendar quarters of chargeability and payroll; effective January 1 of the second year after such election based on six quarters of chargeability and payroll and January 1 of the third year after such election on ten quarters of chargeability and payrolls. Each January 1 thereafter, the tax rates shall be computed based on 12 quarters of chargeability and payroll.

4. An employer electing to be taxed under the provisions of this subsection shall make such election not later than 30 days prior to January 1 of the year for which the election is to be effective. Upon electing this financing method such method shall be applicable for not less than 2 years.

5. Any election under this subsection may be terminated by filing with the division not later than 30 days prior to January 1, a written notice of termination.

Section 3. This act shall take effect July 1, 1977.

Amendment 2—On page 1, strike all of the title and insert:

A bill to be entitled

An act relating to unemployment compensation; amending s. 443.03(5)(b), Florida Statutes, redefining "employment"; amending s. 443.08(5) and repealing s. 443.08(6), Florida Statutes, combining the two subsections and providing optional financing methods for governmental entities; creating a new s. 443.08(6) establishing a public employers unemployment compensation benefit account, providing for public employers electing the contributory system of financing unemployment compensation benefits; providing an effective date.

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

SB 148 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Glisson	Poston	Tobiassen
Barron	Gorman	Renick	Trask
Castor	Hair	Saylor	Vogt
Chamberlin	Holloway	Scarborough	Ware
Childers, Don	Johnston	Skinner	Williamson
Childers, W. D.	MacKay	Spicola	Wilson
Firestone	McClain	Thomas, Jon	Winn
Gallen	Plante	Thomas, Pat	Zinkil

Nays—None

Votes after roll call:

Yeas—Graham, Myers, Peterson

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 Scarborough—

SB 444—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.091(4)(g), Florida Statutes; providing a monthly benefit for certain justices or judges who are retired for disability pursuant to Article V of the State Constitution; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 11, insert a new Section 2 and renumber subsequent section:

Section 2. Section 121.135, Florida Statutes, is amended to read:

121.135 Reports and surveys relative to local and state retirement systems.—

(1) Beginning February 1, 1973, and prior to February 1 each year thereafter, the chairman or secretary of the board of trustees of each municipal or local retirement system or other person charged with the administration of such retirement system shall file a report with the Division of Retirement containing such information as the director may require. A copy of each actuarial survey made of such local retirement system shall also be filed with the division.

(2) (1) Commencing during the year 1980, the Division of Retirement shall make a survey, which shall be updated

annually every third year thereafter, of the retirement provisions and financial condition of the locally-administered retirement systems operated by the political subdivisions of the state. The findings and conclusions resulting from this survey shall be presented in a report to the Legislature in those years in which the survey is conducted.

(2) The Department of Administration through its Division of Retirement, shall make to each regular session of the Legislature a written report on the operation and condition of the state administered retirement systems, together with current information concerning the locally administered retirement systems.

Amendment 2—On page 1, in title, line 7, insert: after the ; : amending s. 121.135, Florida Statutes, relating to reports and surveys of local retirement systems;

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

SB 444 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Glisson	Poston	Tobiassen
Barron	Gorman	Renick	Trask
Castor	Johnston	Sayler	Vogt
Chamberlin	MacKay	Scarborough	Ware
Childers, Don	McClain	Skinner	Williamson
Childers, W. D.	Myers	Spicola	Wilson
Firestone	Peterson	Thomas, Jon	Winn
Gallen	Plante	Thomas, Pat	Zinkil

Nays—None

Votes after roll call:

Yeas—Dunn, Graham, Hair

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 Barron—

SB 1238—A bill to be entitled An act relating to legislative review of programs and functions which regulate a profession, occupation, business, industry and other endeavor; amending sections 3, 4, 8, and 9, chapter 76-168, Laws of Florida, changing the repeal dates of specified chapters in the Florida Statutes; providing legislative review and repeal of the following provisions of the Florida Statutes: chapter 665, the Savings Association Act; chapter 496, the Solicitation of Charitable Funds Act; and part V of chapter 559, relating to consumer collection agencies; deleting part IV of chapter 624, Florida Statutes, (relating to insurance fees, taxes, and funds) from the requirement of legislative review and repeal; changing the time limitations for beginning and completion of review; providing a repeal date for certain future laws; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike all of lines 26 and 27, and insert: Section 3. (1) The following are repealed July 1, 1978:

- (a) Chapter 476, Florida Statutes, relating to barbers.
- (b) Chapter 477, Florida Statutes, relating to cosmetology.
- (c) Chapter 480, Florida Statutes, relating to masseurs and masseuses.
- (d) Chapter 462, Florida Statutes, relating to naturopathy.
- (e) Chapter 310, Florida Statutes, relating to pilots, piloting and pilotage.

(f) Chapter 491, Florida Statutes, relating to sanitarians.

(g) Chapter 489, Florida Statutes, relating to watchmakers.

(h) Chapter 537, Florida Statutes, relating to yacht and shipbrokers.

(i) Sections 210.15 and 210.16, Florida Statutes, relating to cigarette distributing agents.

(j) Chapter 457, Florida Statutes, relating to shorthand court reporting.

(k) Sections 633.061, 633.521, 633.524, 633.527, 633.531, 633.534, 633.537, 633.541, 633.544, 633.547, 633.549, 633.551, 633.554, 633.557, Florida Statutes, relating to the servicing, recharging, repairing, testing, inspecting and installing of fire extinguishers and systems.

(1) Chapter 514, Florida Statutes, relating to public bath houses and swimming or bathing places.

(2) The following are repealed July 1, 1979:

Amendment 2—On page 2, strike all of subsection (c) on lines 1 and 2, all of subsection (f) on lines 7 and 8, all of subsection (m) on lines 21 and 22, all of subsection (o) on lines 25 and 26, and renumber remaining subsections accordingly

Amendment 3—On page 3, strike all of subsection (w) on lines 11 and 12, all of subsection (z) on lines 17 and 18, all of subsection (bb) on lines 21 and 22, and renumber remaining subsections accordingly

Amendment 4—On page 4, strike all of subsections (ff), (gg) and (hh) on lines 1 through 6, and all of subsection (jj) on lines 9 through 13, and renumber remaining subsections accordingly

Amendment 5—On page 4, line 14, strike “(2)” and insert: (3)

Amendment 6—On page 6, line 19, strike “(3)” and insert: (4)

Amendment 7—On page 7, strike all of subsection (m) on lines 14 and 15, and renumber remaining subsections accordingly

Senator Barron moved the following Amendment to House Amendment 7 which was adopted:

Amendment 1—On page 1, line b, after the word “accordingly” insert: and on page 9, line 14, after the word “in” insert: subsections (2), (3), and (4) of

On motions by Senator Barron, the Senate concurred in House Amendments 1 through 6 and House Amendment 7 as amended, and the House was requested to concur in the Senate Amendment to House Amendment 7.

SB 1238 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gallen	Myers	Tobiassen
Barron	Poston	Glisson	Vogt
Castor	Gorman	Renick	Ware
Chamberlin	Graham	Scarborough	Williamson
Childers, Don	Hair	Skinner	Wilson
Childers, W. D.	Johnston	Spicola	Winn
Dunn	MacKay	Thomas, Jon	Zinkil
Firestone	McClain	Thomas, Pat	

Nays—None

Votes after roll call:

Yeas—Peterson, Trask

Senator Gallen presiding

The Honorable Lew Brantley, President

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

By the Committee on Health and Rehabilitative Services and Senator Jon Thomas and others—

CS for SB 176—A bill to be entitled An act relating to retarded and other developmentally disabled persons; enacting the "Retardation Prevention and Community Services Act"; creating ss. 393.061-393.069, 393.071, Florida Statutes; prescribing programs of services for retarded and other developmentally disabled persons; providing for the development and implementation of programs of prevention and community-based services; providing powers and duties of the Department of Health and Rehabilitative Services; providing for transfer of appropriations for operating retardation and developmental disability programs between categories of appropriations within a budget entity and between budget entities under certain conditions; providing for application for services, diagnostic evaluation, and intake; providing for individual habilitation plans and placements; providing for types of residential care facilities; providing for measurement of client progress; providing for licensure of residential facilities; providing for license fees; requiring licensed facilities to make annual reports of costs of providing care; providing for inspection and audit of residential facilities; providing for a demonstration program and evaluation study with respect to establishing a statewide family placement program; providing for submission to the Legislature of a comprehensive 5-year plan for the provision of services; providing for annual reports to the Legislature; providing for the department to charge fees for services; amending s. 393.11, Florida Statutes; providing for hearing and order for involuntary admission to residential services of the department; providing for the burden of proof with respect to such admissions; prescribing duties of the examining commission; providing for continuing jurisdiction of the court; amending and renumbering s. 393.05, Florida Statutes, as s. 393.115, Florida Statutes; providing for discharge after admission to residential care; amending s. 393.12, Florida Statutes; providing that the judge conducting competency proceedings with respect to a mentally retarded person may issue an order of limited guardianship; providing for discharge of certain clients who have not been adjudicated incompetent; amending s. 228.081, Florida Statutes; providing the State Board of Education shall provide advice and services regarding education programs; repealing ss. 393.01-393.045, 393.051-393.10, 393.13(3), 402.13, Florida Statutes, relating to Sunland Centers and other residential and service facilities for retarded persons, the Medical Research Center on Retardation, regional community centers for the retarded, application for services, admission to residential centers, the department as legal guardian of persons admitted to residential facilities, protection of substitute parents on petitioning for commitment, leave for residents, limitations and preferences with respect to accommodations, means of support of residential facilities, paid admissions, and transfer of residents to the Division of Mental Health, and the Division of Retardation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 3 through 27, strike all language and insert: Section 1. Sections 393.061, 393.062, 393.063, 393.064, 393.065, 393.066, 393.067, 393.068, 393.069, and 393.071, Florida Statutes, are created to read:

393.061 Short title.—This act shall be known and may be cited as the "Retardation Prevention and Community Services Act."

393.062 Legislative findings and declaration of intent.—The Legislature finds and declares that existing state programs for the treatment of retarded and other developmentally disabled individuals, which often unnecessarily place clients in large state institutions, are unreasonably costly, are ineffective in bringing the individual client to his or her maximum potential, and are in fact debilitating to a great majority of clients. A redirection in state treatment programs for the retarded and

other developmentally disabled individuals is necessary if any significant amelioration of the problems faced by such individuals is ever to take place. Such redirection should place primary emphasis on programs that have the potential to prevent or reduce the severity of retardation and other developmental disabilities. Further, the Legislature declares that greatest priority shall be given to the development and implementation of community-based residential placements, services, and treatment programs for the retarded and other developmentally disabled individuals which will enable such individuals to achieve their greatest potential for independent and productive living, which will enable them to live in their own homes or in facilities located in their own communities, and which will permit clients to be diverted or removed from unnecessary institutional placements. Finally, the Legislature declares that, in developing community-based programs and services for retarded and other developmentally disabled individuals, private businesses, not for profit corporations, units of local government, and other organizations capable of providing needed services to clients in a cost-efficient manner shall be given preference in lieu of operation of programs directly by state agencies.

393.063 Definitions.—For the purposes of this chapter:

- (1) "Caretaker" means a person 18 years of age or older who is a relative of the client, a person unrelated to the client, or the client himself, who provides a client with the type and level of care intended by this act.
- (2) "Client" means any person accepted by the department for retardation or developmental disability services.
- (3) "Day care service" means the care, protection, and supervision of a client for a period of less than 24 hours a day on a regular basis which supplements for the client in accordance with his individual needs, daily care, enrichment opportunities, and health supervision.
- (4) "Day facility" means any nonresidential facility.
- (5) "Department" means the Department of Health and Rehabilitative Services.
- (6) "Developmental disability" means a disorder or syndrome which is attributable to retardation, cerebral palsy, autism, or epilepsy, which originated prior to the age of 18 years, and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- (7) "Developmental training facility" means any nonresidential facility which provides basic training and habilitation to clients.
- (8) "Diagnostic evaluation" means a comprehensive set of examinations resulting in the distinguishment of retardation or other developmental disabilities from other conditions.
- (9) "District" means a service district of the department.
- (10) "Express and informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter involved so as to enable the person giving consent to make an understanding and enlightened decision, without any element of force, fraud, deceit, duress, or other form of constraint or coercion.
- (11) "Family placement program" means an alternative to institutional placement in which a caretaker provides a home for a client and assists him to the extent necessary for the client to participate in normal activities and to meet the demands of daily living.
- (12) "Foster care facility" means a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of clients. The capacity of such a facility shall not be more than three clients.
- (13) "Group home facility" means a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of clients. The capacity of such a facility shall be at least 4 clients but not more than 16 clients.

(14) "Habilitation" means the process by which a client is assisted to acquire and maintain those life skills which enable him to cope more effectively with the demands of his condition and environment and to raise the level of his physical, mental, and social efficiency. It includes, but is not limited to, programs of formal structured education and treatment.

(15) "Intermediate care facility for the mentally retarded" or "ICF/MR" means a residential facility licensed in accordance with state law and certified by the federal government, pursuant to the Social Security Act, as a provider of medicare services to persons who are mentally retarded or who have related conditions. The capacity of such a facility shall not be more than 120 clients.

(16) "Normalization principle" means the principle of letting the client obtain an existence as close to the normal as possible, making available to the client patterns and conditions of everyday life which are as close as possible to the norm and patterns of the mainstream of society.

(17) "Nursing home facility" means a nursing home facility licensed under chapter 400.

(18) "Reassessment" means a process which periodically develops, through semiannual review and annual revision of a client's habilitation plan, a knowledgeable statement of current needs and past development for each client.

(19) "Relative" means an individual who is connected by affinity or consanguinity to the client and who is 18 years of age or more.

(20) "Residential facility" means a facility providing room and board and personal care for a client.

(21) "Residential habilitation center" means a community residential facility operated primarily for the diagnosis, treatment, or rehabilitation of clients, which facility provides, in a structured residential setting, individualized continuing evaluation, planning, 24-hour supervision, and coordination and integration of health or rehabilitative services to help each client reach his maximum functioning capabilities. The capacity of such a facility shall not be less than 17 clients nor more than 120 clients.

(22) "Retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from conception to age 18. "Significantly subaverage general intellectual functioning," for the purpose of this definition, means performance which is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules for the department. "Adaptive behavior," for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his age, cultural group and community.

(23) "Sunland Center" means a state residential facility for the care, habilitation, and rehabilitation of clients, but shall not include any state-operated group home facilities or residential habilitation centers.

(24) "Treatment" means the prevention, amelioration, or cure of a client's physical and mental disabilities or illnesses.

393.064 Prevention; plan and report to the Legislature.—

(1) The Department of Health and Rehabilitative Services, in carrying out its assigned purpose under s. 20.19(1), of preventing to the maximum extent possible the occurrence and incidence of physical and mental diseases and disabilities, shall give priority to the development, planning, and implementation of programs which have the potential to prevent or reduce the severity of retardation and other developmental disabilities. The department shall identify, through demonstration projects, through departmental program evaluation, and through monitoring of programs and projects conducted outside of the department, any medical, social, economic, or educational methods, techniques, or procedures which have the potential to effectively

ameliorate retardation and other developmental disabilities. The department shall determine the costs and benefits that would be associated with such prevention efforts and shall implement or recommend the implementation of those methods, techniques, or procedures which are found likely to be cost-beneficial. The department in its legislative budget request shall identify funding needs for such prevention programs.

(2) In planning and developing its programs and recommendations relating to the prevention of retardation and other developmental disabilities, the department shall consider and evaluate the potential for new or improved programs in the following areas:

(a) Primary prevention:

1. Preconceptional.
2. Prenatal, including maternal nutrition, immunization, and special care for high risk populations including teenage pregnancies.

(b) Secondary prevention:

1. Neonatal intensive care.
2. Early detection, including screening of high risk populations and mass population screening.
3. Early intervention, including medical services, developmental and behavioral therapy, and educational training.

(3) Other agencies of state government shall cooperate with and assist the department within available resources in implementing programs which have the potential to prevent or reduce the severity of retardation and other developmental disabilities and shall consider the finding and recommendations of the department in developing and implementing agency programs and formulating agency budget requests.

(4) The Department shall submit to the President of the Senate and the Speaker of the House of Representatives, as part of the 5-year plan required by s. 393.069, a plan for programs designed to prevent and reduce the severity of retardation and other developmental disabilities. The plan shall outline department proposals for the identification of appropriate prevention efforts, the development of prevention programs, and the provision of services under such programs. All data, projections, and estimates in the plan shall be arrayed by district. The plan shall be resubmitted annually as part of the 5-year plan. The plan shall contain the following elements:

(a) An identification and projection of potential client populations for which prevention programs might be considered.

(b) An inventory and evaluation of existing prevention programs, facilities, and services in the state, including client population served, cost of services provided, and identification of any needed program improvement or change.

(c) A listing of potential prevention efforts identified by the department, the estimated annual cost of providing such prevention services both for a single client and for the anticipated target population as a whole, an identification of potential funding sources, and the projected benefits of providing such services.

(5) No funds appropriated for retardation programs shall be transferred pursuant to s. 216.292 unless there is a finding by the secretary that treatment programs for retardation and other developmental disabilities will not be adversely affected by the transfer and that the prevention services will be cost-efficient.

393.065 Intake.—

(1) Application for services shall be made in writing to the Department of Health and Rehabilitative Services in the district in which the applicant resides. The department shall review each application for eligibility. The department may screen eligible applicants to determine need for prevention or other services. When necessary to definitively identify client condi-

tions or needs, the department may provide a diagnostic evaluation subsequent to screening. Each applicant shall be determined to be in need of services through screening or the diagnostic evaluation process prior to being accepted as a client.

(2) The department shall prescribe and provide an appropriate individual habilitation plan for each client. The parent or guardian of the client or the client, if competent, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan shall include the most cost-beneficial, least restrictive environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan shall include provisions for the most appropriate level of care for the client. Within the specification of needs and services for each client, when residential care is necessary, the department shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community.

(a) The department shall develop and prescribe by rule a standard habilitation plan form. This form shall be used by each district.

(b) In the interest of continuity of care, one member of the professional staff of the department shall be designated to be responsible for supervising implementation of an individual habilitation plan and recording the client's progress.

(c) The department shall place a client in the most appropriate, least restrictive, and most cost-beneficial residential facility according to his individual habilitation plan. Considerations for placement shall be made in the following order:

1. Client's own home or the home of a caretaker.
2. Foster care facility.
3. Group home facility.
4. Residential habilitation center.
5. Intermediate care facility for the mentally retarded.
6. Nursing home facility.
7. Sunland Centers.

(d) In developing a client's annual habilitation plan, the department shall identify measurable objectives for client progress and shall specify a time period expected for achievement of each objective.

(e) The department shall review progress in achieving the objectives specified in each client's habilitation plan at least semiannually and shall revise the plan annually, following consultation with the parent or guardian of the client or with the client, if competent. The department shall annually report in writing to the parent or guardian of the client or to the client, if competent, with respect to the client's habilitative and medical progress.

(f) The department shall develop specific categories for the measurement of client progress.

393.066 Community services and treatment for the retarded and other developmentally disabled.—

(1) The Department of Health and Rehabilitative Services shall plan, develop, organize, and implement its programs of services and treatment for the retarded and other developmentally disabled persons along district lines. The goal of such programs shall be to allow clients to live as independently as possible in their own homes or communities and to achieve productive lives as close to normal as possible.

(2) All programs of services and treatment for clients shall be administered through the districts and shall be based in the community and shall serve all clients regardless of the type of residential setting in which the client lives. All departmental service personnel other than those required to provide room and board and personal care to residents of state-operated institutions and facilities shall be assigned by the district to community-based programs, provided that there is no

net loss of federal funding from either title XX or title XIX of the Social Security Act. In addition, all purchased services shall be approved by the district.

(3) All services needed shall be purchased instead of provided directly by the department when such arrangement is most cost-efficient, in accordance with s. 20.19(13).

(4) Community-based services shall include, to the extent of available resources:

- (a) Day care services.
- (b) Respite care services.
- (c) Medical care services.
- (d) Recreation.
- (e) Physical therapy.
- (f) Training, including developmental training.
- (g) Social services.
- (h) Parent training.
- (i) Other habilitative and rehabilitative services as needed.

(5) The department shall utilize the services of private businesses, not-for-profit organizations, and units of local government whenever such services are more cost-efficient than providing such services directly by the department, including arrangements for provision of residential facilities.

(6) In order to improve the potential for utilization of more cost-effective community-based residential facilities, the department shall promote the statewide development of day care services for clients who have a regular place of domicile, who do not require 24-hours-a-day care in a hospital or other health care institution but who may, in the absence of day care services, require admission to a Sunland Center. Each day care service facility shall provide a protective physical environment for clients, make available to all day care service participants at least one meal on each day of operation, provide facilities to enable participants to obtain needed rest while attending the program, and provide social and educational activities designed to stimulate interest and provide socialization skills.

(7) For the purpose of making available needed community-based residential facilities at the least possible cost to the state, the department is authorized to lease privately owned residential facilities under long-term rental agreements, if such rental agreements are projected to be less costly to the state over the useful life of the facility than state purchase or state construction of such a facility. In addition, the department is authorized to permit, on any public land to which the department holds the lease, construction of a residential facility for which the department has entered into a long-term rental agreement as specified in this subsection.

393.067 Licensure of facilities.—

(1) An application for license for a residential facility shall be made to the Department of Health and Rehabilitative Services on a form furnished by it and shall be accompanied by the appropriate license fee.

(2) The application shall be under oath and shall contain the following:

(a) The name and address of the applicant if an individual; if the applicant is a firm, partnership, or association, the name and address of each member thereof; and if the applicant is a corporation, its name and address, and the name and address of each director and each officer thereof; and the name by which the facility is to be known.

(b) The location of the facility for which a license is sought.

(c) The name of the person or persons under whose management or supervision the facility will be conducted.

(d) The number and type of residents for which maintenance, care, or treatment is to be provided by the facility.

(e) A description of the types of services and treatment to be provided by the facility.

(f) Information relating to the number, experience, and training of the employees of the facility and of the moral character of the applicant and employees.

(g) Such other information as the department determines necessary to carry out the provisions of this chapter.

(3) The applicant shall submit evidence which establishes the good moral character of the applicant and of the manager or supervisor of the facility.

(4) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this chapter and all rules promulgated hereunder.

(5) The department shall promulgate rules establishing minimum standards for licensure for residential facilities, including minimum standards of quality and adequacy of care.

(6) The department may conduct unannounced inspections to determine compliance by residential facilities with the provisions of this chapter and the rules adopted pursuant thereto. The facility shall make copies of inspection reports available to the public upon request.

(7) Each residential facility licensed by the department shall forward annually to the department a true and accurate sworn statement of its costs of providing care.

(8) The department may audit the records of any residential facility which it has reason to believe may not be in full compliance with the provisions of this section.

(9) The department shall establish, for the purpose of control of costs, a uniform management information system and a uniform reporting system with uniform definitions and reporting categories.

393.068 Demonstration project.—The Department of Health and Rehabilitative Services shall conduct or cause to be conducted a combination demonstration project and evaluation study to determine the desirability of establishing a family placement program for retarded and developmentally disabled persons throughout the state. In carrying out the project, the department shall establish or cause to be established programs in at least three districts. When it is determined by the department to be more cost-effective and in the best interest of the client to maintain such client in the home of a caretaker in order to avoid unnecessary institutionalization, the parent or guardian of the client or the client, if competent, may enroll the client in the family placement program. The caretaker of a client enrolled in the family placement program shall be reimbursed according to a rate schedule set by the department.

(1) All existing community resources available to the client shall be utilized to support program objectives. Additional services may be incorporated into the program as appropriate and to the extent that resources are available. The department is authorized to accept gifts and grants in order to carry out the program.

(2) The department may contract for the provision of any portion or all of the services required by the program. Such purchase of service contracts shall be used whenever the requirements of s. 20.19(13) exist.

(3) When possible, services shall be obtained under the "Florida Comprehensive Annual Services Program Plan under title XX of the Social Security Act" and the "Florida Plan for Medical Assistance under title XIX of the Social Security Act."

(4) To provide a range of personal services for the client, the use of volunteers shall be maximized. The department shall assure appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments under the program.

(5) The department shall submit to the President of the Senate and the Speaker of the House of Representatives, as part of the 5-year plan required by s. 393.069, an evaluation report summarizing the progress of the family placement program. The report shall include the information and data nec-

essary for an accurate analysis of the costs and benefits associated with the establishment and operation of the programs that were established.

393.069 Departmental plan; submission to the Legislature.—The Department of Health and Rehabilitative Services shall submit to the President of the Senate and the Speaker of the House of Representatives, not later than January 31, 1978, a comprehensive 5-year plan for the provision of services to retarded and other developmentally disabled persons. Such comprehensive plan shall be updated and resubmitted not later than January 31 each calendar year through 1982. The comprehensive plan shall include, but need not be limited to, the following:

(1) The plan for departmental programs designed to prevent and reduce the severity of retardation and other developmental disabilities required by s. 393.064.

(2) An identification and projection of retardation and developmental disability program needs, including service programs, personnel, facilities, and other needed resources, a projection of the cost of funding such program needs, and an estimation of the benefits attendant to funding such program needs.

(3) A review of the appropriateness and availability of the various categories or levels of care for clients being provided in the state, including an identification of gaps in service programs and an estimation of the extent and percentage of unserved need in each category or level of care.

(4) A plan for the use or alternative use or disposition of the Sunland Center.

(5) An evaluation of the results of the demonstration project required by s. 393.068.

(6) A compilation of client progress reports using the categories for measurement of client progress developed by the department pursuant to s. 393.065 and used in the development of each client's habilitation plan, along with a summary of overall client population progress by type of client and category of measurement.

(7) A statement and projection of client fee collections.

393.071 Client fees.—The Department of Health and Rehabilitative Services shall charge fees for services provided to clients in accordance with s. 402.33.

Section 2. Section 393.11, Florida Statutes, is amended to read:

393.11 Hearing and order for involuntary admission to residential services; recommendation of examining commission.—

(1) When a person is retarded and requires involuntary admission to residential services provided by the *retardation program of the Department of Health and Rehabilitative Services* [~~retardation program of the Department of Health and Rehabilitative Services~~], the circuit court of the county in which the person resides shall have jurisdiction to conduct a hearing and enter an order involuntarily admitting the person *in order that he may receive the care, treatment, and rehabilitation which he needs. It is the intent of the Legislature that for the purpose of identifying developmental disabilities diagnostic capability be established in every program function of the department in the districts, including, but not limited to: youth services, mental health, vocational rehabilitation, and social and economic services.*

(2) In no case shall an order authorizing an admission to residential care be considered an adjudication of mental incompetency. In addition, any child involuntarily admitted to residential services of the *retardation program of the department* [~~retardation program of the department~~] shall, upon reaching majority, be given a hearing to determine his competency. The hearing and order for involuntary admission shall be conducted and entered in the county in which the person is residing or in the county from which the original admittance was made. The hearing and order shall be conducted and entered according to the following procedure:

(a) Three persons, one of whom shall be a physician licensed and practicing under chapter 458, shall constitute a petition committee. These persons shall state under oath the name of the person being considered for involuntary admission, his residence, his family conditions, his physical condition, and the nature and extent of his retardation as established by competent evaluation.

(b) Upon receiving the petition, the court shall immediately appoint an examining commission to examine the person being considered for involuntary admission to residential services of the ~~retardation program of the department~~ [retardation program of the department]. The court shall appoint no fewer than three disinterested experts qualified in the field of mental retardation, including at least one licensed and qualified physician, one licensed and qualified psychologist, and one qualified social worker, to examine the applicant and to testify in person at the admission to residential care hearing. Members of the commission shall not be employees of the department or be associated with each other in practice or in employer-employee relationships. If there is not a practicing psychologist within the county who meets the above standards, the judge may appoint one additional physician to be a member of the examining commission. Such expert testimony shall include, but not be limited to: the degree of the applicant's retardation; the purpose to be served by residential care; and the appropriate habilitation and treatment. Other evidence regarding the appropriateness of the applicant's admission may be introduced at the hearing by any interested party.

(c) Hearing on the petition shall be held as soon as practicable after the petition is filed. The applicant shall be physically present throughout the entire proceeding, represented by counsel, and provided the right and opportunity to be confronted with, and to cross-examine, all witnesses alleging the appropriateness of his admission to residential care. All evidence shall be presented according to the usual rules of evidence. All stages of each proceeding shall be stenographically reported. The burden of proof shall be on the party alleging the appropriateness of the applicant's admission to residential care. *The burden of proof shall be by clear and convincing evidence.* In all cases, the court shall issue findings to support its decision and the basis for such findings.

(d) An applicant shall be represented by counsel at all stages of a judicial admission proceeding. In the event an applicant cannot afford counsel, the court shall appoint a public defender not less than 20 days before the scheduled hearing. In all cases, a court-appointed, or otherwise procured, attorney shall represent the rights and legal interests of the applicant regardless of who may initiate the proceedings or pay the attorney's fee.

(e) If the examining commission finds the examined person to be *retarded or developmentally disabled and in need of treatment and rehabilitation within admission to residential services of the retardation program of the department* [retardation program of the department], these findings shall be reported to the court. *The department shall then inform the court of all available services for the person.* The court may involuntarily admit the person to residential services of the department. *If the evidence presented to the court is not sufficient to warrant involuntary admission to residential services, but the court feels that residential services would be beneficial, the court may recommend that the person seek voluntary admission.* The order of involuntary admission to residential care shall be accompanied by the report of the examining commission, *shall explicitly document the degree of retardation, the purpose to be served by residential care, and the least restrictive placement for the person, and shall include and copies of any other records that may be required by the department.* Upon receiving the order and records, the department shall, *within 45 days, provide inform the court with a copy of the person's habilitation plan outlining treatment and rehabilitative programs and documenting that the person has been placed in the most appropriate, least restrictive, and most cost-beneficial residential facility, of the availability of services for the person.*

(3) Appeal of a final order in a judicial admission proceeding shall be by right in accordance with Art. V of the State Constitution and the Florida Appellate Rules. Pendency of an appeal pursuant to this section shall stay admission until a final determination is made.

(4) At any time and without notice, any person involuntarily admitted to the *retardation program of the department* [retardation program of the department], or his parent or legal guardian in his behalf, is entitled to a writ of habeas corpus to question the cause, legality, and appropriateness of the client's involuntary admission upon proper application. Each client or his parent or legal guardian shall receive specific written notice of the right to petition for a writ of habeas corpus.

(5) *The court which issues the initial order for involuntary admission of a person under this section may enter further*

orders to ensure that the person is receiving adequate care, treatment, habilitation, and rehabilitation within available resources.

Section 3. Section 393.05, Florida Statutes, is renumbered as section 393.115, Florida Statutes, and amended to read:

393.115 393.05 Discharge.—

(1) DISCHARGE AFTER ADMISSION TO RESIDENTIAL CARE.—

(a) If at any time after any person has been admitted to residential care provided by the department, the resident, his parent or legal guardian, *if the resident is not competent*, or the department is of the opinion that the resident's admission is no longer appropriate, the department shall, upon request, immediately fix a time for a hearing to determine the appropriateness of continued residential care for the resident.

(b) A discharge hearing shall be held as soon as practicable under reasonable rules and regulations compatible with the requirements of due process and of this chapter dealing with the hearing on petition for admission to residential care proceedings.

(c) If the department determines that the resident's continued admission to residential care is not essential or that the resident is not dangerous to himself or others, *as documented in the resident's written habilitation plan*, the resident shall be immediately discharged by the department. If the department determines that the resident's continued admission is essential or that the resident is dangerous to himself or others, *as documented in the resident's written habilitation plan*, he shall remain admitted to residential care provided by the department.

(d) Nothing in this section shall in any way limit or restrict the resident's right to a writ of habeas corpus or the right of the department to transfer a resident receiving residential care to a program of appropriate services provided by the department when such is the appropriate habilitative setting for the resident.

(2) DISCHARGE AFTER CRIMINAL OR JUVENILE COMMITMENT.—Any mentally retarded person committed to the custody of the department pursuant to the provisions of the applicable criminal or juvenile court law shall be discharged in accordance with the requirements of the applicable criminal or juvenile court law.

Section 4. Section 393.12, Florida Statutes, is amended to read:

393.12 Competency.—

(1) The issue of competency shall be separate and distinct from a determination of the appropriateness of admission to nonresidential services or residential care for a condition of mental retardation. No person shall be presumed incompetent solely by reason of his acceptance in nonresidential services or admission to residential care; nor shall any such person be denied the full exercise of all legal rights guaranteed to citizens of Florida and of the United States except as expressly determined by an appropriate court of law.

(2) When there is clear reason to believe that a person is incompetent by reason of a condition of mental retardation, proceedings to determine the competency of the individual may be initiated in accordance with the provisions and requirements of *chapter 744 s. 744.31*. Such proceedings shall be initiated only if an adjudication of incompetency is essential for the appointment of a legal guardian of the person or property of the mentally retarded person.

(3) The effect of an adjudication of incompetency and the procedures for restoration to competency shall be as provided in *chapter 744 s. 744.31*.

(4) *The judge conducting proceedings to determine the competency of a person may issue an order for the least restrictive type of guardianship for the person pursuant to part III of chapter 744.*

Section 5. (1) Before October 1, 1977, the Department of Health and Rehabilitative Services shall notify each client who will be 18 years of age or older before January 1, 1978, who is presently receiving residential services from the department, and who has not been adjudicated incompetent, and the parents

or next of kin of each such client, that the client will be discharged unless application for continuation of residential services is made by January 1, 1978.

(2) At least 90 days prior to the date that a client who is receiving residential services from the department and who has not been adjudicated incompetent reaches 18 years of age, the department shall notify the client and his parents or next of kin that the client will be discharged upon reaching 18 years of age unless application for continuation of residential services is made by that time.

(3) If a client is discharged from residential services under the provisions of this section, application for needed services shall be encouraged.

(4) No client receiving services from the department as of the effective date of this act shall be denied continued services due to any change in eligibility requirements by this act.

(5) Development of nonretarded developmental disability programs shall not effectuate a reduction or dilution of the ongoing financial commitment of the state through appropriations for mental retardation programs and services.

Section 6. Section 228.081, Florida Statutes, is amended to read:

228.081 Other public educational services.—The general control of other public educational services shall be vested in the state board except as provided herein. The state board *shall may*, at the request of the Department of Health and Rehabilitative Services, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education *shall may* provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the school board. These services shall be supported out of state, district, and federal or other lawful funds depending on the requirements of the services being supported.

Section 7. Sections 393.01, 393.0111, 393.0121, 393.013, 393.015, 393.02, 393.021, 393.03, 393.04, 393.045, 393.051, 393.07, 393.08, 393.09, 393.10, and 402.13, Florida Statutes, and subsection (3) of section 393.13, Florida Statutes, are hereby repealed.

Section 8. This act shall take effect July 1, 1977.

Amendment 2—On page 1, lines 1 through 3, strike all of title and insert: A bill to be entitled An act relating to retarded and other developmentally disabled persons; enacting the "Retardation Prevention and Community Services Act"; creating ss. 393.061-393.069, 393.071, Florida Statutes; prescribing programs of services for retarded and other developmentally disabled persons; providing for the development and implementation of programs of prevention and community-based services; providing powers and duties of the Department of Health and Rehabilitative Services; providing for transfer of appropriations for operating retardation and developmental disability programs between categories of appropriations within a budget entity and between budget entities under certain conditions; providing for application for services, diagnostic evaluation, and intake; providing for individual habilitation plans and placements; providing for types of residential care facilities; providing for measurement of client progress; providing for licensure of residential facilities; providing for license fees; requiring licensed facilities to make annual reports of costs of providing care; providing for inspection and audit of residential facilities; providing for a demonstration program and evaluation study with respect to establishing a statewide family placement program; providing for submission to the Legislature of a comprehensive 5-year plan for the provision of services; providing for annual reports to the Legislature; providing for the department to charge fees for services; amending s. 393.11, Florida Statutes; providing for hearing and order for involuntary admission to residential services of the department; providing for the burden of proof with respect to such admissions; prescribing duties of the examining commission; providing for continuing jurisdiction of the court; amending and renumbering s. 393.05, Florida Statutes, as s. 393.115, Florida Statutes; providing for discharge after admission to residential care; amending s. 393.12, Florida Statutes; providing that the judge conducting competency proceedings with respect to a mentally retarded person may issue an order of guardianship; providing for discharge of certain

clients who have not been adjudicated incompetent; amending s. 228.081, Florida Statutes; providing the State Board of Education shall provide advice and services regarding education programs; repealing ss. 393.01-393.045, 393.051-393.10, 393.13-(3), 402.13, Florida Statutes, relating to Sunland Centers and other residential and service facilities for retarded persons, the Medical Research Center on Retardation, regional community centers for the retarded, application for services, admission to residential centers, the department as legal guardian of persons admitted to residential facilities, protection of substitute parents on petitioning for commitment, leave for residents, limitations and preferences with respect to accommodations, means of support of residential facilities, paid admissions, and transfer of residents to the Division of Mental Health, and the Division of Retardation; providing an effective date.

Amendment 3—On page 7, line 16, strike all language after clients and add a period on line 16.

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

CS for SB 176 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Saylor

The bill was ordered engrossed then enrolled.

SPECIAL ORDER

SB 511—A bill to be entitled An act relating to sales, storage, and use tax; amending s. 212.02(3)(c), Florida Statutes, 1976 Supplement, and s. 212.08(4), Florida Statutes, to exempt from taxation fuel and energy used in manufacturing or processing goods for sale or resale; providing an effective date.

—was taken up with pending Amendment 2 which was adopted.

Amendment 2—Strike on page 2, lines 1 through 31 on page 3, lines 1 through 7 and insert: *Section 2. Present subsection (10) of section 212.08, Florida Statutes, is renumbered as subsection (11) and a new subsection (10) is added to said section to read:*

(10) EXEMPTIONS, PARTIAL: FUELS AND ENERGY USED BY INDUSTRY IN MANUFACTURING OR PROCESSING GOODS FOR RESALE.—There shall be taxable at the rate of 3 percent the sale, use, storage, or consumption of fuels and energy used and dissipated in fabricating, converting, or processing tangible personal property for sale.

Senator Vogt moved the following amendment which was adopted:

Amendment 5—On page 1 in title, lines 4 and 5, strike “, and s. 212.08(4), Florida Statutes, to exempt from taxation” and insert: ; renumbering s. 212.08(10), Florida Statutes, and adding a new subsection 10 to said section, relating to

On motion by Senator Vogt, by two-thirds vote SB 511 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Chamberlin	Hair	Saylor	Trask
Childers, W. D.	Lewis	Scarborough	Vogt
Dunn	MacKay	Scott	Ware
Gallen	Peterson	Skinner	Williamson
Glisson	Poston	Thomas, Jon	Wilson
Gorman	Renick	Thomas, Pat	Winn

Nays—9

Castor	Henderson	Plante	Zinkil
Childers, Don	Johnston	Spicola	
Graham	McClain		

Vote after roll call:

Yea—Holloway

SB 512—A bill to be entitled An act relating to the sales and use tax; amending s. 212.051, Florida Statutes; exempting from the sales and use tax the purchase price of any device, systems, equipment or machinery used primarily for the control or abatement of pollutants from stationary sources; requiring that such expenditures be certified by the Department of Environmental Regulation in order to qualify for the exemption; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendment which was adopted:

Amendment 1—On page 2, line 1, strike “July 1, 1977” and insert: April 1, 1978

On motion by Senator Vogt, by two-thirds vote SB 512 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—23

Barron	Gorman	Renick	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, W. D.	Holloway	Scott	Williamson
Firestone	Peterson	Skinner	Wilson
Gallen	Plante	Thomas, Pat	Zinkil
Glisson	Poston	Trask	

Nays—9

Castor	Graham	McClain	Winn
Childers, Don	Johnston	Spicola	
Dunn	MacKay		

Vote after roll call:

Yea—Hair

Consideration of HB 507 was deferred.

CS for HB 647—A bill to be entitled An act relating to health studio services; providing legislative intent; providing definitions; providing for penalty-free cancellation of certain health studio services contracts within certain time periods; providing for refunds; making it unlawful to collect or accept more than 12 months’ contract payments in advance; providing for establishment and operation of trust accounts for deposit of contract payments; providing for the contents of contracts; prohibiting discrimination by health studios because of race, religion, gender, marital status, or national origin; providing for injunctive relief; providing for applicability; providing an effective date.

—was read the second time by title.

Senator Pat Thomas moved the following amendment:

Amendment 1—On page 4, strike all of line 18 and insert: (7) No health studio shall operate after the effective date of this act unless, within 30 days thereof, the owners and operators of such health studio shall file with the clerk of the

circuit court in the county wherein the studio operates, an affidavit submitting themselves and the health studio to the jurisdiction of the circuit court in such county for purposes of any cause of action arising from the operation of the health studio.

Section 2. This act shall take effect July 1, 1977.

On motion by Senator Ware, further consideration of CS for HB 647 was deferred.

SB 1413—A bill to be entitled An act relating to the tax on cigarettes; adding s. 210.05(5), Florida Statutes; authorizing the sale of stamped but untaxed cigarettes by agents and wholesalers to the Seminole Indian Tribe or members thereof; providing an effective date.

—was read the second time by title.

Senator Gallen moved the following amendment which was adopted:

Amendment 1—On page 1, line 20 after “s. 210.02”, strike the period (.) and insert: , nor the discount granted for each and every stamping location by s. 210.05(3)(a), Florida Statutes.

On motion by Senator Dunn, by two-thirds vote SB 1413 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Castor	Gorman	Poston	Tobiassen
Chamberlin	Graham	Renick	Vogt
Childers, Don	Hair	Scarborough	Ware
Childers, W. D.	Johnston	Scott	Winn
Dunn	McClain	Skinner	Zinkil
Firestone	Myers	Spicola	
Gallen	Peterson	Thomas, Jon	
Glisson	Plante	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Williamson

HB 196—A bill to be entitled An act relating to financial matters of the state; adding subsection (4) to s. 215.44, Florida Statutes, directing the Board of Administration to prepare and approve an operating budget; creating s. 215.515, Florida Statutes, providing that the board shall make charges for all investment services performed for any agency or fund pursuant to any provision of law; directing the Department of Administration to review such charges; providing an effective date.

—was read the second time by title. On motion by Senator Zinkil, by two-thirds vote HB 196 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Castor	Graham	Poston	Tobiassen
Chamberlin	Hair	Renick	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	MacKay	Scott	Winn
Firestone	McClain	Skinner	Zinkil
Gallen	Myers	Spicola	
Glisson	Peterson	Thomas, Jon	
Gorman	Plante	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Williamson

HB 671—A bill to be entitled An act relating to the preservation of wild trees, shrubs and plants; amending s. 865.06(1), (2)(b), and (4), Florida Statutes; adding and deleting plants from the list of protected plants; authorizing the Department of Agriculture and Consumer Services to promulgate an endangered

plant list; prohibiting certain activities respecting endangered plants; providing a penalty; providing an effective date.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote HB 671 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Castor	Hair	Poston	Tobiassen
Childers, Don	Holloway	Renick	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Firestone	MacKay	Scott	Winn
Gallen	McClain	Skinner	Zinkil
Glisson	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	
Graham	Plante	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Williamson

CS for HB 1159—A bill to be entitled An act relating to municipal recall; amending s. 100.361(2), Florida Statutes; providing that the chief judge of the judicial circuit shall set the date of a recall election; providing that certain violations of law shall not subject certain persons to recall; providing an effective date.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote CS for HB 1159 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Castor	Gorman	Plante	Thomas, Jon
Chamberlin	Graham	Poston	Tobiassen
Childers, Don	Hair	Renick	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Firestone	Johnston	Scott	Winn
Gallen	McClain	Skinner	Zinkil
Glisson	Peterson	Spicola	

Nays—None

Votes after roll call:

Yeas—Myers, Pat Thomas, Williamson

On motion by Senator Firestone 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 2 amendments—

By the Committee on Finance, Taxation & Claims and Senator Firestone and others—

CS for SB 254—A bill to be entitled An act relating to excise tax on documents; creating s. 201.23, Florida Statutes; to provide an exemption from excise taxes under chapter 201, Florida Statutes, for promissory notes, nonnegotiable notes and other written obligations to pay money if the makers thereof or the obligors thereunder or the persons for whose benefit the financing is conducted are individuals residing outside the United States or business organizations or other persons located outside the United States; providing exceptions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 2 & 3, lines 13-31; 1-8, strike all of said lines and insert the following:

(2) The exemptions provided in this chapter shall not apply: (a) To all mortgages, trust deeds, security agreements or other evidence of indebtedness relating to the purchase or transfer

of real property located in Florida filed and/or recorded in the state which shall be taxable as if they were entered into within this state.

(b) If the purpose of the financing evidenced by any instrument described in subsection (1)(a) is to finance all or any part of the purchase of real estate located in Florida or personal property for use in Florida; provided, however, that the obligee under any such instrument shall be entitled to rely on a written certificate by the makers thereof or the obligors thereunder that no part or the proceeds of such financing is intended for any such purpose.

(c) If at the date of any instrument described in subsection (1)(a) or at the date of acceptance of any instrument described in subsection (1)(b) a majority of the equity securities of any maker of any instrument described in subsection (1)(a) or of any obligor thereunder, or of any drawer or person for whose benefit the financing referred to in subsection (1)(b) is conducted are owned by individuals residing within the United States or business organizations or other persons located within the United States; provided, however, that the obligee under or acceptor of any such instrument shall be entitled to rely upon the written certificate of each maker, obligor or person for whose benefit the financing is conducted, other than an individual, certifying that a majority of its equity securities are not owned by individuals residing within the United States or business organizations or other persons located within the United States.

(d) No document, deed, instrument or writing upon which tax is payable pursuant to the provisions of this chapter may be enforced in any court of this state unless and until the tax, interest and penalty thereon have been paid.

(e) The provisions of this section shall not be construed so as to impair the obligation of any contract entered into prior to July 1, 1977.

House Amendment 2—On page 1 in the title, line 12, after the semicolon “;” insert: providing certain exemptions with respect to mortgages, trust deeds, security agreements, and other evidences of indebtedness; requiring that certain documents, deeds, instruments, or writings upon which tax is payable shall not be enforced in any court of this state until the tax, interest, and penalty have been paid; providing for the applicability of the act;

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

Amendment 1—On page 2, strike all of lines 3 through 6 and reletter subsequent paragraph

Senator Firestone moved the following title amendment to House Amendment 2 which was adopted:

Amendment 2—On page 1, lines 2-5, strike “requiring that certain documents, deeds, instruments, or writings upon which tax is payable shall not be enforced in any court of this state until the tax, interest, and penalty have been paid;”

On motions by Senator Firestone, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 254 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Castor	Graham	Plante	Thomas, Pat
Chamberlin	Hair	Poston	Tobiassen
Childers, Don	Holloway	Renick	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Firestone	MacKay	Scott	Winn
Gallen	McClain	Skinner	Zinkil
Glisson	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	

Nays—None

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives requests the return of SB 553.

Allen Morris, Clerk

On motion by Senator Ware, SB 553 was returned to the House as requested.

SPECIAL ORDER, Continued

HB 35—A bill to be entitled An act relating to community mental health services; adding paragraph (d) to s. 394.76(4), Florida Statutes, 1976 Supplement, relating to funding of district mental health plans, providing that certain expenditures of 100 percent of all third-party payments and fees for non-inpatient services shall be eligible for state financial participation; providing an effective date.

—was read the second time by title.

Senator Jon Thomas moved the following amendments which were adopted:

Amendment 1—On page 1, line 13, insert Section 1. Section 921.131, Florida Statutes, is created to read:

921.131 Separate proceedings on issue of insanity.—

(1) *When in a criminal case it shall be the intention of the defendant to plead not guilty and to rely on the defense of insanity, no evidence of insanity shall be admitted until it is determined through trial or by plea whether the defendant is guilty or innocent of committing or attempting to commit the alleged criminal act. Advance notice of intention to rely upon the defense of insanity shall be given by the defendant as provided by rule. Upon a finding that the defendant is guilty of the commission or attempted commission of the criminal act, a trial shall be promptly held, either by the same trial jury, if applicable, or by a new jury, in the discretion of the court, solely on the question of whether the defendant was sane at the time the criminal act was committed or attempted. The defendant shall have the option, with approval of the court, of waiving the jury trial on the issue of sanity and allowing the determination of sanity to be made by the judge. Evidence may be presented as to any matter that the court deems relevant to the issue of sanity regardless of its admissibility under the exclusionary rules of evidence, except as prohibited by the Constitutions of the United States or State of Florida; provided, however, that the defendant is given the opportunity to rebut any such evidence. If the jury or the judge shall determine that the defendant was guilty of committing or attempting to commit the criminal act and was sane at the time, then the court shall proceed as provided by law. If it is determined that the defendant was guilty of committing or attempting to commit the criminal act but was insane at the time, the court shall adjudicate the defendant not guilty by reason of insanity.*

(2) *A person adjudicated not guilty by reason of insanity may be committed to the custody of the Department of Health and Rehabilitative Services by the trial court if the court determines the person presently meets the criteria for involuntary hospitalization set forth in s. 394.467(1), or the court may order that the person receive outpatient treatment at any other appropriate facility or service on an outpatient basis, or the court may discharge the person. Any person committed to the custody of the Department of Health and Rehabilitative Services pursuant to this section shall be treated in accordance with s. 394.467(4) and (5).*

Section 2. Paragraph (b) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 394.467, Florida Statutes, are amended to read:

394.467 Involuntary hospitalization.—

(3) PROCEDURE FOR HEARING ON HOSPITALIZATION.—

(b) In the event a person is ordered into a treatment facility under the provisions of the Florida Rules of Criminal Procedure or chapter 801 or chapter 917, the order shall adequately document the nature and extent of a patient's mental illness. ~~Any person adjudicated not guilty by reason of insanity pursuant to Rule 3.460 of the Florida Rules of Criminal Procedure shall be committed to the division for hospitalization and treatment in accordance with the provisions of this part.~~ No person charged with a misdemeanor shall be committed to the department division solely by Rule 3.210 of the Florida Rules of Criminal Procedure, but shall be admitted for hospitalization and treatment in accordance with the provisions of this part. The treatment facility may accept and re-

tain a patient so admitted for a period not to exceed 6 months whenever the patient is accompanied by a court order and adequate documentation of the patient's mental illness. Such documentation shall include a psychiatric evaluation and any psychological and social work evaluations of the patient and document the results of any criminal investigation on the patient. If a patient is considered to be suffering from an emotional illness to the extent that he cannot participate in his own defense, such documentation should include details regarding the evaluation which led to that conclusion. If further hospitalization is necessary at the end of his authorized treatment period, the administrator shall apply to the hearing examiner for an order authorizing continued hospitalization.

(4) PROCEDURE FOR CONTINUED HOSPITALIZATION; HEARING EXAMINER.—

(a) If continued hospitalization of an involuntary patient is necessary, the administrator shall, prior to the expiration of the period during which the treatment facility is authorized to retain the patient, request an order authorizing continued hospitalization. This request shall be accompanied by a statement from the patient's physician justifying the request and a brief summary of the patient's treatment during the time he was hospitalized. In addition, the administrator shall submit an individualized plan for the patient for whom it is requesting continued hospitalization. Notification of this request for retention shall be mailed to the patient and his guardian or representative along with a completed petition, requiring only a signature, for a hearing regarding the continued hospitalization and a waiver of hearing form. The waiver of hearing form shall state that the patient is entitled to a hearing under the law; that he is entitled to be represented by an attorney at the hearing and, if he cannot afford an attorney, that one will be appointed; and that, if it is shown at the hearing that the patient does not meet the criteria for involuntary hospitalization, he is entitled to be released. If the patient or his guardian or representative does not sign the petition, or if the patient does not sign a waiver within 15 days, the hearing examiner shall notice a hearing with regard to the patient involved within 10 days after the expiration of the aforesaid period. *If the patient was committed after he successfully pleaded "not guilty by reason of insanity," the hearing examiner shall send notice of the hearing 30 days in advance of the hearing to the State Attorney from the county in which the patient's criminal trial was held.*

(5) RELEASE OF PATIENTS COMMITTED AFTER SUCCESSFULLY PLEADING NOT GUILTY DUE TO A COURT FINDING OF ACQUITTAL BY REASON OF INSANITY.—

(a) ~~In the case of any patient who has been committed to a mental hospital pursuant to Rule 3.460 (Acquittal for Cause of Insanity), Florida Rules of Criminal Procedure, the committing court shall retain jurisdiction in the case.~~

(a)(b) When a patient is committed *after successfully pleading not guilty by reason of insanity pursuant to Rule 3.460*, the administrator shall not release such patient, *nor shall the hearing examiner hold any hearing for such patient, without first notifying the State Attorney from the committing county at least 30 days in advance of the anticipated date of release or hearing.* The State Attorney can request a hearing before a hearing examiner to be held within 15 days. A continuance not to exceed 5 days may be granted at the discretion of the hearing examiner. The State Attorney from the committing county shall represent the interest of the state at such hearing. The patient and his guardian or representative shall be informed of the right to counsel by the hearing examiner. In the event a patient cannot afford counsel in a hearing before a hearing examiner, the Public Defender in the county where the patient is being held or a court appointed attorney shall act as attorney for the patient. If, at a hearing, it is shown that the patient continues to meet the criteria for involuntary hospitalization, the hearing examiner shall sign the order for continued hospitalization pursuant to ~~subsection (4)(f) paragraph (f).~~ If, at a hearing, it is shown that the patient does not continue to meet the criteria for involuntary hospitalization, the hearing examiner shall sign an order allowing the release of the patient, ~~which order shall not be effective until approved by the committing court.~~

(b)(c) *If the State Attorney does not participate in the hearing, the order of the hearing examiner shall be final. If the State Attorney does participate in the hearing, the order of the hearing examiner shall not be effective for 14 days,*

during which time the losing party may request a hearing in the circuit court having jurisdiction over the patient's criminal proceedings. Such hearings shall be a jury or nonjury proceeding at the election of the patient. In administrative and court proceedings, in all proceedings under this paragraph, both the patient and the State Attorney shall have the right to a finding by a jury. In these proceedings, evidence may be presented by the hospital administrator, the State Attorney, and the patient. The Florida Rules of Criminal Procedure pertaining to jury trials shall be applicable in all cases where the State Attorney or the patient has demanded a jury proceeding. The patient shall have the right to counsel. In the event a patient cannot afford counsel, the Public Defender of the county in which the proceedings arise or court appointed counsel shall act as attorney for the patient. After hearing all the evidence, the jury, or, in the case where a jury was not requested, the judge shall deliberate and render a decision based exclusively on whether the patient continues to meet the criteria for involuntary hospitalization pursuant to subsection (1) paragraph (1)(a) or paragraph (1)(b). If the patient does not meet either of these criteria, the jury, or, in the case where a jury was not requested, the judge shall find that the patient should be released. The hearing before the jury or the court provided for herein shall be held within 60 days from the date of the request for such hearing notice of appeal; otherwise the patient shall be released in accordance with the order of the hearing examiner.

Section 3. Section 918.11, Florida Statutes, is amended to read:

918.11 Fees for expert witnesses.—*The court may appoint not more than three expert witnesses for the purpose of diagnosing and evaluating the mental condition of the defendant. Witnesses appointed by the court, for the purpose of diagnosing and evaluating the mental condition of the defendant, may be obtained from the following sources:*

- (1) *State employed psychiatrist or psychologist, if in the local vicinity;*
- (2) *Psychiatrist or psychologist as designated by the district mental health board;*
- (3) *Community mental health center psychiatrist or psychologist.*

Expert witnesses appointed by the court to determine the mental condition of a defendant in a criminal case shall be allowed reasonable fees for services rendered as witnesses, which shall be paid by the county where the indictment was found or the information or affidavit was filed. *State employees shall be paid for travel expenses pursuant to s. 112.061. The fees shall be taxed as costs in the case.*

Section 4. Section 918.15, Florida Statutes, is created to read:

918.15 Mental competence to stand trial.—

(1) A person accused of a crime who is incompetent to stand trial shall not be proceeded against while he is incompetent. A person is incompetent to stand trial within the meaning of this act if he does not have sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding or if he has no rational as well as factual understanding of the proceedings against him.

(2) If before or during trial the court, of its own motion, or upon motion of counsel for the defendant or for the state, has reasonable ground to believe that the defendant is not mentally competent to stand trial, the court shall immediately initiate proceedings pursuant to s. 918.16.

(3) If a motion under subsection (1) is filed or made, the court may order the defendant taken into custody if he is not already in custody until the determination of his competency can be made. If the defendant has been released from custody on bail or other pre-trial release provision, and the court is satisfied that evaluation is necessary but that the defendant need not be taken into custody for such evaluation, the court may order the defendant to appear at a designated place for evaluation at a specific time.

Section 5. Section 918.16, Florida Statutes, is created to read:

918.16 Procedure when defendant is incompetent to stand trial.—If the court has reasonable ground to believe the defendant is incompetent to stand trial pursuant to the provisions of s. 918.15, the court shall proceed as follows:

(1) The court shall issue an order for the defendant to be examined by a local mental health receiving facility or a local retardation diagnosis and evaluation team to determine whether the defendant does or does not meet the criteria for involuntary hospitalization pursuant to s. 394.467(1), or the criteria for involuntary retardation residential services pursuant to s. 393.11. If the defendant requires security which the receiving or diagnostic and evaluation team cannot provide, the receiving facility or diagnostic and evaluation team may evaluate the defendant in jail or in another appropriate secure local facility. The receiving facility or diagnostic and evaluation team shall complete its court-ordered evaluation of the defendant within 5 days of receipt of the order.

(a) The court shall conduct a hearing to determine whether the defendant meets the criteria for involuntary hospitalization or residential services.

1. If the court finds the defendant meets the criteria for involuntary hospitalization or residential services, the court shall order the defendant committed to a Department of Health and Rehabilitative Services intake facility. The defendant shall be diagnosed and examined within 30 days to evaluate his competency to participate in his own defense. Appropriate treatment shall be provided to the defendant. Within the 30-day period, a hearing shall be held by the court of criminal jurisdiction to determine if the defendant is competent to participate in his own defense. The staff of the treatment facility shall present testimony at the hearing on the defendant's competency to participate in his own defense. Other evidence concerning the defendant's mental condition for participating in his own defense may be introduced at the hearing by either party.

a. If at the hearing, the court determines the defendant competent to stand trial, the court shall proceed to trial.

b. If at the hearing, the court determines the defendant incompetent to stand trial, the defendant shall be returned to the treatment facility for an additional stay not to exceed 60 days. Within the 60-day stay, another competency hearing shall be held. If after three consecutive 60-day treatment periods, the defendant remains incompetent, the court may dismiss all charges and order an involuntary admission hearing as provided in s. 393.11 or s. 394.467. If the defendant is involuntarily admitted, prior to releasing the defendant, the administrator of the facility shall notify the state attorney's office which was involved in the adjudication of the original criminal case.

2. If the court finds the defendant does not meet the criteria for hospitalization, the court shall, according to the provisions of s. 918.11, appoint expert witnesses for the purpose of evaluating and diagnosing the competence of the defendant. The court may utilize the staff of the receiving facility as expert witnesses whenever possible. The clerk shall notify the prosecuting attorney and counsel for the defendant of such appointments and shall give the names and addresses of experts so appointed. Other evidence concerning the defendant's competence may be introduced at the hearing by either party. The hearing shall be held within 5 days of the appointment of the experts. If the defendant is not in custody, the court may order that he be taken into custody until a determination of his competency can be made. If the court is satisfied that evaluation is necessary but that the defendant need not be taken into custody for such evaluation, the court may order the defendant to appear at a designated place for evaluation at a specific time.

a. If at the hearing, the court determines the defendant competent to stand trial, the court shall proceed to trial.

b. If at the hearing the court determines the defendant incompetent to stand trial, the defendant may be released on reasonable bail or on other appropriate release conditions for a period not to exceed 6 months. The court may order that the defendant receive outpatient treatment to restore the defendant's competency at an appropriate local facility. The court shall conduct a hearing to determine whether the defendant has regained his competency within 30 days of the initial commitment and every 60 days thereafter until the defendant either regains his competency to proceed with trial or until the defendant has received outpatient services for 6 months.

If at the end of the 6-month period the defendant remains incompetent, the court may dismiss all charges against the defendant.

(b) If the defendant is declared incompetent to stand trial and the criminal charges are dismissed, and later declared competent to stand trial, his other incompleting trial shall not constitute former jeopardy.

(2) An adjudication of incompetency to stand trial shall not operate as an adjudication of incompetency for other purposes unless such adjudication is specifically set forth in the order, in which case a guardian of the person shall be appointed.

Section 6. Subsection (2) of section 945.025, Florida Statutes, 1976 Supplement, is amended to read:

945.025 Jurisdiction of department.—

(2) In establishing, operating, and utilizing these facilities, the department shall attempt, whenever possible, to avoid the placement of nondangerous offenders with potential for rehabilitation with repeat offenders or dangerous offenders. Medical, mental, and psychological problems shall be diagnosed and treated whenever possible. The Department of Health and Rehabilitative Services shall cooperate to insure the delivery of services to persons under the department's custody or supervision. *When it is the intent of the department to transfer a mentally ill or retarded prisoner to the Department of Health and Rehabilitative Services, an involuntary commitment hearing shall be held according to the provisions of chapter 393 or chapter 394.*

Section 7. Section 945.12, Florida Statutes, is amended to read:

945.12 Transfers for rehabilitative treatment.—

(1) The department is authorized to transfer drug dependents, as defined in chapter 397, and retarded, addicted, tuberculous, mentally ill, or other prisoners requiring specialized services to appropriate public or private facilities or programs for the purpose of providing such specialized service or treatment for as long as such service or treatment is needed, but for no longer than the remainder of the prisoner's sentence. *When it is the intent of the department to transfer a mentally ill or retarded prisoner to the Department of Health and Rehabilitative Services, an involuntary commitment hearing shall be held according to the provisions of chapter 393 or chapter 394. If the committing court finds after a hearing, the patient does not meet the criteria for involuntary admission, he shall be returned to the Department of Offender Rehabilitation. If, at the hearing, the court concludes that the patient meets the criteria for involuntary hospitalization, under s. 393.11 or s. 394.467(1), the judge shall order the patient to be transferred to a state mental health treatment facility or a retardation facility for treatment. The patient shall be retained by the department for a period not to exceed the remainder of his sentence. If the administrator of the facility and the patient's physician find that the patient no longer meets the criteria for involuntary admission he shall be returned to the Department of Offender Rehabilitation immediately. If the patient remains hospitalized when his sentence expires, then an involuntary commitment hearing shall immediately be held in accordance with the provisions of s. 393.11 or s. 394.467.*

(2) The department is authorized to enter into agreements with the controlling authorities of such state institutions as shall have or be provided with appropriate facilities for the secure confinement and treatment of drug addicts, alcoholics, insane, and tuberculous persons. In any such agreement, the department shall provide for custodial personnel to maintain proper security of persons transferred from the correctional system to any other state institution. Such custodial personnel shall be employed and paid by the department and subject to such rules as shall be agreed upon jointly by the department and the controlling authority entering into such agreement.

(3) The department shall be authorized to reimburse the institution furnishing treatment at a figure agreed upon by the department and the controlling authority of such institution.

(4) When, in the opinion of the superintendent of an institution to which a prisoner has been transferred, such prisoner has been cured, or will no longer benefit from treatment at that institution, other than an insane prisoner, the superin-

tendent shall notify the department which shall, at the earliest practicable date thereafter, convey such prisoner to the appropriate classification center for reclassification.

(5) *When the department plans to release a mentally ill or retarded offender, an involuntary commitment hearing shall be held, as soon as possible prior to release, according to the provisions of chapter 393 or chapter 394.*

Section 8. Subsection (6) is added to section 394.467, Florida Statutes, to read:

394.467 Involuntary hospitalization.—

(6) *RELEASE OF CRIMINALLY CHARGED OR CONVICTED PATIENTS.—In the case of any patient who has been committed according to the provisions of s. 918.16 or s. 945.12, upon release the committing court may order that an appropriate system of community follow-up be utilized; in which case the court may order the patient to appear periodically in a community clinic to insure the patient is following a prescribed treatment regimen.*

Section 9. Admission and release procedures and treatment policies of the department are governed solely by this act. Such procedures and policies shall not be subject to control by court procedural rules. The matters within the purview of this act are deemed to be substantive, not procedural.

Section 10. If this act is passed by a two-thirds vote of the membership of each House of the Legislature, Rule 3.210, Florida Rules of Criminal Procedure, as amended, is repealed effective 90 days from the effective date of this act.

Section 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 12. Section 917.13, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 917.13, F.S., for present text.)

917.13 Definitions.—As used in this act unless the context clearly indicates otherwise:

(1) A "mentally disordered sex offender" or "offender" is a person who:

(a) Has been convicted of or pleaded guilty or no contest to a sex offense or attempted sex offense in a current prosecution; and

(b) Suffers from a nonpsychotic mental or emotional disorder, yet is competent; and

(c) Is likely to commit further sex offenses if permitted to remain at liberty.

(2) "Court" means the circuit court.

(3) "Department" means the Department of Health and Rehabilitative Services.

(4) "Offense" means a transgression of law and shall include, but not be limited to, sexual battery, attempted sexual battery, rape, attempted rape, sodomy, attempted sodomy, crimes against nature, attempted crimes against nature, lewd and lascivious behavior, incest, attempted incest, assault (when a sexual act is completed or attempted), and assault and battery (when a sexual act is completed or attempted).

(5) "Clinical record" means all parts of the record required to be maintained and includes all medical records, progress notes, charts, admission and discharge data, and all other information recorded by a facility which pertains to the patient's hospitalization treatment.

(6) "Expert" means a physician, licensed pursuant to chapter 458, who has primarily diagnosed and treated mental and nervous disorders for a period of not less than five years or a psychologist licensed pursuant to chapter 490, who has not less than five years of clinical experience.

Section 13. Section 917.14, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 917.14, F.S., for present text.)

917.14 Certifying defendant for hearing.—

(1) If a defendant has been convicted of or has pleaded guilty or no contest to an offense or attempted offense in a current prosecution, the court may defer sentencing and certify him for a hearing and examination in the circuit court to determine whether he is a mentally disordered sex offender.

(2) The court may certify a defendant under subsection (1) on its own motion, on motion by the State Attorney or the defendant, or on application by affidavit of the defendant.

Section 14. Section 917.17, Florida Statutes, is amended to read:

917.17 Appointment of experts psychiatrists.—

(1) The court shall appoint not less than two nor ~~or~~ more than three experts to make personal examinations of the defendant. At least one expert shall be a physician who is licensed in Florida and who has qualified psychiatrists who are licensed in this state and who have directed their professional training and practice primarily diagnosed and treated to the diagnosis and treatment of mental and nervous disorders for a period of not less than 5 years.

(2) The experts psychiatrists shall personally examine the defendant to determine whether the defendant ~~or not~~ he is a mentally disordered sex offender. Each expert psychiatrist shall file a written report stating the results of his examination and his conclusions. The report shall not be competent evidence in any proceeding other than the hearing to determine whether the defendant is a mentally disordered sex offender. The failure of the defendant to answer pertinent questions propounded by the psychiatrists shall constitute contempt of court.

Section 15. Section 917.175, Florida Statutes, is created to read:

917.175 Reports by experts.—A written report made for the court under s. 917.17 shall include the defendant's social history, criminal records, if any, the circumstances of the offense, the results of the physical and mental examination, and all facts and findings necessary to assist the judge to pass sentence on or to commit such defendant, including the probability that the defendant will commit another sex offense.

Section 16. Section 917.176, Florida Statutes is created to read:

917.176 Examinations by experts; where made.—The experts designated by the court shall examine the defendant where the defendant is detained. However, upon receipt of a recommendation of the experts, the court may order the defendant transferred to another place of detention, as may be designated by the expert, in a county, municipal, or privately-operated hospital, clinic, or teaching hospital with psychiatric facilities for a reasonable period for observation and examination. When the defendant is so transferred, the court may require the sheriff of the county where the defendant is held to furnish sufficient personnel to guard the defendant.

Section 17. Section 917.18, Florida Statutes, is amended to read:

917.18 Procedure for hearing.—The court shall hold a hearing to determine whether the defendant is a mentally disordered sex offender. Evidence of the conviction and punishment of the defendant for crimes involving sexual motivation shall be competent at the hearing. The defendant shall have the right to be represented by counsel. If the defendant is indigent, the court shall appoint the public defender or other counsel who shall be entitled to a reasonable fee paid from the general fund of the county in which the defendant was tried. The maximum fee permitted for legal representation shall be \$400. The State Attorney shall represent the state. An appointed expert psychiatrist may be called by the court, state, or defendant, and shall be subject to all legal objections concerning competency, bias, and qualifications as an expert. The court may examine the expert psychiatrist, but either party may object to questions asked by the court as though the psychiatrist were a witness for the adverse party. When a psychiatrist is called and examined by the court, the parties shall cross-examine in the order directed by the court. When an expert a psychiatrist is called by one of the parties, the

adverse party may examine him in the same manner as any other witness called by the party. The court, state, or defendant may call any other witnesses to give testimony material to the issues.

Section 18. Section 917.19, Florida Statutes, is amended to read:

917.19 Commitment.—If the court finds determines that the defendant is a mentally disordered sex offender, it shall commit the offender defendant to the custody of the department [Department of Offender Rehabilitation] for care, treatment, and rehabilitation. The department [department] shall determine which facility will provide necessary care, treatment, and rehabilitation for an offender committed under this act assign the defendant to the Florida Research and Treatment Center or other facility of the [department].

Section 19. Section 917.20, Florida Statutes, is amended to read:

917.20 Periodic examination; discharge proceedings; recommencement of civil proceedings.—

(1) The department [Department of Offender Rehabilitation] shall cause the offender committed person to be examined a minimum of once annually periodically to determine the progress of treatment, and it shall file a written report of these examinations in the committing court not less than once a year.

(2) At any time after commitment, the department [department] may file a written report with application in the committing court stating the facts which show showing that the offender's condition person has improved to a degree that he no longer meets the definition of an offender or that the department has exhausted all appropriate treatment for the offender will not be a menace to others. The written report shall include information about the treatment received by such offender, a diagnosis of the offender's current condition, and recommendations made by the treatment staff. Upon receipt of the written report, the court shall set a hearing date of within 60 days and shall order the offender committed person returned to the jurisdiction of the court. The offender shall not be detained in a jail prior to said hearing and shall not be detained after said hearing if returned to the department. The hearing shall follow the procedures as set forth in s. 917.18 for the original hearing except that the appointment of psychiatrists shall be within the court's discretion. The court may accept, in lieu of reports from experts, reports by the department staff members who treated the committed offender. If the court determines that the offender continues to present a present danger to others, the court person has not recovered from the disorder, it shall order his return to the department institution to be held under the previous commitment. However, if the department returns an offender to the court because the department has determined that it has exhausted all treatment for the offender, the court shall remove the offender from the custody of the department. If the court determines that the offender person has improved to the extent that he no longer meets the definition of an offender, the court recovered from the disorder to a degree that he will not be a menace to others, it shall order him discharged from the custody of the department institution. If criminal proceedings are still pending against the person, they shall recommence at the time of the discharge order.

Section 20. Section 917.21, Florida Statutes, is amended to read:

917.21 Jurisdiction of committing court.—The committing court shall retain jurisdiction of the offender only for the purpose of ordering person from the commencement of the proceedings until final discharge and may order further examinations of and reports about the offender on the person and may do so at any time during the offender's commitment to the department this period. The reports shall be available to the offender's committed person's attorney for use in petitions for discharge and as evidence at discharge hearings. Decisions on treatment modalities shall be made by the department.

Section 21. Section 917.215, Florida Statutes, is created to read:

917.215 Recommencement of criminal proceedings; duties of the court upon offender's discharge from a mentally disordered sex offender treatment program.—Upon the offender's dis-

charge from a mentally disordered sex offender treatment program, criminal proceedings shall recommence:

(1) If the court finds at the release hearing that the offender has been successfully rehabilitated by the treatment program, the court may sentence the offender. The court may suspend the sentence, if such is imposed, and may place the offender on probation.

(2) If the court finds that the offender continues to present a present danger to others, the court may take any suitable alternative disposition, including commitment of the offender to the custody of the Department of Offender Rehabilitation as provided by law.

Section 22. Section 917.216, Florida Statutes, is created to read:

917.216 Probation; training program for outpatient therapists.—A judge who suspends the sentence or execution of judgment and places an offender on probation:

(1) May at any time, for cause, revoke the order placing such offender on probation and impose such sentence of commitment as might have been imposed at the trial of conviction.

(2) Shall require that the offender be provided regular treatment in a mental health program approved or operated by the department. The agency or person treating the offender shall make written reports at least every 6 months to the court and to the probation officer supervising the offender. If the agency or person providing treatment exhausts treatment for the offender, or if it is determined that the offender will make no progress in the treatment program, the court shall terminate mandatory probation visits by the offender to that treatment program. The court may require the offender to be provided further treatment in another suitable program approved by the department. The costs, fees, and charges for treatment of the offender, while on probation, shall be the responsibility of the offender except that if the offender is indigent, these costs shall be borne by the county. The costs of treatment and care of an indigent offender placed on probation and charged against the county may be recovered by the county from the estate or property, if any, of the offender.

(3) The department may establish, within current appropriations, a program to train persons to provide postdischarge treatment for mentally disordered sex offenders.

Section 23. Section 917.217, Florida Statutes, is created to read:

917.217 Work-release and community furlough programs.—The department may allow an offender to participate in a work-release or community furlough program approved by the department if, in the discretion of the department, such is considered to be in the best interest of the offender's rehabilitation. Due consideration shall be given to the probability that the offender continues to present a present danger to others. The department shall adopt rules to implement this section by January 1, 1978.

Section 24. Section 917.218, Florida Statutes, is created to read:

917.218 Time spent in admission procedure.—All time spent in the formal custody of the state and in admission procedure by an offender in the mentally disordered sex offender program shall be considered credit for time served for any sentence imposed on the sex offense or attempted sex offense committed prior to the date the offender was convicted. In addition, no offender may be committed under this act for a period of time exceeding the maximum sentence applicable to the crime for which the offender was convicted or to which the offender pleaded guilty or no contest. If the offender is in the mentally disordered sex offender program when the maximum sentence applicable to the crime expires, the court shall initiate proceedings pursuant to s. 394.465 or s. 394.467 if the offender is in need of further treatment.

Section 25. Section 917.22, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 917.22, F. S., for present text.)

917.22 Clinical record; confidentiality.—A clinical record for each offender shall be maintained. The record shall include data

pertaining to admission and such other information as may be required under the rules of the department. Unless waived by the offender or his guardian, the privileged and confidential status of the clinical record shall not be removed by either authorized or unauthorized disclosure to any person, organization, or agency. The clinical record shall not be a public record, and no part of it shall be released, except as provided below:

(1) The record may be released to physicians, attorneys, and government agencies as designated by either the offender or his guardian.

(2) The record shall be produced in response to a subpoena or released to persons authorized by order of court, excluding matters privileged by other provisions of law.

(3) The record or any part thereof may be disclosed to a qualified researcher or staff member of the treatment facility or an employee of the department when the administrator of the facility or secretary of the department deems it necessary for treatment of the offender, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

(4) The clinical records may be used for statistical and research purposes if the information is abstracted in such a way as not to reveal the identity of individuals.

Section 26. Section 917.225, Florida Statutes, is created to read:

917.225 Provisions of information and documentation; responsibility of the court upon commitment of an offender to the department.—In the event that an offender is ordered into the custody of the department, the court order shall specify and adequately document the nature and extent of the offender's mental disorder. Such documentation shall include all evaluations by court-appointed experts, any psychological or social work evaluations, the results of any criminal investigations with respect to the offender, and a copy of the information or indictment on the offender. The department may refuse admission to any offender committed to the department pursuant to this act when the committing court does not provide the department with adequate information and documentation as specified in this section.

Section 27. Section 917.25, Florida Statutes, is amended to read:

917.25 Costs.—

(1) Experts ~~Psychiatrists~~ appointed by the court to examine the offender shall be allowed reasonable fees for their services. These fees ~~that~~ shall be paid by the county in which the hearing is held. The county may recover the fees from the estate or property of the offender ~~defendant~~.

(2) Fees charged to offenders in treatment facilities shall be based on a schedule adopted through rule by the department. Such fees shall be collected by the department and shall be based on cost of care and ability to pay. An unpaid fee shall constitute a lien upon the nonexempt property of the offender, however, payment of fees shall not be a prerequisite for treatment. Legal action for recovery of unpaid fees may be brought against the offender by the department. The state shall defray all costs incurred in the care and treatment of a person committed to a state institution, but the state may recover these costs from the estate or property of the person committed.

Section 28. Section 917.29, Florida Statutes, is created to read:

917.29 Sex offenses; testimony of person under age 16; courtroom cleared; exceptions.—In the trial of any case, civil or criminal, when any person under the age of 16 is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, and court reporters.

Section 29. Section 917.31, Florida Statutes, is created to read:

917.31 Mental health research and treatment centers.—The department is authorized to establish mental health research and treatment centers to provide treatment and rehabilitative services for involuntarily committed patients who present a present danger to others in maximally secure facilities and to locate

such in north and south Florida sites as determined by the department.

Section 30. Section 917.32, Florida Statutes, is created to read:

917.32 Treatment and research programs; donations and grants.—The department shall cause research to be conducted into the nature and causes of deviate and criminal behavior, the reasons for the sources of environmental disturbances in offenders, the mental disorders which cause offenders to be incompetent to stand trial and to be insane, the methods of preventing and treating such mental and emotional disorders, and into such other areas of forensic concern as the department deems necessary. The department shall make recommendations for additional research programs and report the progress of such research to the Legislature.

Section 31. Chapter 801, Florida Statutes, consisting of ss. 801.011, 801.021, 801.031, 801.041, 801.051, 801.061, 801.071, 801.081, 801.091, 801.102, 801.111, 801.121, 801.131, 801.142, 801.151, 801.161, 801.171, 801.181, 801.191, 801.201, 801.211, 801.221, 801.231, 801.241, and 801.251, Florida Statutes, and ss. 917.15, 917.16, 917.26, 917.27, 917.28, Florida Statutes, are hereby repealed.

Section 32. Section 1 shall be effective for a period of one year. During this one year the Supreme Court shall collect statistics on all cases in which the defendant relies upon the defense of insanity; further, the Legislature shall exhaustively study the operation and effect of various courts utilizing separate proceedings on the issue of guilt and issue of insanity.

Renumber subsequent sections.

Amendment 2—On page 1 in title, lines 1, 2 and 3, strike "A bill to be entitled An act relating to community mental health services" and insert: A bill to be entitled An act relating to mental health; creating s. 921.131, Florida Statutes; providing for separate trial proceedings on the issue of insanity after determination of guilt; amending s. 394.467(3)(b), (4)(a), and (5), Florida Statutes, conforming provisions relating to the disposition of persons adjudicated not guilty by reason of insanity; requiring certain notification as to hearings relating to the continued involuntary hospitalization or release of such persons; changing the procedure by which release orders for such persons may be judicially reviewed; limiting to patients the right to request a jury for certain hearings; amending s. 918.11, Florida Statutes, relating to the appointment of expert witnesses by the courts; creating s. 918.15, Florida Statutes, providing for a competency hearing; creating s. 918.16, Florida Statutes, providing a procedure for evaluating incompetent defendants; amending s. 945.025(2), Florida Statutes, 1976 Supplement; providing for a hearing to be held prior to the Department of Offender Rehabilitation transferring prisoners to the Department of Health and Rehabilitative Services; amending s. 945.12, Florida Statutes; providing a procedure for committing and releasing prisoners from institutions of the Department of Health and Rehabilitative Services; adding s. 349.467(6), Florida Statutes; providing for a system of community follow-up upon release of criminally charged or convicted patients; providing repeal of conflicting rules of criminal procedures; providing severability; amending s. 917.13, Florida Statutes; providing definitions; amending s. 917.14, Florida Statutes, providing for certification of a defendant for hearing; amending s. 917.17, Florida Statutes, relating to appointment of experts and contempt of court; creating s. 917.175, Florida Statutes, providing for reports by experts; creating s. 917.176, Florida Statutes, providing for examinations by experts; amending s. 917.18, Florida Statutes, relating to hearings to provide counsel for an indigent defendant; amending s. 917.19, Florida Statutes, providing for commitment to the Department of Health and Rehabilitative Services rather than to the Department of Offender Rehabilitation; amending s. 917.20, Florida Statutes, providing for periodic examinations, discharge procedures of the department and recommencement of civil proceedings by the court; amending s. 917.21, Florida Statutes, providing for the jurisdiction of the committing court and for certain treatment decisions to be made by the department; creating s. 917.215, Florida Statutes, providing for recommencement of criminal proceedings; creating s. 917.216, Florida Statutes, providing for probation and training programs for outpatient therapists; creating s. 917.217, Florida Statutes, providing for work-release and community furlough programs; creating s. 917.218, Florida Statutes, providing for time spent in admission procedure to count as credit for time served; amending s. 917.22,

Florida Statutes, relating to confidentiality of records to specify exceptions; creating s. 917.225, Florida Statutes, providing for information and documentation responsibilities of the court upon commitment of an offender to the department; amending s. 917.25, Florida Statutes, providing for fees paid by the offender; creating s. 917.29, Florida Statutes, providing for clearing of the courtroom and providing exceptions; creating s. 917.31, Florida Statutes, authorizing the department to establish mental health research and treatment centers; creating s. 917.32, Florida Statutes, requiring the department to conduct research; repealing chapter 801, Florida Statutes, the "Child Molester Act," and encompassing the provisions thereof in this act; repealing ss. 917.15, 917.16, 917.26, 917.27, and 917.28, Florida Statutes, relating to procedures for hearings, examinations, and custody of mentally disordered sex offenders;

On motion by Senator Myers, by two-thirds vote HB 35 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

SB 923—A bill to be entitled An act relating to venue; creating s. 47.123, Florida Statutes; authorizing dismissal or stay of action in the interest of justice when court finds the action should be heard in a forum outside the state; providing that domicile or residence of any party shall not preclude such stay or dismissal; providing an effective date.

—was read the second time by title.

Senator Scott moved the following amendment which was adopted:

Amendment 1—On page 1, line 21, after the period (.) insert: This section shall not apply to a cause of action which accrues within the State of Florida.

Senator Ware moved the following amendment which was adopted:

Amendment 2—On page 1, line 17, strike "shall" and insert: may

On motion by Senator McClain, by two-thirds vote SB 923 as amended was read the third time by title and failed to pass. The vote was:

Yeas—14

Chamberlin	Gorman	Poston	Trask
Childers, Don	Hair	Renick	Vogt
Firestone	McClain	Scott	
Glisson	Myers	Thomas, Jon	

Nays—14

Castor	Henderson	Tobiassen	Winn
Childers, W. D.	Johnston	Ware	Zinkil
Gallen	Plante	Williamson	
Graham	Spicola	Wilson	

The President presiding

On motion by Senator Ware the Senate reconsidered the vote by which SB 923 failed to pass.

SB 923 as amended passed, was ordered engrossed and then certified to the House. The vote on passage was:

Yeas—20

Mr. President	Hair	Plante	Thomas, Jon
Barron	Henderson	Renick	Thomas, Pat
Childers, Don	Holloway	Sayler	Trask
Glisson	McClain	Scott	Vogt
Gorman	Peterson	Skinner	Ware

Nays—13

Castor	Johnston	Spicola	Winn
Chamberlin	MacKay	Tobiassen	
Childers, W. D.	Myers	Williamson	
Graham	Poston	Wilson	

On motion by Senator Plante 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 CS for HB 786 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Representative Jones—

CS for HB 786—A bill to be entitled An act relating to motor carriers; amending s. 323.01(4), (6), (10) and (18), Florida Statutes, 1976 Supplement, and adding subsections, providing definitions; creating s. 323.011, Florida Statutes, providing a fee schedule for various applications or petitions for hearings relating to motor carriers and a penalty fee schedule for violations by motor carriers; providing for the disposition of moneys collected from such fees and penalties; providing a new fee for temporary authority to operate a motor carrier; increasing and decreasing certain existing application, cab card and other fees; amending s. 323.02, Florida Statutes, 1976 Supplement, relating to the prohibited operation of a motor carrier without a certificate or permit; amending s. 323.03, Florida Statutes, relating to the issuance of certificates of convenience to combine all types of motor carriers within its provisions; specifying items to be considered in issuing a certificate and providing for the issuance thereof absent timely protest; provides for the issuance of temporary certificates; deleting provisions requiring a hearing if no protests filed; creating s. 323.032, Florida Statutes, transferring provisions relating to detour authority for charter carriers and to charter rights; amending s. 323.041(2) and (6), Florida Statutes, deleting provisions relating to the refund of fees to applicants, for the transfer of certificates under certain circumstances; authorizing the Public Service Commission to cancel any duplicating authority involved in the reissuance of a transfer of a certificate; amending s. 323.042, Florida Statutes, deleting the hearing requirement for determinations of whether multiple transportation authority by a motor carrier is contrary to the public interest; amending s. 323.05, Florida Statutes, exempting specified motor carriers and types of transportation from requirements of securing a certificate but requiring them to secure permits; providing a procedure for the issuance of such permits; prohibiting the assignment, sale or transfer of permits; creating s. 323.053, Florida Statutes, requiring taxicab operators to obtain a master taxi permit; providing for the application for such permits by motor carriers; exempting taxicab operators operating wholly within a municipality or its suburban areas or within certain counties; creating s. 323.054, Florida Statutes, authorizing municipalities to regulate motor carriers within their boundaries and suburban areas; amending s. 323.06(1) and (3), Florida Statutes, authorizes the commission to fix the amount of insurance required of carriers from time to time instead of only at the issuance of the certificate or permit; clarifying information to be supplied by carriers wishing to self-insure; amending s. 323.08, Florida Statutes, specifying items to be considered by the commission in fixing rates and charges for motor carriers; deleting provisions requiring a public hearing for rate increases; authorizing charter carriers and newspaper carriers to negotiate their compensation with the parties to be served; amending s. 323.09, Florida Statutes, deleting provisions relating to mileage reports maintained by certificate and permit holders; amending s.

323.10(1), (3) and (5), Florida Statutes, relating to the application fee for suspensions of operations of certificate holders; amending s. 323.15(1), (2) and (6), Florida Statutes, incorporating various road taxes imposed upon motor carriers into categories based upon capacity and location of operation; amending s. 323.16, Florida Statutes, 1976 Supplement, relating to separate accounts kept with respect to moneys collected from motor carriers; amending s. 323.21, Florida Statutes, authorizing commission investigators to inspect the contents of trucks and motor carriers; amending s. 323.22, Florida Statutes, 1976 Supplement, authorizing motor carriers to obtain emergency or trip-lease permit cards to identify vehicles under certain circumstances; amending s. 323.28(2), Florida Statutes, conforming fee provisions to the act; amending s. 323.29, Florida Statutes, 1976 Supplement, relating to transportation exempted from regulation of motor carriers; repealing s. 323.01(9), Florida Statutes, which defines "for hire" for purposes of the regulation of motor carriers; repealing s. 323.031, Florida Statutes, relating to certificates for the hauling of construction aggregates; repealing s. 323.04, Florida Statutes, relating to requirements for obtaining a contract carrier certificate; repealing s. 323.051, Florida Statutes, relating to single county road aggregate permits; repealing s. 323.14(2)-(8), Florida Statutes, relating to charter carriers, to conform to the act; repealing s. 323.151, Florida Statutes, relating to the imposition of additional taxes on certificates and permits; repealing s. 323.19, Florida Statutes, which prohibits carriers from varying from tariffs which are on file; repealing s. 323.191, Florida Statutes, which permits carriers to negotiate fees for carrying newspapers; repealing s. 323.20, Florida Statutes, conforming suspension provisions to the act; repealing s. 323.27, Florida Statutes, which exempts certain carriers from being considered common carriers; repealing s. 323.33, Florida Statutes, conforming fee provisions to the act; providing an effective date.

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

SPECIAL ORDER, continued

SB 395 was taken up and on motion by Senator Plante, CS for HB 786, a companion measure, was substituted therefor. On motion by Senator Plante, by two-thirds vote CS for HB 786 was read the second time by title.

Senator Plante moved the following amendment which was adopted:

Amendment 1—On page 41, line 14, strike "if such transportation is incidental to the primary purpose of repairing such motor vehicles"

Senator Graham moved the following amendments which failed:

Amendment 2—On page 16, strike all of line 6 through 29 and insert: (1) Authority to engage in charter carriage as defined in this part shall not be granted unless the applicant has proved in a certificate application proceeding that public convenience and necessity require such operation.

(2) Any carrier authorized to transport passengers in charter carriage may depart from its authorized routes of carriage to transport a party of passengers to any point or place in the state, provided the charter party originates at an authorized point. The carrier may originate charter parties from points it is not authorized to serve if those points are not served by another motor common carrier authorized to originate charter carriage from such points.

(Renumber subsequent subsections.)

Amendment 3—On page 42, strike all of lines 20 through 25 and insert: (14) *There shall be exempted from the provisions of this part, and from commission jurisdiction and control, motor carriers providing transportation licensed pursuant to part III of chapter 401.*

(15) *Nothing in this part shall be construed to require any person operating a wheel-chair ambulance service or other such non-emergency medical transportation service to obtain a certificate of public convenience and necessity, and such persons shall be exempt from commission jurisdiction and control with regard to such service.*

Section 21. Section 401.22, Florida Statutes, is amended to read:

401.22 Legislative intent.—It is the intent of the legislature to prevent disabilities and needless loss of life and health caused by accidents, sudden or acute illnesses, and other calamities by improving the quality of emergency and non-emergency medical services through the establishment and maintenance of lifesaving and disability-preventing standards for all emergency and nonemergency medical services.

Section 22. Subsection (11) is added to section 401.23, Florida Statutes, to read:

401.23 Definitions.—As used in this act, unless the context clearly indicates otherwise:

(11) *Nonemergency medical transport vehicle means any private or publicly owned land, air or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated and is used for, or intended to be used for air, land, or water transportation of persons who are handicapped or otherwise incapacitated and require specialized transportation.*

Section 23. Section 401.46, Florida Statutes, is created to read:

401.46 Nonemergency medical transport vehicles; license.—

(1) Only the department shall issue a license for the operation of any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or proposes to engage in the business or service of transporting handicapped or otherwise incapacitated persons who require special transportation.

(2) The department is authorized to promulgate rules and regulations necessary to carry out the purpose of this section.

(3) The department shall be the only state agency to license nonemergency medical transport vehicles.

Section 24. Subsections (9) and (19) of section 323.01, section 323.031, section 323.04, section 323.051, subsections (2), (3), (4), (5), (6), (7) and (8) of section 323.14, section 323.151, section 323.19, section 323.191, section 323.20, section 323.27, and section 323.33, all Florida Statutes, are hereby repealed.

(Renumber subsequent section.)

Senator Ware moved the following amendment which was adopted:

Amendment 4—On page 42, between lines 19 and 20, insert: (14) There shall also be exempted from the provisions of this part, and from commission jurisdiction and control, persons operating motor vehicles used exclusively in the cartage of goods, except household goods, to and from warehouses where the vehicles are operated exclusively within the corporate limits of any city or town or the adjoining suburban territory, or between cities and towns whose boundaries adjoin, where the legislative body of such city or town subjects the business of cartage to occupational licensing or further regulation.

Senator MacKay moved that the Senate reconsider the vote by which Amendment 2 failed. The motion failed.

On motion by Senator Plante, by two-thirds vote CS for HB 786 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Graham	Plante	Trask
Castor	Hair	Poston	Vogt
Chamberlin	Holloway	Renick	Ware
Childers, Don	Johnston	Scarborough	Williamson
Childers, W. D.	Lewis	Scott	Wilson
Dunn	MacKay	Skinner	Winn
Gallen	McClain	Thomas, Jon	
Glisson	Myers	Thomas, Pat	
Gorman	Peterson	Tobiassen	

Nays—None

Vote after roll call:

Yea—Spicola

SB 395 was laid on the table.

On motion by Senator Pat Thomas 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 again has refused to recede from House Amendments 1, 2, 14, 15, 17 and 18 to CS for SB's 1181, 925 & 792 and acceded to the request of the Senate for a conference committee. The Speaker has appointed Representatives Forbes, Moffitt, Hazelton, O'Malley and Gallagher as the conferees on the part of the House.

Allen Morris, Clerk

Conference Committee on CS for SB's 1181, 925 and 792

The President announced the appointment of Senators Barron, Ware, McClain, Pat Thomas and Hair as conferees.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives again has refused to recede from House Amendments 1 and 2 to SB 1449, and acceded to the request of the Senate for a conference committee. The Speaker has appointed Representatives Grosse, Hazouri, Fontana and Burrall as the conferees on the part of the House.

Allen Morris, Clerk

Conference Committee on SB 1449

The President announced the appointment of Senators Scarborough, Johnston, Williamson and Saylor as conferees.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 1558 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Representative Forbes and others—

CS for HB 1558—A bill to be entitled An act relating to the Jacksonville Transportation Authority; creating s. 349.18, Florida Statutes; authorizing the Department of Transportation to covenant to complete the Dame Point Expressway, a certain revenue producing project for the Jacksonville expressway system; providing certain conditions; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation. On motions by Senator Scarborough, by two-thirds vote CS for HB 1558 was withdrawn from the Committee on Transportation and by two-thirds vote placed on the Special Order Calendar.

On motions by Senator Scarborough, by unanimous consent CS for HB 1558 was taken up out of order and by two-thirds vote read the second time by title.

Senators Scarborough, Brantley and Hair offered the following amendments which were moved by Senator Scarborough and adopted:

Amendment 1—On pages 1-4, strike everything after the enacting clause and insert: Section 1. The Department of Transportation is hereby authorized to covenant to complete a revenue producing transportation project to be designated as Part I of the 1978 project, a part of the Jacksonville expressway system, which project is to be financed principally from not to exceed \$160,000,000 of State of Florida expressway bonds, series of 1978, issued for and on behalf of the Jacksonville Transportation Authority. Such project consists of: Dame Point Expressway, a six-lane, limited access, bridge-expressway toll facility, the southern limit of which shall be a connection to Merrill Road, thence, proceed northerly crossing over Mill Cove on low level trestle and the St. Johns River at

Dame Point on a high-level bridge, thence northerly crossing over a railroad spur track to form a connection with Hecksher Drive in the vicinity of New Berlin Road; Dame Point North and South Connectors, the south connector of which shall commence at a connection to Southside Boulevard at the Arlington Expressway, thence proceed northerly as an arterial facility to a connection with Regency Square Boulevard, thence northerly to a connection with the southern limit of the Dame Point Expressway at Merrill Road, and the North Connector of which shall commence at a connection to the northern limit of the Dame Point Expressway at Hecksher Drive, thence proceed northwesterly as a limited access facility, crossing Dunn's Creek to form a connection with U.S. Highway 17 in the existing portion of State Road 9-A; additional toll lanes at the Trout River Bridge Toll Plaza.

Section 2. No bonds shall be sold until bids have been received on the high-level bridge structure portion of the project, approximately 2,600 feet in length, and the authority and the department have made updated cost estimates based on the most current information for the remainder of the project and determined that the total project costs will not exceed projected available funds, excluding first gas tax funds.

Section 3. This act shall take effect July 1, 1977.

Amendment 2—On page 1 in title, strike all of lines 2 through and including line 9 and insert: An act relating to the Department of Transportation; authorizing the department to covenant to complete a certain revenue producing project for the Jacksonville expressway system; providing certain conditions; providing an

On motion by Senator Scarborough, by two-thirds vote CS for HB 1558 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—1

Firestone

Vote after roll call:

Yea—Spicola

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments 1 and 2 to SB 1122, again requests the Senate to concur, and in the event the Senate refuses to concur requests a Conference Committee. The Speaker has appointed Representatives Bloom, Richmond and Pajcic as conferees on the part of the House.

Allen Morris, Clerk

By Senators Myers and Sayler—

SB 1122—A bill to be entitled An act relating to parents; amending s. 741.24, Florida Statutes, relating to civil actions against parents for willful destruction or theft of property by minors; providing for recovery against parents of a minor for theft of property; increasing amount recovered to \$5,000; providing an effective date.

On motions by Senator Myers, the Senate again refused to concur in the House Amendments and acceded to the request for a conference committee. The President appointed Senators Myers, Don Childers and Scott.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has again refused to concur in Senate Amendments 3, 5 and 7 to HB 924, again requests the Senate to recede, and in the event the Senate refuses to recede requests a Conference Committee. The Speaker has appointed Representatives Haben, Richmond and Smith as conferees on the part of the House.

Allen Morris, Clerk

By Representative Smith—

HB 924—A bill to be entitled An act relating to weapons and firearms; amending s. 790.06, Florida Statutes, 1976 Supplement, authorizing boards of county commissioners to adopt by resolution, a uniform policy and procedure for the issuance of licenses to carry pistols; authorizing such boards to refuse to issue licenses when they deem issuance not in the best interests of the public; adding paragraph (o) to s. 790.25(3), Florida Statutes, providing an exception to the weapons and firearms licensing law for investigators employed by public defenders if such investigators meet certain qualifications; providing an effective date.

On motions by Senator Trask, the Senate again refused to recede from the Senate amendments to HB 924 and acceded to the request for a conference committee. The President appointed Senators Trask, Henderson and Wilson.

The Honorable Lew Brantley, President

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

By the Committee on Education and Senators Graham and others—

CS for SB 696—A bill to be entitled An act relating to educational facilities; providing an appropriation; amending various sections of chapters 235 and 236 and s. 230.776, Florida Statutes; providing definitions; clarifying existing terminology; deleting obsolete provisions; making current provisions applicable to school boards also apply to community college boards of trustees, the Board of Trustees of the Florida School for the Deaf and the Blind and in certain portions the Board of Regents; providing intent and purpose; providing that the State Board of Education adopt rules for the administration of the Office of Educational Facilities Construction; providing that the respective boards be within the jurisdiction of the Office of Educational Facilities Construction; providing for interdepartmental cooperation; providing that said office administer the Public Education Capital Outlay and Debt Service Trust Fund, update the uniform building code for facilities construction and capital improvement, and shall delegate its inspection process to the respective boards; providing that such boards may permit use of educational facilities for other purposes and may dispose of unnecessary property; requiring a survey for suitable space; authorizing the construction or location of educational facilities on leased private property under certain conditions; providing that the respective boards establish comprehensive programs of safety and sanitation, provide for periodic inspection of educational plants, and correct deficiencies; providing for inspection of plants by other public agencies; authorizing rules prescribing standards for maintenance and operation of educational plants; providing for emergency drills for all education facilities; providing for educational plant surveys and for the adoption, submission, review, and approval of proposed educational facilities programs based on the surveys; providing for adoption of capital outlay budgets by the respective boards, for site planning, selection of sites, and renovation of sites; providing for coordination with local governments; providing for cooperative development and use of educational facilities; providing for the use of relocatable facilities, for provision and use of design criteria, for the lease of facilities, and for construction procedures; providing for facilities construction; requiring that educational facilities be constructed in compliance with the State Uniform Building Code for Public Educational Facilities Construction and that the applicable board supervise and inspect construction; providing for approval of construction, alteration, renovation, repair, purchasing, or leasing of an educational plant over a certain cost by the Office of Educational Facilities Construction; deleting provisions for school fallout shelters; providing for legal effect of the Uniform Building Code; providing requirements with re-

spect to advertising and awarding of and entering into contracts for construction, repair, or alteration of educational facilities; providing for substance of contracts, contractors' bonds, penalties for not adhering to plans, contract changes, payments, and expenditures for improvements to educational facilities; providing for submission of comprehensive budget request by the Commissioner of Education for all levels of education and the elements to be included in the request; providing for transfer, distribution, and allocation of appropriations and moneys for capital outlay projects and for records maintained by the office identifying advances, transfers, investments, sinking funds and revenue receipts by source; providing for a 5 year appropriation and cash management program; providing that the Public Education Capital Outlay and Debt Service Trust Fund includes premiums and accrued interest from the sale of public education bonds; appropriating such premiums and interest to such fund; providing for advance funding; providing for financing of approved capital outlay projects; providing for educational plant and annual debt service needs; providing for allocation of funds; providing for expenditure of funds allocated for such purpose; repealing s. 235.30, Florida Statutes, relating to a school board providing for inspection and supervision of building construction; repealing s. 235.43(1), Florida Statutes, relating to the discretion of the Commissioner of Education to organize the functions of the Department of Education which pertain to educational facilities; repealing s. 236.013(2), (4)-(9), (11), (12), (14), Florida Statutes; relating definitions reenacted elsewhere by the act; repealing ss. 236.612-236.617, Florida Statutes, relating to revenue bonds; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 5-70, line 21, strike all after line 20 through page 70, line 3 and insert: Section 1. Section 235.002, Florida Statutes, is amended to read:

235.002 Intent.—The intent of the Legislature is:

(1) To guarantee to each student in the Florida public school system and community college system the availability of an educational environment appropriate to his educational needs which is substantially equal to that available to any similar student, notwithstanding geographic differences and varying local economic factors.

(2) To utilize, as far as practicable, innovative designs, construction techniques, and financing mechanisms in building educational school facilities for the purpose of reducing costs, creating a more satisfactory educational environment, and reducing the amount of time necessary for design and construction to fill unmet needs.

(3) To provide a systematic mechanism whereby educational facilities construction plans can meet the current and projected needs of school and community college populations as quickly as possible by building uniform, sound educational environments, removing the necessity of involuntary multiple daily sessions in elementary and secondary schools, and alleviating overcrowding and to provide a sound base for planning for educational facilities needs.

(4) To provide a systematic plan for educational construction in each school district and each community college district whereby school sites may be acquired, educational requirements formulated, and architectural plans and specifications developed so as to proceed immediately with the construction of educational facilities when funds are made available.

Section 2. Section 235.01, Florida Statutes, is amended to read:

235.01 Purpose.—The purpose of this chapter is to authorize state and local educational agencies district school officials to cooperate in establishing and maintaining educational school plants that will meet public educational school needs throughout the state in promoting the health, comfort, and the moral and intellectual development of students school children.

Section 3. Subsections (1), (2), (4), (5), (6), and (8) of section 235.014, Florida Statutes, are amended to read:

235.014 Functions of the office.—The functions of the office shall include, but not be limited to, the following:

(1) To require of the local school boards and boards of trustees the development and submission of long-range plans for educational facilities construction.

(2) To require local school boards and boards of trustees to submit plans for necessary improvements to existing plants schools within the district.

(4) To approve or disapprove, for reasons shown, each school board's and board of trustee's annual plan for educational facilities construction and its plans for specific projects.

(5) To require of the school boards and boards of trustees the submission of other data or information relevant to educational facilities construction or capital improvements.

(6) To require of each school board, board of trustees district, all agencies of the state, and other appropriate agencies complete and accurate financial data as to the amounts of funds from all sources that are available for educational facilities construction.

(8) To approve or disapprove, for reasons shown, the purchase or leasing of sites for educational purposes acquisition of sites by the school boards and boards of trustees and plans and specifications for new educational facilities construction or for the improvement of existing structures on sites as submitted.

Section 4. Subsection (4) of section 235.016, Florida Statutes, is amended:

235.016 Duties and responsibilities of the associate commissioner.—The duties and responsibilities of the associate commissioner shall include, but not be limited to, the following:

(4) To submit to the commissioner an annual report on the projected needs of educational school facilities construction for each fiscal year and to recommend a suggested level of funding to be presented by the commissioner to the State Board of Education.

Section 5. Section 235.018, Florida Statutes, is amended to read:

235.018 Delegation of review and approval authority.—The Office of Educational Facilities Construction may delegate its review and approval process as required in subsection 235.26 (4) to a district school board or a community college board of trustees if:

(1) The board district has satisfactorily demonstrated that it is competent to inspect and approve plans for educational facilities.

(2) Such plans and facilities conform with the Uniform Building Code for Public Education Facilities, as required in s. 235.26.

(3) The plans and specifications for an educational facility have been prepared by, and reflect the seal of, a Florida registered architect or a Florida registered professional engineer and such architect or engineer certifies that the documents comply with the provisions of this chapter and all applicable rules and regulations of the State Board of Education.

Section 6. Section 235.02, Florida Statutes, is amended to read:

235.02 Use of school buildings and grounds.—The school board or board of trustees may permit the use of educational facilities school buildings and grounds within the district, out of school hours during the school term, or during vacation, for any legal assembly, or as community use play centers, or may permit the same to be used as voting places in any primary, regular, or special election. The school board or board of trustees shall adopt rules and regulations necessary to protect educational facilities and grounds school plants when used for such purposes, and shall provide for the use of school property.

Section 7. Section 235.04, Florida Statutes, is amended to read:

235.04 Disposal of school property.—

(1) REAL PROPERTY.—Subject to rules regulations of the state board, the school board or board of trustees may dispose of any school land or real property which is by resolution of such school board or board of trustees determined to be

unnecessary for educational school purposes either because of location, condition, or other cause. The school board or board of trustees shall take diligent measures to dispose of school property only in the best interests of the school district.

(2) TANGIBLE PERSONAL PROPERTY.—Tangible personal property which has been properly classified as surplus by the school board or board of trustees shall be disposed of in accordance with the procedure established by chapter 274. However, the provisions of chapter 274 shall not be applicable to a motor vehicle used in driver education to which title is obtained for a token amount from an automobile dealer or manufacturer. In such cases, the disposal of the vehicle shall be as prescribed in the contractual agreement between the automotive agency or manufacturer and the school board or board of trustees.

Section 8. Section 235.05, Florida Statutes, is amended to read:

235.05 Right of eminent domain.—

(1) There is conferred upon the school board in each of the several districts in the state the authority and right to take private property for any public school purpose or use when, in the opinion of the school board, such property is needed in the operation of any or all of the public schools within the district, including property needed for any school purpose or use in any school district or districts within the county. The absolute fee simple title to all property so taken and acquired shall vest in the school board of such district unless the school board seeks to appropriate a particular right or estate in such property.

(2) The board of trustees may exercise the right of eminent domain as provided in s. 230.754(2)(f).

Section 9. Section 235.055, Florida Statutes, is amended to read:

235.055 Construction of facilities on leased property; conditions.—School boards or boards of trustees are authorized, when approved by the Department of Education, to construct educational school facilities on land which is owned by a federal, state, county, or municipal governmental agency, private individual, or corporation after the school board or board of trustees has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer.

Section 10. Section 235.06, Florida Statutes, is amended to read:

235.06 Safety, sanitation, inspection, and condemnation of school property.—The State Board of Education is empowered and directed to adopt rules regulations prescribing standards for the safety and health of occupants of educational school plants as a part of the State Uniform Building Code for Public Educational Facilities Construction as provided in s. 235.26. These standards shall be used by all public agencies when inspecting public educational facilities. In accordance with such standards, each school board or board of trustees shall prescribe policies and procedures establishing a comprehensive program of safety and sanitation for the protection of occupants of public educational facilities. Such policies shall contain procedures for periodic inspections as prescribed herein and for withdrawal of any educational school plant, or portion thereof, from use until unsafe or unsanitary conditions are corrected or removed.

(1) PERIODIC INSPECTION OF EDUCATIONAL SCHOOL PROPERTY BY SCHOOL BOARD OR BOARD OF TRUSTEES.—Each school board or board of trustees shall provide for periodic inspection of each educational public school plant at least once during each school year to determine compliance with standards of sanitation and safety prescribed in the rules regulations of the state board. Such inspection shall be conducted by qualified employees of the school board or board of trustees or, in the alternative and upon approval of the board, by architects or engineers licensed to practice in Florida or by appropriate state or local public agencies. A copy of each inspection report shall be forwarded to the Department of Education. If major deficiencies are noted in any inspection, the school board or board of trustees shall either take action to promptly correct such deficiencies or withdraw the educational school plant from use until such time as the deficiencies are corrected.

(2) INSPECTION OF EDUCATIONAL SCHOOL PROPERTY BY OTHER PUBLIC AGENCIES.—A safety or sanitation inspection of any educational public school plant may be made at any time by the Department of Education or any other state or local agency authorized or required to conduct such inspections by either general or special law. Such inspections shall be conducted by staff members of the agency or by local personnel certified and authorized by the agency to perform inspections. Each agency conducting inspections shall use the standards adopted by the State Board of Education in lieu of, and to the exclusion of, any other inspection standards prescribed either by statute or administrative rule regulation. If deficiencies are noted in any inspection, the agency shall notify the local school board or board of trustees, and upon their failure to take corrective action within a reasonable time may request the commissioner to:

(a) Order that appropriate action be taken to correct all deficiencies in accordance with a schedule determined jointly by the inspecting authority and the school board or board of trustees. In the development of such schedule, consideration shall be given to the seriousness of the deficiencies and the ability of the school board or board of trustees to obtain the necessary funds; or

(b) After 30 calendar days' notice to the school board or board of trustees, order all or a portion of the educational school plant withdrawn from school use until deficiencies are corrected.

Section 11. Section 235.09, Florida Statutes, is amended to read:

235.09 Obscenity on educational school buildings or buses.—Whoever willfully cuts, paints, pastes, marks, or defaces by writing or in any other manner, any educational school building, furniture, apparatus, appliance, outbuilding, ground, fence, tree, post, vehicle school bus or other educational school property with obscene word, image, or device shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, or s. 775.083, in or s. 775.084. This section shall not apply to any student pupil and subject to the discipline of the school or community college.

Section 12. Section 235.14 Florida Statutes, is amended to read:

235.14 Emergency drills.—The Department of Education shall formulate and prescribe rules regulations and instructions for emergency drills for all the public schools and community colleges of the state, and each administrator principal or teacher in charge of such school or community college shall be provided with a copy of such rules regulations and instructions; and each such person shall see that emergency drills for his school or community college are held at least once twice each semester and that all teachers, administrators, support personnel, and students pupils of the school or community college are properly instructed regarding such rules regulations and instructions.

Section 13. Section 235.15 and 235.16, Florida Statutes, are amended to read:

(Substantial rewording of sections. See s. 235.15 and 235.16, F. S., 1976 Supp., for present text.)

235.15 Educational plant survey required.—At least every 5 years each District School Board, Community College Board of Trustees and the Board of Regents shall arrange for a survey to aid in formulating plans for housing the educational program and student population of each district and each university. Each survey shall be conducted by the Department of Education or an agency approved by the commissioner. Surveys conducted by agencies other than the Department of Education shall be reviewed and approved by the commissioner. The survey report shall include at least an inventory of existing educational plants, recommendations for existing educational plants, recommendations for new educational plants including the general location of each, and such other information as may be required by the rules of the State Board of Education. An official copy of each survey report shall be filed by each board with the Office of Education Facilities Construction. This report may be amended, if conditions warrant, at the request of the boards or commissioner.

235.16 Educational plant construction program based on survey.—The District School Board, Community College Board of Trustees and the Board of Regents, after a survey has been

made, as provided in this chapter, shall, within 6 months after the completion of the survey, adopt and submit to the office of Education Facilities Construction a proposed program for the educational facilities. This program shall, insofar as practicable, be based upon the findings and recommendations of the survey report and shall be submitted in the form prescribed by the State Board of Education. The program may be amended by resolutions adopted by the board, provided copies of the resolutions with supporting evidence are submitted to the office. The office shall study the proposed program, or amendments thereto, for each board, and shall submit it, together with its findings and recommendations, to the State Board of Education for approval.

Section 14. Section 235.165, Florida Statutes, is created to read:

235.165 Exception to recommendations in educational plant survey.—Exception to the recommendations in the educational plant survey may be allowed if a board deems that it will be advantageous to the welfare of the educational system or that it will make possible a substantial saving of funds. A board requesting such an exception shall present a full statement, in writing, setting forth all the facts in the case to the State Board of Education through the Commissioner of Education, who shall make a recommendation on the request. The state board shall determine whether any exception to the recommendations of the educational plant survey shall be approved.

Section 15. Section 235.18, Florida Statutes, is amended to read:

235.18 Annual capital outlay program and budget.—Each school board or board of trustees shall, each year, adopt a proposed capital outlay program and budget for the ensuing year in order that the capital outlay needs of the school board or board of trustees district school system for the entire year may be well understood and, insofar as possible, provisions made for same. This capital outlay program and budget shall be a part of the annual school budget and shall be based upon and in harmony with the long-range educational facility construction school plant program previously filed with the Department of Education. This program shall designate and locate the capital outlay projects for the year, including new buildings, alterations and additions to be made. No public school fund shall be expended on any such project not included in the budget as amended to date. If approved by the Department of Education, the program, as amended during the year with its approval, shall be executed as provided by law supplemented by rules and regulations of the state board.

Section 16. Section 235.19, Florida Statutes, is amended to read:

235.19 School Site planning and selection.—

(1) Whenever any school district in the state has insufficient instructional space to meet existing needs, such school district shall determine whether space suitable for instructional use is available in any public or private facility which may be leased or otherwise acquired to meet the short-term instructional needs of the district.

(1)(2) Before acquiring property for school sites to be used for educational purposes, the school board or board of trustees of any district shall determine the location of proposed educational public school centers for the school district or community college. In making this determination, the school board or board of trustees shall require the superintendent or president to prepare a comprehensive plan for the district which shall indicate existing and anticipated educational center school needs and the most economical and practicable locations of school sites. The comprehensive plan shall be coordinated with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the compatibility of such plans with school site planning.

(2)(3) The planning and selection of a school site shall include an investigation of the present and projected uses of property adjacent to the proposed school site to assure that such uses are not incompatible with the operation of the educational facility proposed school, an investigation of present and projected vehicular traffic and road capabilities in the vicinity of each proposed school site to assure the adequacy of safety and traffic control devices for the protection of students children attending the educational facility school, and such other studies as may be required by the district school

board or board of trustees. In preparing recommendations regarding proposed school sites, the superintendent or president may secure the services of the Department of Education or such other assistance as he may find desirable to aid in making a proper selection.

(3)(4) Each new site selected shall be adequate in size to meet the needs of the educational facility school to be served. The State Board of Education shall prescribe by rule minimum standards of size for new sites according to categories of student pupil enrollment and other appropriate factors as may be determined by the state board. As far as practicable, any present sites which are not adequate shall be increased to conform to minimum standards for new sites.

(4)(5) School Sites recommended for purchase or purchased in accordance with the provisions of chapter 230 shall meet standards prescribed in this chapter and such supplementary standards as may be prescribed by the state board to promote the educational interests of the students children. Each site shall be well drained and reasonably free from mud, and the soil shall be adapted to landscaping as well as to outdoor educational playground purposes. Insofar as practicable, the school site shall not be located within any path of flight approach of any airport, or adjoin a right-of-way of any railroad or of any through highway, and shall not be adjacent to any factory or other property from which noise, odors, or other disturbances would be likely to interfere with the educational school program.

(5)(6) It shall be the responsibility of the superintendent or president to secure the cooperation of appropriate municipal, county, regional, and state governmental agencies in order that all necessary traffic control and safety devices are installed and operating upon or in the vicinity of any proposed public school site prior to the first day of classes in the school or to satisfy the district school board or board of trustees that every reasonable effort has been made in sufficient time to secure the installation and operation of such necessary devices prior to the first day of classes in the school. It shall also be the responsibility of the superintendent or president to review annually the traffic control and safety device needs of each public school or community college in the district and to initiate such efforts as are required to secure all necessary changes indicated by such review.

Section 17. Subsections (1) and (2) of section 235.195, Florida Statutes, 1976 Supplement, are amended to read:

235.195 Cooperative use of facilities by two or more board school districts.—

(1) Two or more district school boards or community college boards of trustees school districts desiring to participate in a cooperative project to establish a common education school facility to accommodate students pupils residing in the respective districts shall:

(a) Adopt and submit to the Commissioner of Education a joint resolution of the participating district school boards or community college boards of trustees indicating their commitment to the utilization of the requested facility;

(b) Request the Commissioner of Education to have an educational plant a school facility needs survey conducted to determine the educational school facility necessary for the proposed use; and

(c) Designate the school district in which the facility is to be located and which is to assume responsibility for the operation, maintenance, and control of the facility.

(2) The commissioner shall cause the requested educational plant school facility needs surveyed to be conducted within 90 days after receiving the joint resolution and shall evaluate the findings of the survey in terms of the benefits to be obtained, the programs to be offered, and the estimated cost of the proposed facility. The commissioner shall then present his evaluation of the request to the State Board of Education and, if his evaluation is in favor of the project, shall request the approval of the board for the project. Upon approval of the project by the board, the commissioner shall allocate the funds necessary to construct the approved facility; however, the participating districts shall through cooperative efforts provide the State Board of Education with the site for such facility.

Section 18. Subsections (1), (2), (3), (5), and (6) of section 235.211, Florida Statutes, are amended to read:

235.211 *Educational facilities* ~~School~~ design, construction techniques, and financing mechanisms.—

(1) **RELOCATABLE FACILITIES REQUIRED.**—Upon the request of a the school board, the state board shall provide relocatable educational facilities for use at *educational school* centers where there is an immediate need for *student pupil* stations or where there is reason to believe the *student pupil* population will not remain stable in the near future years. The state board shall make recommendations to the school boards for the use of relocatables under the circumstances described herein.

(a) The office is empowered and directed to provide systems-based, modular, relocatable facilities and to purchase or contract for the purchase of such modular relocatable facilities. The ownership of such facilities shall rest with the state board, and they shall be loaned to district school boards for use as instructional facilities on a *student-station-need pupil-station-need* basis. Requests for use of these facilities shall be based on the relative numbers of students in each district in excess of the single-session capacity of that district. Any amount of the funds earmarked herein for relocatable facilities and not committed for that purpose by March 1 of the fiscal year shall revert to the Public Education Capital Outlay Trust Fund as established in s. 4 of the 1973 General Appropriation Act for distribution as provided by s. 236.084.

(b) In choosing the facility which best meets the needs of the districts, the following factors shall be considered:

1. Portability;
2. Reconstructibility;
3. Demountability;
4. Durability of components;
5. Life span of the total system;
6. Simplicity, standardization, and ease of replacement of components;
7. Flexibility of interior spatial relationships;
8. Flexibility of external configurations;
9. Adaptability to solar energy systems;
10. Minimum foundation work;
11. Interfaceability with existing, conventional construction; and
12. Maximum recoverability of components when the facility is relocated.

(c) As *student pupil* populations stabilize, as the number of schools which operate on involuntary multiple daily sessions decreases, and as the need for these facilities for the instructional purposes decreases for whatever reason, the office is authorized to sell, lease, or otherwise dispose of the facilities to the district school boards, *boards of trustees* other state agencies, or other prospective buyers to the best possible advantage of the state. Funds accruing from the sale or lease of these facilities shall become part of the Public Education ~~K-12~~ Outlay Trust Fund and shall be allocated as provided by s. 236.084.

(2) **COMMUNITY EDUCATIONAL FACILITIES.**—

(a) Each school district, community college, or state university may submit a request to the department for allocation of funds appropriated for the purposes of this section. Such request shall contain the following provisions:

1. A detailed statement of the facilities to be constructed. Such statement shall include an analysis of the relationship of educational and community use of the facility.
2. The estimated number of public school *students children* and community residents who are to utilize the facility.
3. The estimated cost of the facility.
4. A resolution or other appropriate indication of intent to participate in the funding and utilization of the facility from a noneducational governmental agency, including com-

munity, public, and educational broadcasting stations. Such indication shall include a commitment by such governmental agency to provide at least one-third of the cost of the facility.

(b) As provided by s. 235.41, the Commissioner of Education shall review such request for allocation and, upon determining compliance with the requirement of paragraph (a) and such other provisions as the commissioner deems appropriate, provide the Legislature with recommendations for the joint funding of capital outlay projects involving both educational and non-educational governmental agencies.

(3) **PROTOTYPE DESIGN CRITERIA TO BE PROVIDED.**—The state board shall provide prototype design criteria for the *development of educational facilities school plants* for the purpose of providing *school boards, boards of trustees, and board of regents districts* with the means of constructing sound educational facilities more rapidly.

(a) The office is empowered and directed to develop prototype educational criteria, performance specifications, and design relationships for the several program-grade groups which shall be provided to each *school board, board of trustees, or board of regents district* by the office. These prototype design criteria shall be developed and distributed to the *appropriate board* within 6 months of the effective date of this act.

(b) Program-grade groups are facilities delineated by the programs or grades which they are designed to house. Prototype design criteria shall be developed for the following program-grade groups:

1. Elementary schools and kindergartens;
2. Middle or junior high schools;
3. Senior high schools; ~~and~~
4. Vocational-technical facilities;
5. *Community colleges ; and*
6. *State Universities*

(c) ~~The prototype design criteria shall be a general description of grade and program objectives, needs, and special requirements; suggested building materials; and construction and design configurations, including spatial relationships and traffic flows, of an educational facility and plant.~~ The design criteria shall include, but not be limited to, the following items for each program-grade group:

1. ~~Educational program description;~~
2. ~~Educational facilities list;~~

1.3. ~~Minimum and maximum square footage requirements for different functions and areas and the procedures for determining the gross square footage for each educational facility to be funded, in whole or in part, by the state;~~

2.4. ~~Minimum performance criteria for all systems, including mechanical, electrical, heating, cooling, ventilating, plumbing, and structural systems;~~

3.5. ~~Energy efficiency and conservation requirements;~~

4.6. ~~Spatial relationships of the different functions of the plant and facility and traffic flow and patterns; and~~

5.7. ~~Prototype design and criteria relating specifically to:~~

- a. Instructional areas.
- b. Core areas, which include administrative suites, guidance and counseling facilities, record storage areas, first aid facilities, faculty areas, media centers, libraries, and food ~~and student~~ centers.
- c. Special instructional areas, such as exceptional education facilities, language and science laboratories, and physical education facilities.
- d. Ancillary facilities.
- e. Community service areas for initial design and instructional spaces that can be converted to community service areas should the *student pupil* population decline.

(d) The office shall annually review, revise, update, and improve the state board-approved design criteria, based upon

the latest educational, technological, and construction developments so that the prototypes shall be representative of the most advanced procedures available. The office shall annually provide each school board, board of trustees, or Board of Regents local school district with a copy of the updated prototype design criteria for each program-grade group.

(5) **CONSTRUCTION TECHNIQUES AND FINANCING MECHANISMS.**—The office shall require school boards and boards of trustees local districts to employ procedures for the design and construction of new permanent facilities, or major additions to existing facilities, that will include, but not be limited to, the latest developments in construction techniques, materials, design, and concepts in order to insure that educational facilities are constructed rapidly and economically. The following concepts may be included in the requirements of the office:

(a) "Systems building process."—An approach to construction that combines the organization and programming, planning, design, financing, manufacturing, construction, and evaluation of buildings under single or highly coordinated management into an efficient total process. A total building system is an interdependent group of building subsystems forming a unified whole. The systems building process requires the standardization and multiple reuse of building subsystems for maximum compatibility and interfaceability of different structures and facilities.

(b) "Fast-track construction scheduling."—A method which involves the bidding and awarding of certain building subsystems after approval of preliminary design, and before final document completion. Fast-track construction reduces construction time by permitting early subsystems manufacture and erection; it can improve cost and price control and eliminate extensive design development time by planners and designers.

(c) "Construction management."—A process whereby a single or highly coordinated authority is responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project.

(d) "Turnkey bidding."—A method whereby the contractor agrees to complete construction to the user's specifications and requirements at a previously agreed cost.

(e) "Design and build bidding."—A procedure which requires that an architect, contractor, or engineer bid the entire design and construction of a project and which requires that the owner hire a single source for the project completion and be responsible for the development of performance specifications and technical criteria.

(f) The use of modular, prefabricated, and standardized components.

Notwithstanding anything above, a district school board or board of trustees shall be authorized to utilize its own procedures, designs, construction techniques, and materials upon a showing to the office that such proposal will result in equivalent educational facilities without an increase in cost or a delay in construction.

(6) **UNIFORM BUILDING CODE.**—All educational facilities constructed by a school board or board of trustees shall incorporate the State Uniform Building Code for Public Educational Facilities Construction, prescribed by rules regulations of the office as authorized in s. 235.26 and shall be exempt from all state, county, district, municipal, or local building codes and ordinances. Any inspection by local or state government shall be based on the Uniform Building Code as prescribed by the office. Each school board or board of trustees shall provide for periodic inspection of the proposed educational plant during each phase of construction to determine compliance with the Uniform Building Code. The Uniform Building Code shall incorporate as part of its minimum standards the applicable provision of the state uniform building codes.

Section 19. Section 235.26, Florida Statutes, is amended to read:

235.26 State Uniform Building Code for public educational facilities school construction.—The office is directed to recommend to the state board for approval rules regulations prescribing a mandatory, uniform, statewide building code for the construction of public educational facilities. Wherever the words

"Uniform Building Code" appear, they shall mean the "State Uniform Building Code for Public Educational Facilities Construction." It shall not be the intent of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor shall it specify or prohibit materials by brand names. The code shall be flexible enough to cover all phases of construction which will afford reasonable protection for public safety, health, and general welfare. The office may secure the service of other state agencies or such other assistance as it may find desirable in the formulation of the code.

(1) **CONFORMITY TO UNIFORM BUILDING CODE STANDARDS REQUIRED FOR APPROVAL.**—No superintendent or president shall recommend approval of, and no school board or board of trustees shall approve, any plans for the construction, erection, alteration, renovation, repair, or demolition of any educational facility in the district unless these plans conform to the requirements of the code promulgated by the office. It shall also be the responsibility of the office to develop, as a part of the State Uniform Building Code, necessary standards relating to:

(a) Prefabricated or factory-built facilities which are designed to be portable, relocatable, demountable, or reconstructible, are used primarily as classrooms, and do not fall under the provisions of ss. 320.821-320.832.

(b) The sanitation of educational plants facilities and the health of occupants of educational school plants.

(c) The safety of occupants of educational school plants and of educational facilities as provided in s. 235.06.

(d) The energy efficiency of all mechanical systems, including heating, air-conditioning, plumbing, ventilating, or electrical systems, and the energy efficiency of the overall design of the facility.

(2) **ENFORCEMENT BY LOCAL SCHOOL BOARD AND BOARD OF TRUSTEES.**—It is the responsibility of each local school board and board of trustees to insure that all plans and educational plants facilities meet the standards of the Uniform Building Code and to provide for the enforcement of this code in the areas of their jurisdiction. Each school board or board of trustees district is authorized to employ a chief building official or inspector and such other inspectors and personnel as may be necessary to administer and enforce the provisions of this code. School boards and boards of trustees districts may also utilize local building department inspectors who are certified as provided herein to enforce this code. Inspectors shall show evidence of certification by the office as having met the requirements of the office for Uniform Building Code inspectors. Plans or facilities that fail to meet the standards of the Uniform Building Code shall not be approved.

(3) **ENFORCEMENT BY OFFICE OF EDUCATIONAL FACILITIES CONSTRUCTION.**—As a further means of insuring that all educational facilities hereafter constructed or materially altered or added to conform to the Uniform Building Code standards, each school board or board of trustees which undertakes the construction, erection, alteration, renovation, repair, or leasing of any educational facility, the cost of which exceeds \$25,000, shall see that the approval of the office is obtained as hereinafter provided, except that for any project involving construction of student instructional space, the minimum amount requiring approval as provided herein shall be \$10,000. No public educational school funds may legally be expended for the construction, erection, alteration, renovation, repair, or leasing of any educational facility unless the provisions of this section are observed and until the district school board or board of trustees has received a written statement from the office within the time limits as provided in this section that approval for the project has been granted.

(4) **OFFICE APPROVAL.**—

(a) Before the contract has been let for any construction project, the district school board or board of trustees shall require the superintendent or president to submit to the office two copies each of:

1. Phase I documents to include:
 - a. Educational specifications; and
 - b. Schematic drawings and proposals.
2. Phase II documents to include:

- a. Preliminary drawings and proposals; and
- b. Preliminary specifications.
3. Phase III documents to include:
 - a. Completed contractual documents;
 - b. Energy efficiency studies; and
 - c. Life-cycle cost analyses.

The district school board *or board of trustees* shall not proceed with any proposed construction project until the written approval of the office is received. The office shall, in writing, approve, disapprove, make recommendations, or otherwise act on the phase documents submitted by a district within 30 calendar days of the official receipt of each set of phase documents by the office. If the district school board *or board of trustees* does not receive written notice within the time prescribed above, then it shall proceed as if written approval had been received. The office is empowered and directed to adopt *rules regulations* providing for exceptions to the steps required for approval for state board-approved prototype design criteria, reuse of previously approved district plans, and other plans and proposed minor renovations or construction projects which do not necessarily require detailed documentation and intense review by the office.

(b) In reviewing plans for approval, the office shall take into consideration:

1. The desirability and need for the new facility.
2. The educational planning.
3. The functional and architectural planning.
4. The location on the site.
5. Plans for future expansion.
6. The type of construction.
7. Sanitary provisions.
8. Conformity to Uniform Building Code standards.
9. The structural design and strength of materials proposed to be used.
10. The mechanical design of any heating, air conditioning, plumbing, ventilating, or electrical system.
11. The energy efficiency of the design.
12. Life-cycle cost considerations.
13. The construction of special facilities for handicapped persons ~~children~~.

(5) STATE BOARD OF APPEALS.—The State Board of Education shall be the final board of appeals for all questions, disputes, or interpretations involving the Uniform Building Code, and any district school board *or board of trustees* shall prepare in writing its reasons for objecting to decisions made by Uniform Building Code inspectors or the office.

(6) ANNUAL REVIEW AND UPDATE, DISSEMINATION.—The office is authorized annually to review, update, revise, and improve the Uniform Building Code. The office shall publish and make available at no cost one copy of the code and each amendment and revision thereto to each local school board *or board of trustees* and to each code enforcement agency in the state. The office shall make additional copies available to all interested persons at a price sufficient to recover costs.

(7) FALLOUT SHELTERS.—

(a) After the effective date of this act, the school board *or board of trustees* may require the architect concerned in the initial design, stages of design, and construction of new educational facilities to apply for technical advice and counsel on fallout shelter slanting and cost-reduction techniques available without cost through the Department of Community Affairs.

(b) When the school board *or board of trustees* concerned determines the application of fallout shelter slanting and cost-reduction techniques to be feasible and economical for the in-

clusion of a fallout shelter in the proposed educational facility, the design and construction of such educational facility may include fallout protection which meets the minimum standards for such protection as prescribed by the Department of Community Affairs.

(c) *Educational School* authorities of the state and its political subdivisions are authorized to modify existing educational structures to incorporate fallout shelters, and the Department of Community Affairs shall make available to such authorities the same professional services as set forth in paragraph (a). Such authorities are further authorized to participate in such federal assistance programs as may be available to assist local authorities in providing fallout protection in educational facilities.

(8) LEGAL EFFECT OF CODE.—The State Uniform Building Code for Public Educational Facilities Construction shall have the force and effect of law and shall supersede any other code adopted by a local school board *or board of trustees* or any other building code or ordinance for the construction of educational facilities, whether at the local, county, or state level, and whether adopted by administrative *rule regulation* or legislative enactment. All special acts or general laws of local application are hereby repealed to the extent that they conflict with this section.

(9) LOCAL LEGISLATION PROHIBITED.—After July 1, 1974, pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene any provisions of the State Building Code adopted under the authority of this section.

Section 20. Section 235.30, Florida Statutes, is amended to read:

235.30 Supervision and inspection.—Before the construction or alteration of, or addition to, any building has been started, the school board *or board of trustees* shall provide for the proper supervision and necessary inspection of the work.

Section 21. Section 235.31, Florida Statutes, is amended to read:

235.31 Advertising and awarding contracts for building or improvements.—

(1) As soon as practicable after any bond issue has been voted upon and authorized or funds have been made available for the construction, repair, alteration, or otherwise for the improvement of any education facility, and after plans for the work have been approved by the office, the school board *or the board of trustees public education authority*, after advertising the same in the manner prescribed by law, shall award the contract for such building or improvements to the lowest responsible bidder therefor; provided, that the school board *or board of trustees* may within its discretion reject any and all bids received if it deems the same expedient, and may readvertise, calling for new bids. For a project costing \$50,000 or less, the school board *or board of trustees public education authority* may arrange for the building to be erected on a day labor basis.

(2)(a) As an option to the provisions prescribed above, school boards *or boards of trustees* may elect to come under the auspices of *rules regulations* for the prequalification of bidders on school construction as shall be prescribed by the office. The office after consulting with a technical committee including representatives from recognized contractors' associations shall recommend to the State Board of Education the *rules regulations* for statewide application governing the prequalification of bidders on *educational facilities school* construction projects. Except as otherwise provided herein the procedure for the adoption of such *rules regulations* by said state board shall be as prescribed in existing law.

(b) As another option, school boards *or boards of trustees* may negotiate with contractors in accordance with the provisions of this subsection only for construction associated with the extensive repair, alteration, remodeling, renovation, or improvement of any existing *educational plant school building*, but not for the expansion of the facility.

(c) If any school board *or board of trustees* elects either or both of the above options, it shall publish for at least 30 days a notice of the school board's *or board of trustees* intent

to elect said option in a local newspaper having general circulation throughout said district after which a public hearing shall be held.

(d) The school board or board of trustees shall adopt such policies, procedures and practices as are necessary to implement the state board rules regulations with regard to the prequalification of bidders. The superintendent or president shall submit a copy of the policies, procedures and practices as are to be adopted by the school board or board of trustees to the office and these shall be approved by it.

(e) The office shall assure that a maximum degree of uniformity in requirements, procedures and practices are followed by those districts choosing to come under either or both of these options. Neither the school board or board of trustees shall adopt nor the office shall approve any procedure or requirement for the prequalification or the certification of contractors which may operate to restrict responsible competition to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the district wherein the work is to be performed. Such rules regulations shall operate only to limit competition to parties able to promptly perform the conditions of the contract and to respond in damages in case of default.

(3)(a) The school board or board of trustees may negotiate a contract with a qualified contractor for services at compensation which the school board or board of trustees determines is fair, competitive, and reasonable. In making such determination, the school board or board of trustees shall conduct a detailed analysis of the cost of the services required, in addition to considering their scope and complexity. For all lump-sum or negotiated contracts estimated to cost over \$50,000, the school board or board of trustees shall require the contractor receiving the award to execute a truth-in-negotiation certificate, stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums when the school board or board of trustees determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract.

(b) Should the school board or board of trustees be unable to negotiate a satisfactory contract with the contractor first determined to be qualified at a price the school board or board of trustees determines to be fair, competitive, and reasonable, negotiations with that contractor shall be formally terminated. The school board or board of trustees shall then undertake negotiations with another qualified contractor. Failing accord with the next qualified contractor, the school board or board of trustees shall terminate negotiations. The school board or board of trustees shall then undertake negotiations with another qualified contractor until their original list is exhausted or a selection is made.

(c) Should the school board or board of trustees be unable to negotiate a satisfactory contract with any of the originally selected contractors, it may select additional contractors and continue negotiations in accordance with this subsection until an agreement is reached.

(4) Any person or firm desiring to bid or negotiate for the performance of any contract which the school board or board of trustees proposes to let must first be certified by the school board or board of trustees as qualified pursuant to law and rules regulations of the office. The school board or board of trustees shall be required to act upon the application for qualification within 30 days after the same is presented. Upon receipt of such application the superintendent or president acting on behalf of said board shall cause the same to be examined and the statements therein to be verified and after obtaining whatever technical assistance is needed shall determine whether the applicant shall be recommended for certification to the school board or board of trustees. If the applicant is found to possess the prescribed qualifications, the superintendent or president shall recommend to the school board that a certificate of qualification be issued. The school board acting on the recommendation of the superintendent or president may issue a certificate of qualification valid for such period of time as it shall prescribe but not to exceed 1 year, provided the school board may revoke such certificate of qualification for cause.

(5) The school board or board of trustees shall require all applicants to furnish the superintendent or president a statement under oath on such forms as the school board may prescribe, setting forth detailed information with respect to competence, past performance record, experience, financial resources and capability in conformity with office rules regulations, together with such other information as the school board or board of trustees may deem necessary. The office rules regulations may require that said application be accompanied by a current financial statement prepared by a public accountant certified in the state and prepared in accordance with standard reporting requirements prescribed by the school board or board of trustees. Financial information as may be required by such rules regulations shall remain confidential and shall not be disclosed to anyone except members of a local school board or board of trustees and its staff who may elect to adopt such rules regulations as hereinafter provided.

(6) The certificate of qualification shall contain a statement fixing the actual amount of work, in terms of estimated cost, which the applicant will be permitted to have on contract with the school board or board of trustees and not completed at any one time, and may contain a statement limiting such applicant to the submission of bids or to negotiation upon a certain class of work. Subject to the foregoing restrictions, the certificate of qualification shall authorize the holder to bid on all work on which bids are taken or to negotiate on all work on which contracts are negotiated by the school board or board of trustees during the period of time therein specified.

(7) Any applicant for a certificate of qualification aggrieved by the action of the school board or board of trustees, may, within 10 days after receiving notification of such action, request in writing a reconsideration by the board, of his application, and may submit additional evidence bearing on his qualifications. The board shall thereupon reconsider the application, and may adhere to, modify or reverse its original action. The board shall act upon any request for reconsideration within 30 days after the filing thereof, and shall immediately notify the applicant of the action taken.

(8) No contractor shall be qualified to bid or negotiate when an investigation by the superintendent or president acting for the school board or board of trustees discloses that such contractor is delinquent on a previously awarded contract by said board, and in such case his certificate of qualification may be suspended or revoked by the school board or board of trustees. The board may suspend, for a specified period of time, or revoke for good cause any certificate of qualification. Any person or firm found delinquent on a contract or whose certificate is revoked or suspended shall be given the same benefit of appeal and reconsideration as provided in the case of an applicant refused an original certificate.

(9) All general laws, population acts or special or local acts authorizing the exercise of power in conflict with the provisions of this section are hereby repealed.

Section 22. Section 235.32, Florida Statutes, is amended to read:

235.32 Substance of contract; contractors to give bond; penalties.—Upon accepting a satisfactory bid, the school board or board of trustees shall enter into a contract with the party or parties whose bid has been accepted, and such contract shall contain the drawings and specifications of the work to be done or the material to be furnished, the time limit in which the construction is to be completed, the time and method by which payments are to be made upon said contract and the penalty to be paid by the contractor for any failure to comply with the terms of said contract. The contractor shall furnish the school board with a performance bond, issued by a surety company licensed to do business in Florida, for 100 percent of the contract price. The contractor shall also furnish a payment bond in accordance with s. 255.05, as a guaranty against the involvement of the school board in actions to obtain payment for materials, supplies or labor used directly or indirectly by the contractor or subcontractors. The contractor and the contract for school boards shall be exempt from the requirements of s. 215.19, relating to the rate of payment for wages of laborers, mechanics, and apprentices. Notwithstanding any other provision of this section, if 25 percent or more of the costs of any construction project is paid out of a trust fund established pursuant to 31 U.S.C. s. 1243(a)(1), laborers and mechanics employed by contractors or subcontractors on such construction projects will be paid wages not less than those

prevailing on similar construction projects in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. Any and all persons, firms or corporations who shall construct any part of any *educational plant school building* or addition thereto on the basis of any unapproved plans or in violation of any plans approved in accordance with the provisions of this chapter and *rules regulations* of the office relating to *educational plant school building* standards or specifications shall be subject to forfeiture of his bond and unpaid compensation in an amount sufficient to reimburse the school board or board of trustees for any costs which will need to be incurred in making any changes necessary to assure that all requirements are met, and shall also be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084 for each separate violation.

Section 23. Section 235.321, Florida Statutes, is amended to read:

235.321 Changes in construction requirements after award of contract.—

(1) After the award of a construction contract no changes may be made other than those which result from conditions which were not foreseen at the time of the award of contract. Where any one change increases or decreases the scope of the original contract, the proposal to change shall be supported by accurate cost data, establishing the fair and current market value of the labor, materials, equipment and/or incidentals required to accomplish the change plus or minus a reasonable margin to represent the contractor's profit and overhead. Cost data shall be in sufficient detail as will enable any qualified architect or engineer to confirm the accuracy of such proposal. Before the school board or board of trustees shall act on the proposal to change the contract, the accuracy of the supporting cost data shall be certified to the board by the architect or engineer in charge of the work, who shall also certify that in his considered professional opinion, the prices quoted are both fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit of competitive bidding.

(2) A record copy of all change orders shall be filed with the department by the school board or board of trustees, as may be prescribed by the state board.

(3) The school board or board of trustees may, at its option and by written policy duly adopted and entered in its official minutes, authorize the superintendent or president or other designated individual to approve change orders in the name of the school board or board of trustees for preestablished amounts. Approvals shall be for the purpose of expediting the work in progress and shall be reported to the school board or board of trustees and entered in its official minutes.

Section 24. Section 235.33, Florida Statutes, 1976 Supplement, is amended to read:

235.33 Payments.—

(1) At no time while a building is in the process of construction shall the school board or board of trustees authorize or make payments to the contractor in excess of 90 percent of the amount due on the contract on the basis of the work completed and materials suitably stored on the site or some other location agreed upon in writing. The final payment shall not be made until the building has been inspected by the architect or other person designated by the school board or board of trustees for that purpose and until he has issued a written certificate that the building has been constructed in accordance with the approved plans and specifications and approved change orders and until the school board or board of trustees, acting on these recommendations, has accepted the building. After acceptance by the school board or board of trustees, a duplicate copy of this written certificate, duly certified as having been accepted by the ~~local~~ board, shall be filed with the Department of Education.

(2) District school boards or boards of trustees shall have full authority and responsibility for all decisions regarding *educational plant school* construction contracts and payments.

Section 25. Section 235.34, Florida Statutes, is amended to read:

235.34 Expenditures authorized.—

(1) School boards, boards of trustees, boards of county commissioners, municipal boards, and other agencies and boards of

the state are authorized to expend funds, separately or collectively, by contract or agreement, for the placement, paving, or maintaining of any road, byway, or sidewalk adjacent to or running through the property of any *educational plant public school* or for the maintenance or improvement of the property of any *educational plant public school* or of any facility on such property. Expenditures may also be made for sanitary improvements and for the installation, operation and maintenance of traffic control and safety devices upon or in the vicinity of any existing or proposed *educational plant public school* site. The boards of county commissioners, municipal boards, and other agencies and boards of the state may plant or maintain trees, flowers, shrubbery, and beautifying plants upon the *school* grounds of any *educational plant public school* upon approval of the superintendent or president or his designee. Payment by a school board or board of trustees for any improvement set forth in this section shall be authorized in any amounts agreed to by the *school* board. Any payments so authorized to be made by a *school* board shall not be mandatory unless the specific improvement and its costs have been agreed to by the *school* board prior to the improvement's being made.

(2) The provisions of any law, municipal ordinance, or county ordinance to the contrary notwithstanding, the provisions of this section shall regulate the levying of assessments for special benefits on school districts or community colleges and the directing of the payment thereof. Any municipal ordinance or county ordinance making provision to the contrary is void and shall be of no effect.

Section 26. Section 235.40, Florida Statutes, is amended to read:

235.40 Radio and television facilities.—The school boards or boards of trustees of the several districts of this state may acquire by purchase, permanent easement, or gift, suitable lands and other facilities either within or without the boundaries of the district or districts for use in providing educational radio or television transmitting sites and may erect such buildings, antennas, transmission equipment and towers, or other structures as are necessary to accomplish the purposes of this section.

Section 27. Section 235.221, Florida Statutes, 1976 Supplement, is renumbered as section 235.421, and subsections (1) and (2) thereof are amended to read:

235.421 ~~235.221~~ Special Facilities Construction Account; creation; use by school districts; conditions and procedures.—

(1) The office shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account in an amount established by law or in the General Appropriations Act, to be known as the Special Facility Construction Account. The Special Facility Construction Account shall be used to provide necessary construction funds to school districts that have urgent construction needs but lack sufficient resources at present ~~and~~ cannot reasonably anticipate sufficient resources for these purposes within the period of the next 5 years from currently authorized sources of revenue.

(2) Those school districts having an urgent fixed capital outlay need and applying in need of such facilities shall:

(a) Have the facilities recommended in an up-to-date school plant survey;

(b) Present evidence that the requested facilities are for the one local project that is highest in order of priority for the district;

(c) Present evidence that existing cash resources and resources to be reasonably anticipated within the next 5 fiscal years will not provide the resources necessary to construct these facilities;

(d) Adopt an official resolution requesting advance funding from the Special Facility Construction Account in an amount which shall not exceed 7 times the most recent annual allocation of the school board under provisions of s. 9(a)(2), Art. XII of the State Constitution and s. 236.084 and in an amount which, when added to the district's current fixed capital outlay funds available ~~each~~ resources, will provide sufficient funds with which to fund the above need ~~construct~~ these needed and highest priority facilities; and

(e) Officially waive any future annual allocations of state capital outlay funds from the Educational Facilities Construction Working Capital Trust Fund until the total amount of the advance such time that the advancement is repaid or for the next 7 fiscal years, whichever is the earlier.

Section 28. Section 230.756, Florida Statutes, is amended to read:

230.756 Planning and construction of community college facilities.—The need for community college facilities shall be established by a survey made under the supervision of the department or an agency approved by the commissioner Department of Education; the facilities recommended by such survey must be approved by the state board and the projects must be constructed according to the provisions of chapter 235 law and state board rules regulations.

Section 29. Section 230.776, Florida Statutes, is amended to read:

230.776 Certain chapters inapplicable to community colleges.—Chapters 231, 233, 234, 235, 236, and 237 are not applicable to community colleges except for those sections specifically referred to in chapter 230 and in the State Board of Education rules regulations.

Section 30. Section 236.084, Florida Statutes, 1976 Supplement, is transferred and renumbered as section 235.435, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 236.084, F. S., 1976 Supp., for present text.)

235.435 Funds for comprehensive educational facilities construction and debt service.—The annual allocation from the Public Education Capital Outlay and Debt Service Trust Fund to each district school board, community college board of trustees, Board of Regents, for the comprehensive educational facilities construction and debt service program shall be determined as follows:

(1) Pursuant to regulations of the state board, the commissioner shall determine annually the projected educational plant and annual debt service needs for each board and report this to the Legislature. In determining the needs of the state system of public education the office shall recommend and the commissioner shall use uniform standards for all types of like space regardless of the level of education. These standards shall also establish a uniform utilization rate of 80 percent of all post-secondary facilities based on 45 hours per week Monday through Friday. In section 235.42, the intent of the Legislature is to assure that facilities to provide needed, adequate student stations for all students be constructed as rapidly as possible. The commissioner in determining the annual needs of the boards shall provide for adequate student stations within the state system of public education before any needs for other priority projects are considered. In making the report the commissioner shall include at least the following elements:

- (a) Projected student membership for the next 5-year period.
- (b) Projected number of unhoused students.
- (c) Costs of correcting deficiencies which produce unsafe, unhealthy, or unsanitary environments; air-conditioning; remodeling and renovations.
- (d) Current construction cost data as determined by the state board. Information for determining construction cost data shall be taken from item analyses of educational plant expenditures as reported in the Boards' annual financial reports to the commissioner.
- (e) Five-year projected cost of amortizing the annual payment of the ad valorem bonded indebtedness of the district.
- (f) Cost of site acquisition and improvement.
- (g) Amount of additional resources available pursuant to the provisions of s. 9(a)(2) and (d), Art. XII of the State Constitution as amended in 1974.
- (h) Amount of funds from other sources available and earmarked for capital outlay purposes. However, funds available and earmarked for capital outlay purposes from the current tax levied on nonexempt property by the district school board for operating expenses shall not be considered in determining the unmet need until the district school board encumbers or expends such funds.

- (i) District housing index for public schools.
- (j) Square footage requirements for program groups.

(k) Special instructional facilities needed to improve the program, but not necessarily to increase the student stations.

(l) Amount of funds derived from voted ad valorem taxes in excess of 10 mills which were expended for construction projects which would have been funded by the state under provisions of this section during the 5 years immediately prior to the beginning of each fiscal year, except that those funds utilized for payment on bonded indebtedness shall not be included in the calculations required by this subsection.

(m) Relocatables provided under s. 235.211 shall be included in the district school inventory of educational facilities, but shall only be rated at one-half of actual student capacity for purposes of the inventory and future needs determination.

(2) The commissioner shall determine annually the amount allocated to each board from the funds appropriated for the purpose of implementing this section as follows:

(a) Determine the costs of the projected educational plant needs, the 5-year projected debt service needs, and the expenditures of ad valorem taxes in excess of 10 mills for each school district, as determined in subsection (1).

(b) Determine the projected additional resources available under the provisions of s. 9(d), Art. XII of the State Constitution as amended in 1972, and the projected amount available to each board from other fund sources allocated for educational plants.

(c) From the costs of the projected educational plant needs for each board and the 5-year projected debt service needs for each district school board subtract the projected additional resources available and add the expenditure of ad valorem taxes in excess of 10 mills, as determined in paragraph (a) result shall represent the estimated cost of unfunded educational plant and debt service needs for each board.

(d) The funds appropriated annually for the purpose of implementing this section shall be allocated to the respective boards in proportion to their percentage of the state total of unfunded educational plant and debt service needs as determined in subsection (1) for the fiscal year immediately preceding the fiscal year for which the funds are appropriated.

(3) Funds accruing to a board from the provisions of this section shall be expended on capital outlay needs recommended by a survey or surveys authorized by the rules of the state board. However, at least one-tenth of a district school board and community college board of trustees annual allocation shall be expended, as required by s. 235.06, on correction of deficiencies which produce an unsafe, unhealthy, or unsanitary environment for occupants of educational facilities. In addition, repayment of the principal on loans provided in s. 237.161 for capital outlay needs that are eligible under this section may be made.

(4) Each board allocated funds under this section shall submit to the commissioner a projection of its schedule of eligible capital outlay disbursements for specified periods, as prescribed by Section 235.42, F.S. Upon approval by the commissioner, the comptroller shall disburse the funds.

(5) Funds accruing to a district school board and community college board of trustees from the provisions of this section shall only be expended on construction projects that utilize state board-approved prototype design criteria as provided by law or that utilize district plans previously approved by the department and used by the district which conform to the standards of the Uniform Building Code for Public Educational Facilities Construction and have not been substantially or materially altered since approval was granted by the department.

(6) In the event that a change, correction, or recomputation of data during any year, including the 1973-1974 fiscal year, results in a reduction or increase of the calculated amount previously allocated to a board, the allocation to that board shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amount shall be added to or reduced from the boards' future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

Section 31. This act shall take effect July 1, 1977.

House Amendment 3—On page 1, strike the title and insert: A bill to be entitled An act relating to educational facilities; amending ss. 235.002, 235.01, 235.014(1), (2), (4), (5), (6), and (8), 235.016(4), 235.018, 235.02, 235.04, 235.05, 235.055, 235.06, 235.09, 235.14, 235.18, 235.19, 235.211(1), (2), (3), (5), and (6), 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.40, 230.756, and 230.776, Florida Statutes, and ss. 235.195(1) and (2) and 235.33, Florida Statutes, 1976 Supplement; including community colleges under the Educational Facilities Construction Act and conforming terminology thereto; amending s. 235.211(3), Florida Statutes, providing that the State Board of Education shall provide prototype design criteria for educational facilities for the purpose of providing school boards and boards of trustees with the means of constructing sound educational facilities more rapidly; eliminating certain criteria from the prototype design profile and providing that the design shall include a procedure for determining the gross square footage for each educational facility to be funded, in whole or in part, by the state; amending s. 235.221(1) and (2), Florida Statutes, 1976 Supplement, and renumbering said section, relating to advance of construction funds from the Special Facility Construction Account for school districts having urgent construction needs; deleting requirement that the district not be able to anticipate sufficient resources within 5 years; providing a limitation on the amount which may be requested; requiring repayment of the total amount of the advance; transferring and renumbering section 236.084, Florida Statutes, 1976 Supplement, to section 235.435, Florida Statutes, and amending to read: providing procedures for the determination of the Commissioner of Education of the annual allocation for comprehensive educational facilities construction and debt service program for each district school board, community college board of trustees, and Board of Regents; requiring each board to submit certain information to the commissioner; providing guidelines for and limitations on expending of funds; providing for recomputation of allocations; amending ss. 235.15 and 235.16, Florida Statutes, providing for an educational plant survey to be made every 5 years; requiring district school boards, community college boards of trustees, and the Board of Regents to submit a proposed program for educational facilities 6 months after completion of such survey; creating s. 235.165, Florida Statutes, providing for exceptions to recommendations in the school plant survey of the statewide educational system; providing an effective date.

House Amendment 5—On pages 4 & 5, strike all lines of 19-31 on page 4 and all of lines 1 to 20 on page 5

On motions by Senator Peterson, the Senate refused to concur in the House amendments and the House was requested to recede, and in the event the House refused to recede, requested the appointment of a conference committee. The President appointed Senators Peterson, Ware and Castor as conferees on the part of the Senate. The action of the Senate was certified to the House.

The Honorable Lew Brantley, President

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

By the Committee on Corrections, Probation and Parole and Senator Glisson and others—

CS for SB 175—A bill to be entitled An act relating to assistance for the victims of crime; creating chapter 897, Florida Statutes, providing for a program to assist victims of crime; providing legislative intent; providing definitions; providing for eligibility; creating the Florida Crimes Compensation Commission; providing for powers and duties; providing for the filing and determination of claims; providing for judicial review; providing for emergency awards; providing for limited confidentiality of records; providing for subrogation; providing for debts due to the state; providing a penalty for fraud; providing for attorney's fees; providing a penalty; providing for additional costs; providing for the crimes compensation trust fund; authorizing application for federal funds; providing for notice of the provisions of this law; providing for duties of the department; providing severability; amending s. 142.01, Florida Statutes; amending s. 142.03, Florida Statutes, 1976 Supplement; providing an exception for inclusion in the fine and forfeiture fund; amending s. 947.18, Florida Statutes, permitting restitution to the Crimes Compensation Trust Fund as a condition of parole; adding s. 948.03(1)(i), Florida Stat-

utes, permitting restitution to the Crimes Compensation Trust Fund as a condition of probation; providing for the payment of administrative costs; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 2 through 19, strike everything after the enacting clause and insert the following:

Section 1. Chapter 897, Florida Statutes, consisting of sections 897.01, 897.02, 897.03, 897.04, 897.05, 897.06, 897.07, 897.08, 897.09, 897.10, 897.11, 897.12, 897.13, 897.14, 897.15, 897.16, 897.17, 897.18, 897.19, 897.20, 897.21, 897.22, 897.23, 897.24, and 897.25, is created to read:

897.01 Short title.—The provisions of this chapter shall be known and may be cited as the "Smith-Firestone Act."

897.02 Declaration of policy and legislative intent.—The Legislature recognizes that many innocent persons suffer personal injury or death as a direct result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disabilities, incur financial hardships, or become dependent upon public assistance. The Legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the intent of the Legislature that aid, care, and support be provided by the state, as a matter of moral responsibility, for such victims of crime. It is the express intent of the Legislature that all state departments and agencies cooperate with the Department of Health and Rehabilitative Services in carrying out the provisions of this chapter.

897.03 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Claimant" means any person filing a claim pursuant to this chapter.

(2) "Commission" means the Florida Crimes Compensation Commission.

(3) "Crime" means the commission of a felony or misdemeanor under the laws of this state by any person which is punishable under the criminal laws of the State of Florida and which results in physical injury or death of a resident of this state; provided, however, that no act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft, or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

(4) "Department" means the Department of Health and Rehabilitative Services.

(5) "Intervenor" means any person who goes to the aid of another and suffers bodily injury or death as a direct result of acting not recklessly to prevent the commission of a crime, or to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime.

(6) "Victim" means any person who suffers personal physical injury or death as a direct result of a crime.

897.04 Eligibility for awards.—

(1) Except as provided in subsection (2), the following persons shall be eligible for awards pursuant to this section:

(a) A victim.

(b) An intervenor.

(c) A surviving spouse, parent, or child of a deceased victim or intervenor.

(d) Any other person dependent for his principal support upon a deceased victim or intervenor.

(2) Any person who committed or aided in the commission of the crime upon which the claim was based, or who was engaged in an unlawful activity at the time of the crime upon which the claim is based, or who is related within the third degree of consanguinity or affinity to the person who committed the crime, or who is maintaining a sexual relationship

with the person who committed the crime, or who resides in the same household as the person who committed the crime, shall not be eligible to receive an award with respect to such claim.

897.05 Florida Crimes Compensation Commission.—

(1) There is hereby created within the Department of Health and Rehabilitative Services the Florida Crimes Compensation Commission to be composed of a chairman and two other members to be appointed by the Governor, subject to confirmation by the Senate. Members shall serve for terms of 4 years, except that members first appointed shall serve for terms of 4, 3, and 2 years, respectively. A vacancy for the unexpired term of a member shall be filled in the same manner as herein provided for on original appointment. The commission in the performance of its duties and powers under this chapter shall not be subject to control, supervision, or direction by the Department of Health and Rehabilitative Services.

(2) The chairman and members shall receive a salary as established pursuant to the provisions of s. 216.251. The commission shall have the authority to employ an executive director and such other personnel as may be necessary to carry out the provisions of this chapter.

897.06 Commission; powers and duties.—The commission shall have the following powers and duties:

(1) To establish and maintain an office in Tallahassee and to prescribe the duties of the employees of the commission;

(2) To adopt, promulgate, amend and rescind such rules as are necessary to carry out the provisions of this chapter, including rules for the approval of attorney's fees for representation before the commission or before the court upon judicial review as hereinafter provided;

(3) To request from the state attorney or from the law enforcement agencies involved such investigation and data as will enable the commission to determine if, in fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was responsible for his own injury or death;

(4) To hear and determine all claims for awards filed with the commission pursuant to this chapter, considering all other programs providing valid and collectible benefits to the claimant, and to reinvestigate or reopen cases as the commission deems necessary;

(5) To require the submission of such medical records as are required and, when necessary, to direct medical examination of the victim;

(6) To hold hearings, administer oaths or affirmations, examine persons under oath or affirmation and to issue summons requiring the attendance and giving of testimony of witnesses and to require the production of any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated by the commission to any member or employee thereof;

(7) To take or cause to be taken affidavits or depositions within or without the state; and

(8) To render prior to January 1 of each year to the Governor, to the Secretary of the Department of Health and Rehabilitative Services, and to the presiding officers of the Senate and House of Representatives a written report of its activities. The Department of Legal Affairs shall be the legal advisor to the commission.

897.07 Filing of claims for compensation.—

(1) A claim for compensation may be filed by a person eligible for compensation as provided in s. 897.04, or if such person is a minor, by his parent or guardian, or if the person entitled to make a claim is mentally incompetent, by his guardian or such other individual authorized to administer his estate.

(2) A claim must be filed not later than 1 year after the occurrence of the crime upon which the claim is based, or not later than 1 year after the death of the victim or intervenor; provided, however, that for good cause the commission may extend the time for filing for a period not exceeding 2 years after such occurrence.

(3) Claims may be filed in the Tallahassee office of the commission in person or by mail or with the department in per-

son. Any employee of the department receiving a claim for compensation shall immediately upon receipt of such claim, mail the claim to the commission at its office in Tallahassee. In no event and under no circumstances shall the rights of a claimant under this chapter be prejudiced or lost by the failure or delay of the employees of the department in mailing claims to the commission in Tallahassee.

(4) Upon filing of a claim pursuant to this chapter, the commission shall promptly notify the state attorney of the circuit wherein the crime is alleged to have occurred. If within 10 days after such notification such state attorney advises the commission that a criminal prosecution is pending upon the same alleged crime and requests that action by the commission be deferred, the commission shall defer all proceedings under this chapter until such time as a trial verdict has been rendered, and shall so notify such state attorney and claimant. When a trial verdict has been rendered, such state attorney shall promptly notify the commission. Nothing in this subsection shall limit the authority of the commission to grant emergency awards pursuant to s. 897.12.

(5) The state attorney's office shall aid claimants in the filing and processing of claims as may be required.

897.08 Out-of-pocket loss.—Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness incurred for medical care, nonmedical remedial care, or other treatment rendered in accordance with a religious method of healing as approved by the commission, or other services necessary as a result of the injury or death upon which such claim is based.

897.09 Determination of claims by a commissioner.—

(1) A claim when accepted for filing, shall be assigned by the chairman to himself or to another member of the commission. All claims arising from the death of an individual as a result of a single crime shall be considered together by a single commission member.

(2) The commission member to whom such claim is assigned shall examine the papers filed in support of the claim and shall thereupon cause an investigation to be conducted into the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury or death upon which the claim is based.

(3) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal responsibility or other legal exemption or defense.

(4) The commission member to whom a claim is referred may decide the claim in favor of a claimant on the basis of the papers filed in support thereof and the report of the investigation of the claim. If the commission member is unable to decide the claim upon the basis of said papers and report, he shall order a hearing. At the hearing any relevant evidence, not legally privileged, shall be admissible.

(5) After examining the papers filed in support of the claim and the report of the investigation, and after a hearing, if any, the commission member to whom the claim was assigned shall make a decision either granting the award or denying the claim.

(6) The commission member making a decision shall file with the executive director a written report setting forth such decision and his reasons therefor. The executive director shall thereupon notify the claimant and furnish him a copy of such report, upon request.

897.10 Determination of claims by the full commission.—

(1) The claimant may, within 30 days after receipt of the report of the commissioner to whom his claim was assigned, make an application in writing to the commission for consideration of the decision by the full commission.

(2) Upon receipt of an application pursuant to subsection (1) or upon its own motion, the commission shall review the record and affirm or modify the decision of the commission member to whom the claim was assigned. The action of the commission in affirming or modifying such decision shall be

final. If the commission receives no application pursuant to subsection (1) or takes no action upon its own motion, the decision of the commission member to whom the claim was assigned shall become the final decision of the commission.

(3) The executive director of the commission shall promptly notify the claimant, and the appropriate state fiscal officer of the final decision of the commission and furnish each with a copy of the report setting forth the decision.

897.11 Judicial review of decisions of the commission.—The final decisions of the commission are reviewable in the district court of appeal as provided in s. 120.68.

897.12 Emergency awards.—Notwithstanding the provisions of ss. 897.07 and 897.09, if it appears to the commission member to whom the claim is assigned, prior to taking action upon such claim, that such claim is one with respect to which an award probably will be made and that undue hardship will result to the claimant if immediate payment is not made, the commission member may make an emergency award to the claimant, pending a final decision in the case, on the following conditions:

(1) The amount of such emergency award shall not exceed \$500;

(2) The amount of such emergency award shall be deducted from any final award made to the claimant; and

(3) The amount of such emergency award which is in excess of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the commission.

897.13 Awards.—

(1) No award shall be made unless the commission or the commission member, as the case may be, finds that:

(a) A crime was committed;

(b) Such crime directly resulted in personal injury to, or death of, the victim or intervenor; and

(c) Such crime was promptly reported to the proper authorities; and in no case may an award be made where the record shows that such report was made more than 72 hours after the occurrence of such crime unless the commission, for good cause shown, finds the delay to have been justified. The commission, upon finding that any claimant or award recipient has not duly cooperated with all law enforcement agencies, may deny, reduce, or withdraw any award, as the case may be.

(2) Any award shall be granted on an "actual need" basis and shall be provided subsequent to all benefits provided by primary insurance carriers, including but not limited to health and accident insurers, workmen's compensation and automobile accident coverage.

(3) Any award made pursuant to this chapter shall be made in accordance with the schedule of benefits and degrees of disability specified in s. 440.15, excluding subsection (5) of that section. If a claimant does not have "average weekly wages" so as to qualify under the formula in s. 440.15, the award shall be in an amount equal to the arithmetic average between the maximum and minimum awards listed in the applicable portions of ss. 440.15 and 440.12.

(4) If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned among the claimants.

(5) Any award made pursuant to this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury or death:

(a) From or on behalf of the person who committed the crime.

(b) From any other public or private source, including an award of workmen's compensation pursuant to chapter 440.

(c) From an emergency award under s. 897.12.

(6) In determining the amount of an award, the commission or commission member, as the case may be, shall determine whether because of his conduct, the victim of such crime contributed to the infliction of his injury or to his death, and the commission or commission member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the commission or commission member, as the case may be, may disregard for this purpose the contribution of the intervenor to his own injury or death where the record shows that such contribution was attributed to efforts by an intervenor as set forth in s. 897.03(5).

(7) If the commission or commission member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket loss incurred as a result of the injury, if not granted assistance pursuant to this chapter to meet the loss of earnings, support, or out-of-pocket loss, the commission member shall deny the award. In determining serious financial hardship, the commission or commission member shall consider all the financial resources of the claimant. Unless a total dependency is established, members of a family are considered to be partially dependent upon a homemaker with whom they reside without regard to actual earnings.

(8) No claimant shall receive an award in excess of \$10,000.

897.14 Manner of payment; execution or attachment.—

(1) Any award made under this chapter shall be in accordance with the discretion and direction of the commission as to the manner of payment. No award made pursuant to this chapter shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the claim. In every case providing for compensation to a claimant under this chapter, the commission may, if in its opinion the facts and circumstances of the case warrant it, convert the compensation to be paid in a partial or total lump sum without discount.

(2) The commission may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a victim, intervenor, or one or more of his surviving dependents.

897.15 Records.—The record of a proceeding before the commission or a commission member shall be a public record; provided, however, that any record or report obtained by a commission member or the commission, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

897.16 Subrogation.—Payment of an award pursuant to this chapter shall subrogate the state, to the extent of such payment, to any right of action accruing to the claimant or to the victim or intervenor to recover losses resulting from the crime with respect to which the award is made.

897.17 Award constitutes debt owed to state.—

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the state by any person found to have committed such criminal act in either a civil or criminal court proceeding in which he is a party.

(2) The court, when placing any person who owes a debt to the state as a consequence of a criminal act on probation as provided in chapter 948, may set as a condition of probation the payment of the debt to the state. The court may also set the schedule or amounts of payments subject to modification based on change of circumstances.

(3) The Parole and Probation Commission shall have the right to make payment of the debt to the state a condition of parole under chapter 947 subject to modification based on change of circumstances.

(4) Payments authorized under this section are to be paid to the Crimes Compensation Trust Fund.

897.18 Penalty for fraud.—Any person who procures compensation under this chapter by any fraud, or any person who counsels another person to procure compensation under this chapter by any fraud, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any moneys so procured shall be recoverable by the commission including punitive damages and costs of such action plus interest, and any attorney's fees paid by the commission.

897.19 Attorney's fees.—The commission may determine and award reasonable attorney's fees, commensurate with services rendered, to be paid by the commission to the attorney representing the claimant. Attorney's fees may be denied on a finding that a claim or appeal is frivolous. Attorney's fees shall be in addition to awards and may be made whether or not an award is granted. Any attorney who contracts for or receives any larger sum than the amount allowed shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

897.20 Additional costs.—Where any person after the effective date of this act pleads guilty or nolo contendere to or is convicted of any felony or misdemeanor under the laws of this state, there shall be imposed as an additional cost in the case, in addition to any other cost required to be imposed by law, the sum of \$10. The court may waive, modify, or defer payment of the additional costs imposed by this act if it finds they would impose a severe financial hardship. All such sums shall be paid over to the State Treasurer to be deposited in the Crimes Compensation Trust Fund. Under no condition shall a political subdivision be held liable for the payment of this sum of \$10.

897.21 Crimes Compensation Trust Fund.—

(1) There is hereby created a special fund to be known as the Crimes Compensation Trust Fund for the purpose of providing for the payment of all necessary and proper expenses incurred by the operation of the commission and the payment of claims. The commission shall administer the Crimes Compensation Trust Fund.

(2) The moneys placed in the Crimes Compensation Trust Fund shall consist of all moneys appropriated by the Legislature for the purpose of compensating the victims of crime, and of moneys recovered on behalf of the commission by subrogation or other action, recovered through restitution, received from the Federal Government, received from additional court costs, received from fines, or received from any other public or private source.

897.22 Application for federal funds.—The commission is authorized to apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

897.23 Notice of provisions of this chapter.—It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter. The department shall provide posters, application forms as approved by the commission, and general information regarding the provisions of this chapter to each hospital licensed to operate in this state and all law enforcement agencies.

897.24 Duties and functions of the department.—It shall be the duty of the department to assist persons who are victims of crime. The department shall:

(1) Seek to identify the victims of crime and inform them of the provisions of this chapter.

(2) Serve as a clearing house for information relating to the problems encountered by the victims of crime.

(3) Enlist the assistance of public and voluntary health, education, welfare and rehabilitation agencies or groups in a concerted effort to aid persons who are victims of crime.

(4) Assist public agencies and local governments to provide assistance for victims of crime.

(5) Act as an advocate for the victims of crime to obtain aid and services from public or private health, education, welfare, or rehabilitation agencies or groups to treat persons who have been victims of crime.

897.25 Severability.—If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared severable.

Section 2. Sections 142.01 and 142.03, Florida Statutes, and section 142.03, Florida Statutes, 1976 Supplement, as amended by chapter 76-31, Laws of Florida, which takes effect October 1, 1977, are amended to read:

142.01 Fine and forfeiture fund contents.—There shall be in every county of this state a separate fund to be known as the fine and forfeiture fund. Said fund shall consist of all fines and forfeitures collected in the county under the penal laws of the state, *except those fines imposed under s. 775.083(3)*, all costs refunded to the county, all funds arising from the hire or other disposition of convicts and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees and costs where the crime was committed in the county, and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. *In addition to any fine, civil penalty, or other penalty provided by statute, ordinance, or other law, there shall be imposed, levied, and collected by the courts of this state the 5 percent surcharge on all fines, civil penalties, and forfeitures as established and created in section 6 of the 1977 act creating the "Florida Crimes Compensation Act," which surcharge shall be deposited in the Crimes Compensation Trust Fund created by said act.*

142.03 Disposition of fines, ~~and forfeitures and civil penalties~~; reports.—~~Except as to fines, and forfeitures and civil penalties~~ collected in cases involving violations of municipal ordinances or violations of chapter 316 committed within a municipality or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, ~~and forfeitures and civil penalties~~ shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, ~~and 316.0261, and 318.21, and except as to fines imposed under s. 775.083(3)~~, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use of the particular county. The county commissioners of each county shall require a full report from all clerks of county courts and Clerks of Circuit Courts once in each month, within 30 days after the expiration of said month, of the amount of fines imposed by their courts and of bonds forfeited and judgments rendered on said forfeited bonds, and into whose hands they had been paid or placed for collection, the date of conviction in each case, the term of imprisonment, and the name of the officer to whom commitment was delivered. If any clerk of court shall fail to make such report for any month, the board of county commissioners shall immediately report to the Governor any such failure or refusal, and the Governor may, in his discretion, suspend such officer or officers from office. The county commissioners may withhold any fees or costs of any officer until said officer collects and pays over to the depository legally entitled to receive the same all such fines and forfeitures or furnishes a satisfactory excuse for not doing so.

Section 3. Subsection (3) is added to section 775.083, Florida Statutes, to read:

775.083 Fines.—

(3) *Where any person pleads guilty or nolo contendere to or is convicted of any felony or misdemeanor under the laws of this state which results in the injury or death of another person, the court may, if it finds that the defendant has the present ability to pay the fine and finds that the impact of the fine upon the defendant's dependents will not cause such*

dependents to be dependent on public welfare, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable impact upon the victim, but not to exceed \$10,000. The fine shall be deposited in the Crimes Compensation Trust Fund.

Section 4. Section 947.18, Florida Statutes, is amended to read:

947.18 Conditions of parole.—No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission shall find that there is reasonable probability that, if he is placed on parole, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he will be suitably employed in self-sustaining employment, or that he will not become a public charge. The commission shall determine the terms upon which such persons shall be granted parole. *In addition to any other lawful condition of parole the commission may make the payment of the debt due and owing to the state under s. 897.17 a condition of parole subject to modification based on change of circumstances.*

Section 5. Paragraph (i) is added to subsection (1) of section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation and may include among them the following, that the probationer shall:

(i) *Make payment of the debt due and owing to the state under s. 897.17 subject to modification based on change of circumstances.*

Section 6. In addition to any fine or civil penalty prescribed by law, there is hereby established and created an additional 5 percent surcharge thereon which shall be imposed, levied, and collected together with such fine or civil penalty. The principal amount of any bail bond given as prescribed by law shall be increased by an additional 5 percent surcharge which is established hereby.

Section 7. All administrative costs of this act shall be paid out of moneys collected pursuant to this act and deposited in the Crimes Compensation Trust Fund.

Section 8. This act shall take effect January 1, 1978; provided, however, that ss. 897.17, 897.20, and 897.21, Florida Statutes, as created by this act, and sections 2, 3, 4, 5 and 6 of this act shall take effect upon becoming a law.

Amendment 4—On pages 1 and 2 in title, strike the entire title and insert the following:

A bill to be entitled

An act relating to assistance for the victims of crime; creating chapter 897, Florida Statutes, providing for a program to assist victims of crime; providing legislative intent; providing definitions; providing for eligibility; creating the Florida Crimes Compensation Commission; providing for powers and duties; providing for the filing and determination of claims; providing for judicial review; providing for emergency awards; providing limitations; providing for manner of payment; providing for limited confidentiality of records; providing for subrogation; providing for debts due to the state; providing a penalty for fraud; providing for attorney's fees; providing for additional costs; establishing the Crimes Compensation Trust Fund; authorizing application for federal funds; requiring notice of the provisions of this act; providing for duties of the Department of Health and Rehabilitative Services; providing severability; amending ss. 142.01 and 142.03, Florida Statutes, providing an exception for inclusion in the fine and forfeiture fund; adding subsection (3) to s. 775.083, Florida Statutes, to provide for fines for crimes compensation; amending s. 947.18,

Florida Statutes, authorizing the Parole and Probation Commission to require restitution of the debt due and owing to the state as a condition of parole; adding paragraph (i) to s. 948.03(1), Florida Statutes, authorizing the court to require restitution of the debt due and owing to the state as a condition of probation; establishing a 5 percent surcharge; providing for the costs of administration; providing an effective date.

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

Amendment 1—On page 1, line 9, strike "Smith-Firestone Act." and insert: Florida Crimes Compensation Act.

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

Amendment 2—On page 2, line 5, insert after the word "surcharge" : on fines, forfeitures, and civil penalties

On motions by Senator Glisson, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 175 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Spicola

On motion by Senator Gallen, the Senate recessed at 12:00 noon to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by Senator Gallen at 1:30 p.m. A quorum present—38:

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

SPECIAL ORDER

SB 613—A bill to be entitled An act relating to determination of death; providing a standard for determining human death consistent with currently accepted medical standards; providing for applicability of the standard; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator McClain and adopted:

Amendment 1—On page 1, line 15, after the word "determining" insert: the time and cause of

Senators Myers and McClain offered the following amendment which was moved by Senator McClain and adopted:

Amendment 2—On page 1, line 18, strike the period and insert: ; provided, however, that the provisions of this section shall not affect the probate of wills or codicils and shall not supersede the provisions of s. 732.601, Florida Statutes.

Senator McClain moved the following title amendment which was adopted:

Amendment 3—On page 1, line 2, strike "determination of death;" and insert: the standard for determining the time and cause of death;

On motion by Senator McClain, by two-thirds vote SB 613 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26

Castor	Graham	Poston	Thomas, Pat
Chamberlin	Hair	Renick	Vogt
Childers, Don	Holloway	Scarborough	Ware
Firestone	Johnston	Scott	Wilson
Gallen	McClain	Skinner	Winn
Glisson	Myers	Spicola	
Gorman	Plante	Thomas, Jon	

Nays—2

Dunn Zinkil

Vote after roll call:

Yea—Peterson

CS for HB 647—A bill to be entitled An act relating to health studio services; providing legislative intent; providing definitions; providing for penalty-free cancellation of certain health studio services contracts within certain time periods; providing for refunds; making it unlawful to collect or accept more than 12 months' contract payments in advance; providing for establishment and operation of trust accounts for deposit of contract payments; providing for the contents of contracts; prohibiting discrimination by health studios because of race, religion, gender, marital status, or national origin; providing for injunctive relief; providing for applicability; providing an effective date.

—was taken up with pending Amendment 1.

Senators Myers and Ware offered the following substitute amendment for Amendment 1 which was moved by Senator Myers and adopted:

Amendment 2—On pages 3 and 4, strike lines 8-31 on page 3 and lines 1-6 on page 4.

Senator Glisson moved the following amendment which was adopted:

Amendment 3—On page 4, line 18, strike the period after "1977" and insert: , provided however, that health studios doing business in this state as of June 2, 1977 shall have until July 1, 1978 to comply with the provisions of this act.

Senator Jon Thomas moved the following amendments which were adopted:

Amendment 4—On page 3, between lines 15 and 16, insert: (c) Provision for the cancellation of the contract of the health studio moves its facilities from the location designated in such contract, upon written notice by the buyer, with refund upon such notice of funds paid or accepted in payment of the contract, in an amount computed by dividing the contract price by the number of weeks of the contract's term, multiplying the result by the number of weeks remaining in the contract's term.

Amendment 5—On page 1, line 6, after the semi-colon insert: providing for the cancellation of certain health studio services contracts if the health studio moves its facilities from the location designated in the contract;

On motion by Senator Jon Thomas, by two-thirds vote CS for HB 647 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Castor	Graham	Plante	Thomas, Pat
Chamberlin	Hair	Poston	Tobiassen
Childers, Don	Holloway	Renick	Trask
Childers, W. D.	Johnston	Scarborough	Vogt
Firestone	MacKay	Scott	Wilson
Gallen	McClain	Skinner	Zinkil
Glisson	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	

Nays—None

SB 616 was taken up and on motion by Senator Firestone—

HB 544—A bill to be entitled An act relating to jurors; amending s. 40.07(2), Florida Statutes, disqualifying municipal police officers from jury duty; providing an effective date.

—a companion measure was substituted therefor and read the second time by title.

Senator Firestone moved the following amendments which were adopted:

Amendment 1—On page 1, line 17, add new section 2. and renumber accordingly.

Section 2. Section 40.09, Florida Statutes, is amended to read:

40.09 Jury commissions, counties exceeding 120,000.—There shall be a jury commission, in each county having a population exceeding 120,000 by the last federal census, consisting of two members, appointed by the Governor for terms of 2 years, each of whom shall be a resident of such county. This provision shall become effective in all counties hereafter attaining the above population on January 1 next following the publication of the census showing such population and as early as practicable after becoming effective in such counties, the Governor shall appoint a jury commission for such county, one for a term of one year from the effective date of this provision and one for a term of 2 years from said effective date. All successor commissioners shall be appointed by the Governor and shall hold their offices for terms of 2 years each. Counties having an approved computerized jury selection system may elect to abolish said commission and empower the court administrator to perform said duties, *the provisions of any special law or general law of local application to the contrary notwithstanding.*

Amendment 2—On page 1, line 4, after "duty;" insert: amending s. 40.09, Florida Statutes, authorizing certain counties to abolish their jury commission and empower the court administrator to perform the commission's duties without regard to any special law or general law of local application to the contrary;

Senator Don Childers moved the following amendments which were adopted:

Amendment 3—On page 1, between lines 16 and 17, insert: Section 2. Section 40.24, Florida Statutes, 1976 Supplement, is amended to read:

40.24 Pay of jurors.—Grand and petit jurors of the regular panel and jurors summoned to complete a jury after the regular panel is exhausted in all the courts of the state, as well as jurors summoned upon inquest of the dead, shall receive for each day of active attendance upon the court or inquest \$10. Jurors summoned to complete a panel after the regular panel is exhausted and who are not accepted and not required to serve on the jury shall receive compensation of \$10 per day, and a fractional part of a day shall be counted as a day. In addition to the compensation above provided, all jurors shall receive 14 1/2 cents per mile for every mile necessarily traveled each

day in going to and returning from court by the nearest practicable route. Jurors who attend on any of the days of the term when the presiding judge is absent or, being present, does not hold the session of the court shall be entitled to receive the same compensation as if the court were in session. A juror who elects to be on call as provided in s. 40.231 shall receive the compensation provided in this section for only those days such juror actually attends court and not for those days he remains on call. Any juror who is excused from serving on any jury at his own request shall not be entitled to receive any compensation either for travel or for attendance upon the court.

(Renumber subsequent section.)

Amendment 4—On page 1, line 4, after the semi-colon insert: amending s. 40.24, Florida Statutes, 1976 Supplement; increasing the rate of payment from 10 cents to 14 cents for mileage traveled by jurors;

On motion by Senator Firestone, by two-thirds vote HB 544 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—21

Chamberlin	Hair	Plante	Thomas, Jon
Childers, Don	Holloway	Poston	Thomas, Pat
Firestone	Johnston	Renick	Trask
Glisson	MacKay	Scarborough	
Gorman	Myers	Skinner	
Graham	Peterson	Spicola	

Nays—9

Childers, W. D.	McClain	Ware	Zinkil
Dunn	Scott	Wilson	
Gallen	Tobiassen		

SB 616 was laid on the table.

On motion by Senator Lewis, the rules were waived and by two-thirds vote HB 1311 was withdrawn from the Committee on Finance, Taxation and Claims.

SB 413—A bill to be entitled An act relating to retired members of state retirement systems; amending s. 112.362(4), Florida Statutes, 1976 Supplement, authorizing certain retirees who were members of state-supported retirement systems which did not require their members to participate in social security to receive cost-of-living adjustments in addition to certain recomputed retirement benefits and appropriating funds therefor; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining offered the following amendment which was moved by Senator Tobiassen:

Amendment 1—On page 2, lines 5 through 8, strike “The funds necessary to provide for any additional costs which result from the benefit increase provided for by this subsection are hereby annually appropriated from the General Revenue Fund.”

The Committee on Appropriations offered the following amendment to Amendment 1 which was moved by Senator Tobiassen and adopted:

Amendment 1A—On page 1 of the amendment insert: The funds necessary to provide for any additional costs which result from the benefit increase provided for by this subsection are hereby annually appropriated from the General Revenue Fund.

Amendment 1 as amended was adopted.

On motion by Senator Tobiassen, by two-thirds vote SB 413 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Chamberlin	Graham	Renick	Trask
Childers, Don	Hair	Scarborough	Vogt
Childers, W. D.	Johnston	Scott	Ware
Dunn	MacKay	Skinner	Wilson
Firestone	McClain	Spicola	Zinkil
Gallen	Myers	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	
Gorman	Poston	Tobiassen	

Nays—None

Senator Pat Thomas moved that the Senate reconsider the vote by which SB 923 passed this day.

Senator Zinkil moved that debate on the motion to reconsider be limited to five minutes per side.

Senator Dunn moved as a substitute motion that the motion to reconsider be temporarily deferred. The motion failed.

Pending consideration of the motion by Senator Pat Thomas, on motion by Senator Lewis, 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 Senators Trask and Peterson—

SB 1235—A bill to be entitled An act relating to taxes on motor fuels and special fuels; creating s. 206.606, Florida Statutes; imposing an additional 1-cent tax per gallon on motor fuels and special fuels; providing for distribution of the revenues from such tax; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—Strike everything after the enacting clause and insert: Section 1. Paragraph (c) of subsection (3) of section 212.02, Florida Statutes, 1976 Supplement, is amended to read:

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

(3)

(c) The terms “retail sales,” “sale at retail,” “use,” “storage,” and “consumption” shall not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale, and shall not include the sale, use, storage, or consumption of industrial materials for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials become a component or ingredient of the finished product. However, said terms shall include the sale, use, storage, or consumption of tangible personal property, ~~excluding~~ ~~including~~ fuels and energy, used and dissipated in fabricating, converting, or processing tangible personal property for sale.

Section 2. Subsections (1), (3), and (6) of section 212.03, Florida Statutes, are amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, etc.—

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in

the business of renting, leasing or letting any living quarters, sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, rooming-house, tourist or trailer camp, as hereinbefore defined in this chapter. For the exercise of said privilege a tax is hereby levied as follows: in the amount equal to 5 4 percent of and on the total rental charged for such living quarters, sleeping or housekeeping accommodations by the person charging or collecting the rental; provided that such tax shall apply to hotels, apartment houses, roominghouses, tourist or trailer camps, as hereinbefore defined in this chapter, whether or not there be in connection with any of the same, any dining rooms, cafes or other places where meals or lunches are sold or served to guests.

(3) Where rentals are received by way of property, goods wares, merchandise, services or other things of value, the tax shall be at the rate of 5 4 percent of the value of said property, services or other things of value.

(6) It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages or who leases or rents docking or storage spaces for boats in boat docks or marinas. For the exercise of this privilege a tax is hereby levied at the rate of 5 4 percent on the total rental charged.

Section 3. Subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Lease or rental of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking or storage spaces under s. 212.03(6).

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the commercial rental tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of this subsection, the department shall determine from the lease and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

(c) For the exercise of such privilege a tax is levied in the amount equal to 5 4 percent of and on the total rent charged for such real property by the person charging or collecting the rental.

(d) Where the rental of any such real property is paid by way of property, goods, wares, merchandise, services or other thing of value, the tax shall be at the rate of 5 4 percent of the value of the property, services or other things of value.

Section 4. Subsections (1) and (5) of section 212.04, Florida Statutes, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement, etc.— It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value, by way of admissions. For the exercise of said privilege a tax is levied as follows:

(1) At the rate of 5 4 percent of sales price, or the actual value received from such admissions said 5 4 percent to be added and collected with all such admissions from the purchaser thereof and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall reflect on its face the actual sales price of admission and the tax shall be computed and collected on the basis of each such admission price.

(5) All of the provisions of this chapter relating to collection, investigation, discovery and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon "retailers" are hereby imposed upon the seller of such admissions. Where tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for

a credit allowance for such returned tickets or admissions where advance payments have been made by the buyer and have been returned by the seller upon such form and in such manner as the department may from time to time prescribe, and the department may upon obtaining satisfactory proof of the refunds on the part of seller credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department, and as provided in this law, shall be entitled to a discount of 2.4 3 percent of the amount of taxes upon the payment of the same before the same become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter.

Section 5. The introductory paragraph, paragraph (a) of subsection (1), and subsections (2), (3), (4), (5) and (6) of section 212.05, Florida Statutes, 1976 Supplement, are amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state. For the exercise of said privilege a tax is levied on each taxable transaction or incident and shall be due and payable, according to the applicable brackets set forth in s. 212.12(10) or (11), as follows:

(1)(a) At the rate of 5 4 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, the tax to be computed on each taxable sale for the purpose of remitting the amount of tax due the state, and to include each and every retail sale.

(2) At the rate of 5 4 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed or stored for use or consumption in this state.

(3) At the rate of 5 4 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the rental of motion-picture film where an admission is charged for viewing such film and the lease or rental of a motor vehicle to one lessee or rentee for a period of not less than 12 months where tax was paid on the acquisition of such vehicle by the lessor, where the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to said business.

(4) At the rate of 5 4 percent of the lease or rental price paid by the lessee or rentee, or contracted or agreed to be paid by lessee or rentee, to the owner of the tangible personal property.

(5) At the rate of 5 4 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on recurring charges to regular subscribers for local telephone service and for wired television service; and on all charges for the installation of telephonic, wired television, and telegraph equipment, and, at the same rate, on all charges for electrical power or energy. Telephone and telegraph services originating within this state and completed outside this state or originating outside this state and completed within this state are not taxable. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telephone and telegraph services and electric power subsequently found to be uncollectible. The word "charges" in this subsection shall not include any excise or similar tax levied by the federal government, any political subdivision of the state, or any municipality upon the purchase or sale of telephone, wired television or telegraph service, or electric power, which tax is collected by the seller from the purchaser.

(6) At the rate of 5 4 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation or public utility services. However, in the case of any written agreement executed prior

to July 1, 1971, which became binding before the effective date of this act, for the sale, rental use, consumption, or storage for use in this state of such property, the dealer making such agreement and paying the tax, or his assigns, may apply to the department within 3 years after the effective date of this act and, upon furnishing sworn proof of the existence of such binding written agreement and of the payment of such taxes, shall obtain a refund of 25 percent of the tax paid with respect to such property.

Section 6. Subsection (1) of section 212.055, Florida Statutes, 1976 Supplement, is amended to read:

212.055 Discretionary tax; charter counties; administration and collection.—

(1) Each charter county which adopted a charter prior to June 1, 1976, may levy, subject to the provisions of s. 125.0165 [F. S. 1976 Supp.], a discretionary 1 percent tax on all 5 4 percent taxable transactions under the provisions of this chapter, except that the sales amount above \$1,000 of any one transaction shall not be taxable.

Section 7. Paragraph (a) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

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

(1)(a) The aforesaid tax at the rate of 5 4 percent of the retail sales price as of the moment of sale, 5 4 percent of the cost price as of the moment of purchase, or 5 4 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution and the storage for use or consumption in this state, of tangible personal property. The full amount of the tax on credit sales, installment sales, and sales made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as a cash sale.

Section 8. Subsections (3) and (4) of section 212.08, Florida Statutes, are amended to read:

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

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—

There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5 4 percent.

(4) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES, ETC.—Also exempt are water (not exempting mineral water or carbonated water); all fuels used by a public or private utility, including municipal corporations and rural electric cooperative associations, in the generation of electric power or energy for sale; *fuels and energy used by industry in manufacturing or processing goods for resale*; and motor fuels and special fuels on which a tax is imposed by chapter 206. All other fuels are taxable, except that those used by vessels and vehicles which are licensed as common carriers by the Interstate Commerce Commission or by the Civil Aeronautics Board to transport persons or property in interstate or foreign commerce are taxable only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier, such ratio to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this subsection shall have the same meaning ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the legislature that the classification of alco-

holic beverages made in this subsection for the purpose of extending the tax imposed by this chapter is reasonable and just, and it is intended that such tax be separate from, and in addition to any other tax imposed on alcoholic beverages.

Section 9. Subsections (1), (10) and (11) of section 212.12, Florida Statutes, 1976 Supplement, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for non-compliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transaction; records required.—

(1) For the purpose of compensating the lessors of real and personal property taxed hereunder, and for the purpose of compensating dealers in tangible personal property and for the purpose of compensating owners of places where admissions are collected, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, lessor, owner and dealer shall be allowed 2.4 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him, and the department shall allow the said deduction of 2.4 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, and for paying the amount due to be paid by him provided, however, that the 2.4 3 percent allowance shall not be granted nor shall any deduction be permitted where the tax is delinquent at the time of payment, or where there is a manifest failure to maintain proper records or make proper prescribed reports; and as further compensation to dealers in tangible personal property for the keeping of prescribed records and collection of taxes and remitting the same.

(10) Taxes imposed by this chapter upon the privilege of the use, consumption, or storage for consumption, or sale of tangible personal property, admissions and rentals, and communication services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, rentals, communication services or sale price of such article or articles that are purchased, sold or leased at any one time by or to a customer or buyer, and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, and rentals, communication services and such person or dealer shall add the tax imposed by this chapter to the price, rental or admissions, and communication services and collect the total sum from the purchaser, admittee, lessee or consumer.

(a) Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions and rentals, and communication services, the following brackets shall be applicable to all 5 4 percent taxable transactions:

1. ~~(a)~~ On single sales of less than 10 cents no tax shall be added.
2. ~~(b)~~ On single sales in amounts from 10 cents to 20 25 cents, both inclusive, 1 cent shall be added for taxes.
3. ~~(c)~~ On sales in amounts from 21 26 cents to 40 50 cents, both inclusive, 2 cents shall be added for taxes.
4. ~~(d)~~ On sales in amounts from 41 51 cents to 60 75 cents, both inclusive, 3 cents shall be added for taxes.
5. ~~(e)~~ On sales in amounts from 61 76 cents to 80 cents \$1, both inclusive, 4 cents shall be added for taxes.
6. On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.
7. ~~(f)~~ On sales in amounts of more than \$1, 5 4 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

(b) For those taxable transactions described herein which are taxable at 3 percent, the following brackets shall apply:

1. On single sales of less than 10 cents no tax shall be added.
2. On single sales in amounts from 10 cents to 35 cents, both inclusive, 1 cent shall be added for taxes.
3. On sales in amounts from 36 cents to 65 cents, both inclusive, 2 cents shall be added for taxes.

4. On sales in amounts from 66 cents to \$1, both inclusive, 3 cents shall be added for taxes.

5. On sales in amounts of more than \$1, 3 percent shall be charged on each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

(11) In charter counties which have adopted the discretionary 1 percent tax, the following brackets shall apply: ~~be applicable~~

(a) To all taxable transactions which would otherwise have been 3 4 percent taxable transactions:

1. ~~(a)~~ On single sales of less than 10 cents, no tax shall be added.

2. ~~(b)~~ On single sales in amounts from 10 cents to 25 20 cents, both inclusive, 1 cent shall be added for taxes.

3. ~~(c)~~ On sales in amounts from 26 21 cents to 50 40 cents, both inclusive, 2 cents shall be added for taxes.

4. ~~(d)~~ On sales in amounts from 51 41 cents to 75 60 cents, both inclusive, 3 cents shall be added for taxes.

5. ~~(e)~~ On sales in amounts from 76 61 cents to \$1 80 cents, both inclusive, 4 cents shall be added for taxes.

~~(f)~~ On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.

6. ~~(g)~~ On sales in amounts from \$1 up to, and including, the first \$1,000 in price, 4 5 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

7. ~~(h)~~ On sales in amounts of more than \$1,000 in price, 4 5 percent shall be added upon the first \$1,000 in price; and 3 4 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (10) (b).

(b) To all taxable transactions which would otherwise have been 5 percent taxable transactions:

1. On single sales of less than 10 cents no tax shall be added.

2. On single sales in amounts from 10 cents to 17 cents, both inclusive, 1 cent shall be added for taxes.

3. On sales in amounts from 18 cents to 34 cents, both inclusive, 2 cents shall be added for taxes.

4. On sales in amounts from 35 cents to 50 cents, both inclusive, 3 cents shall be added for taxes.

5. On sales in amounts from 51 cents to 67 cents, both inclusive, 4 cents shall be added for taxes.

6. On sales in amounts from 68 cents to 84 cents, both inclusive, 5 cents shall be added for taxes.

7. On sales in amounts from 85 cents to \$1, both inclusive, 6 cents shall be added for taxes.

8. On sales in amounts from \$1 up to, and including, the first \$1,000 in price, 6 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

9. On sales in amounts of more than \$1,000 in price, 6 percent shall be added upon the first \$1,000 in price; and 5 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (10)(a).

Section 10. Subsection (1) of section 125.0165, Florida Statutes, 1976 Supplement, is amended to read:

125.0165 Discretionary sales tax; adoption; application of revenue.—

(1) Subject to the provisions of this section and pursuant to the provisions of s. 212.055, the governing authority in each charter county which adopted a charter prior to June 1, 1976, is authorized to levy a discretionary additional 1 percent tax on all 3 or 5 4 percent taxable transactions under the provisions of chapter 212 for the purposes of development, construction, equipment, maintenance, operation, supportive services,

and related costs of a fixed guideway rapid transit system. However, the sales amount above \$1,000 of any one transaction shall not be taxable.

Section 11. Legislative intent.—

(1) Additional revenue generated by sections 1 through 9 of this act shall be used to provide monies to each county in an amount equal to the amount of revenue generated by the assessment of inventory as provided in s. 193.511 over and above 10 percent. Each county shall reduce the assessment of all items of inventory from 25 percent to 10 percent of just valuation on the tax roll for the calendar year 1977.

(2) Additional revenue generated by Section 1 through 9 of this act shall be used to provide replacement revenues to local governments to the extent of any loss in revenue by the provision of a 750 kilowatt hour exemption to residential units under the provisions of House Bill 2183 or similar legislation.

Section 12. This act shall take effect July 1, 1977.

House Amendment 2—On page 1, strike all existing language in the title and insert: 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.

On motions by Senator Lewis, the Senate refused to concur in the House Amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Lew Brantley, President

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

By Senator Castor—

SB 425—A bill to be entitled An act relating to the State University System; amending s. 239.665, Florida Statutes, removing certain restrictions on the use of credit cards; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 22, strike "Section 2. This act shall take effect July 1, 1977" and insert:

Section 2. The Florida Postsecondary Education Commission shall study the feasibility of establishing a centralized admissions system and census of student enrollment for use at all levels of undergraduate postsecondary education in Florida. The commission shall begin this study as soon as practicable, and report its recommendations to the Commissioner of Education, the Florida House of Representatives, and the Florida Senate 90 days prior to the next regular session of the Legislature.

Section 3. This act shall take effect July 1, 1977.

On motion by Senator Castor, the Senate concurred in the House Amendment.

SB 425 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Castor	Gorman	Renick	Vogt
Chamberlin	Graham	Scarborough	Ware
Childers, Don	Hair	Skinner	Wilson
Childers, W. D.	MacKay	Spicola	Winn
Dunn	McClain	Thomas, Jon	Zinkil
Firestone	Myers	Thomas, Pat	
Gallen	Peterson	Tobiassen	
Glisson	Poston	Trask	

Nays—None

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 refused to concur in Senate Amendments to House Amendments 1 and 2 and requests the Senate to recede.

Allen Morris, Clerk

By Senator Lewis (by request) and others—

SB 551—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 409.235(2), Florida Statutes; providing that the payment of assistance under the aid to families with dependent children program is discretionary; providing an effective date.

House Amendment 1—On page 1, lines 22 and 23, strike all language and insert: Section 2. Section 409.266, Florida Statutes, is amended to read:

409.266 Medical assistance for the needy.—

(1) The department is authorized to provide medical services ~~through the [department]~~ to any person who:

(a) Is 65 years of age or older, or blind, or permanently and totally disabled, or a spouse of such a person, or children that would, if needy, qualify for aid to families with dependent children, or relatives with whom such children are living, including any dependent children required to be included by the Social Security Act, or children in foster home care; such eligibility as established by regulations of the department.

(b) Is a citizen of the United States or has been a resident of the United States for at least 20 years and resides in this state.

(c) Has not sufficient income resources or assets, as determined by the department, to provide needed medical care without utilizing his resources required to meet his basic needs for shelter, food, clothing, and personal expenses.

(2) The department, ~~through the [department]~~, is hereby authorized to:

(a) Enter into such agreements with fiscal agents, other state agencies, or any agency of the Federal Government and accept such duties in respect to social welfare or public aid as may be necessary or needed to implement the provisions of the Social Security Act pertaining to medical assistance.

(b) *Contract with health maintenance organizations, certified pursuant to part II, chapter 641, for the provision of medical services to eligible persons.*

(3)~~(b)~~ The services herein provided shall be administered by the department in consultation with, and with the advice of, the advisory committee appointed by the secretary.

Section 3. This act shall take effect upon becoming a law.

Senate Amendment 1A to House Amendment 1—On page 1, the second line 16, after the period insert: (4) On January 15 of each year, the Department of Health and Rehabilitative Services shall report to the Legislature with respect to the status of the program of assistance provided under this section.

(5) The department shall establish and maintain an automated management and information system with respect to the program of assistance provided under this section. This system shall be placed in operation no later than July 1, 1977.

(6) The department is authorized to conduct a preliminary investigation into suspected violations of s. 409.325 with respect to the program of assistance provided under this section and report any information it deems necessary to the Auditor General for performance of his duties under s. 11.50.

(a) The department in coordination with the Auditor General shall report any criminal violation that it finds to the appropriate state attorney for prosecution.

(b) If, upon a hearing pursuant to chapter 120, there exists substantial evidence that a provider has violated the provisions of s. 409.325, the department may suspend the privilege of such provider of services to participate in the program of assistance provided by this section.

(c) The department in coordination with the Auditor General shall report the suspension of any physician, osteopathic physician, pharmacist, or nursing home administrator from the participation in the program of assistance provided under this section in writing to the appropriate professional licensing board. Upon such written report by the department, the board shall hold a hearing to determine whether or not any charges which might lead to denial, suspension, or revocation of a license or other disciplinary action should be preferred against such provider of services.

House Amendment 2—On page 1, in title, line 7, insert after the word "discretionary;": amending s. 409.266, Florida Statutes; conforming the statute to the reorganization of the Department of Health and Rehabilitative Services; authorizing the department to contract with certified health maintenance organizations for provision of medical services;

Senate Amendment 2A to House Amendment 2—On page 1, line 5, after the semicolon insert: prescribing additional duties of the Department of Health and Rehabilitative Services with respect to such program of assistance; authorizing the department to investigate suspected fraud or attempted fraud violations under s. 409.325, Florida Statutes, with respect to such assistance; requiring any criminal violation to be reported to the appropriate state attorney; authorizing the department to suspend the privilege of participation in the program of any provider of services whom it finds to have violated s. 409.325, Florida Statutes; requiring any violation by a physician, osteopathic physician, dentist, pharmacist, or nursing home administrator to be reported to the appropriate professional licensing board and requiring such board to conduct a disciplinary proceeding with respect to the violator;

Senator Graham moved the following amendment to Senate Amendment 1A to House Amendment 1 which was adopted:

Senate Amendment 1B—On page 1, strike all of lines 1 through 19, and insert: (4) The department is authorized to report any suspected violations of s. 409.325 with respect to the program of assistance provided under the section to the Auditor General for performance of his duties under s. 11.50.

(a) The Auditor General shall report any criminal violation that it finds to the appropriate state attorney for prosecution.

Senator Graham moved the following amendment to Senate Amendment 2A to House Amendment 2 which was adopted:

Amendment 2B—On page 1, strike all of lines 1 through 5 through the semicolon, and insert: Authorizing the department to report any suspected violations of s. 409.325 to the Auditor General for the performance of his duties pursuant to s. 11.50;

On motions by Senator Graham, the Senate refused to recede from and further amended the Senate amendments to House Amendments 1 and 2, concurred in the House amendments as further amended, and the House was again requested to concur.

SB 551 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Castor	Gorman	Scarborough	Vogt
Chamberlin	Graham	Scott	Ware
Childers, Don	Hair	Skinner	Wilson
Childers, W. D.	MacKay	Spicola	Winn
Dunn	McClain	Thomas, Jon	Zinkil
Firestone	Myers	Thomas, Pat	
Gallen	Poston	Tobiassen	
Glisson	Renick	Trask	

Nays—None

The Honorable Lew Brantley, President

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

By Senator Scarborough—

SB 1236—A bill to be entitled An act relating to pharmacists; adding s. 465.071(4), Florida Statutes; requiring applicants failing the state board examination in pharmacy three times to make a showing of good cause before being allowed to take a subsequent examination; authorizing the Florida Board of Pharmacy to impose conditions on applicants permitted to take subsequent examinations; providing time limitations on the taking of re-examinations except upon a showing of good cause; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 2, line 2, after the period insert: Section 2. Paragraph (c) of subsection (1) of section 465.071, Florida Statutes, is amended to read:

465.071 Qualifications of applicants for examination.—

(1) The Board of Pharmacy shall examine, by written and practical laboratory examinations under such rules and regulations as the board may prescribe, every person who shall have:

(b) Submitted proof satisfactory to the board that he is not less than 21 years of age, of good moral character, and a recipient of a degree from a school or college of pharmacy financially supported by the state or from an accredited school or college of pharmacy as defined by the American Council on Pharmaceutical Education or the National Association of Boards of Pharmacy and approved by the board, which school or college of pharmacy required the applicant to complete not less than 4 academic years of higher educational training consisting of not less than 3,000 hours of instruction in cultural, foundation, and professional courses for the degree in pharmacy and which courses and school or college of pharmacy have been found by the Florida Board of Pharmacy to supply satisfactorily the cultural, foundation, and professional education necessary in training a pharmacist for the protection of public health. Before a noncitizen application is accepted by the board, the applicant must submit proof to the board that he is qualified to become a United States citizen and, further, that he has made application for his citizenship. Upon successful completion of the examination, the noncitizen applicant shall be duly licensed. However, if for any reason his citizenship application is withdrawn or denied, his pharmacy license shall be automatically revoked.

and renumber the subsequent sections

House Amendment 2—On page 1 in title, line 12, after the semicolon, insert: amending s. 465.071 (1)(b), Florida Statutes, removing certain requirements for applicants for examination for licensure as pharmacists;

House Amendment 3—On page 1, line 14, after the colon, insert:

Section 1. Paragraph (j) of subsection (2) of section 458.13, Florida Statutes, is amended to read:

458.13 Definition of practice of medicine; limitations, exceptions, etc.—

(2) This chapter shall not be construed as applying to:

(j) Any person employed as a physician in a state institution.

Section 2. Subsection (5) of section 459.03, Florida Statutes, is amended to read:

459.03 Chapter not applicable to practice of medicine, surgery, chiropractic, etc.—The provisions of this chapter shall have no application to:

(5) Any person employed as a physician in a state institution of this state.

Section 3. Section 460.262, Florida Statutes, is amended to read:

460.262 Exemptions; exceptions.—

(1) This chapter shall not be construed to apply to:

(1)(a) Any physician of medicine, known as M.D., osteopath, podiatrist, naturopath, optometrist, nurse, pharmacist, dentist, or midwife who are duly licensed by their respective state boards, and are practicing their professions within the purview of the statutes applicable to their respective professions;

(2)(b) Any person furnishing medical assistance in case of an emergency;

(3)(c) The domestic administration of family remedies;

(4)(d) The practice of the religious tenets of any church;

(e) Any unlicensed chiropractic physician employed as a chiropractic physician in a state institution, provided such person is qualified for licensure by the board in all respects except as to citizenship, and shall work under the supervision of a licensed chiropractic physician. Such person is exempt from the licensing provisions of this chapter for a period of 3 years, however, the exemption as provided in this subsection is subject to the limitation contained in subsection (2).

(2) Every chiropractic physician without a license employed in a state institution shall register with the State Board of Chiropractic Examiners and the [Department of Health and Rehabilitative Services] showing the date upon which he started to work. No state institution may employ any such person unless expressly authorized by the board.

Renumber subsequent sections.

Section 4. The licensing requirements in chapters 458, 459, and 460, Florida Statutes, to the contrary notwithstanding, persons employed as physicians, osteopathic physicians, or chiropractic physicians in a state institution on the effective date of this act may be exempted from licensure in accordance with the following provisions:

(1) No more than 10 percent of such persons shall be exempted from licensure during their continued employment in a state institution. Those persons who shall be so exempted shall be selected by the Secretary of the Department of Health and Rehabilitative Services. In making his selection, the Secretary shall submit his recommendations to the appropriate licensing board for a determination by the board, without written examination of whether or not the person recommended meets the professional standards required of such person in the performance of his duties or functions. The criteria to be used by the respective board in making its determination shall include, but not be limited to, the person's professional educational background, formal specialty training and professional experience within the 10 years immediately preceding employment by the state institution.

(2) Those persons not exempted pursuant to subsection (1) shall not be required to obtain a license from the applicable licensing board in accordance with the provisions of chapter 458, 459, or 460, Florida Statutes, prior to October 1, 1980, as a prerequisite to their continued employment as a physician, osteopathic physician, or chiropractic physician in a state institution during the 3-year period.

No person subject to the provisions of this section shall, by virtue of his continued employment in accordance with such provisions, be in violation of the provisions of s. 458.15(2), s. 459.18 (1), or s. 460.165, Florida Statutes, during such period of employment.

Section 5. This act shall take effect October 1, 1977.

House Amendment 4—On page 1, in title, line 2, after the semicolon, insert: ss. 458.13(2)(j), 459.03(5), and 460.262, Florida Statutes, deleting provisions which exempt persons employed as physicians, osteopathic physicians, and chiropractic physicians in state institutions from licensure requirements; providing for permanent and temporary exemptions of such persons so employed on the effective date of the act; exempting such persons from provisions prohibiting the applicable practice without a license;

Senator Scarborough offered the following amendment to House Amendment 3 which was moved by Senator Wilson and adopted:

Amendment 1—On page 2, strike last line

Senator Scarborough offered the following amendment to House Amendment 4 which was moved by Senator Wilson and adopted:

Amendment 1—On page 1, line 4, before "ss. 458.13(2)(j)" insert: amending

On motions by Senator Wilson, the Senate concurred in House Amendments 3 and 4 as amended and the House was requested to concur.

On motions by Senator Wilson, the Senate concurred in House Amendments 1 and 2.

SB 1236 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Castor	Glisson	Peterson	Tobiassen
Chamberlin	Gorman	Poston	Trask
Childers, Don	Graham	Renick	Vogt
Childers, W.D.	Hair	Scott	Ware
Dunn	MacKay	Spicola	Wilson
Firestone	McClain	Thomas, Jon	Winn
Gallen	Myers	Thomas, Pat	

Nays—None

The President presiding

The Honorable Lew Brantley, President

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

By the Committee on Education and Senator Graham and others—

CS for SB 869—A bill to be entitled An act relating to education; creating ss. 239.90-239.97, Florida Statutes, providing for the creation of the Florida Student Financial Assistance Commission within the Department of Education to administer the comprehensive program of student grants, scholarships, loans, and loan guarantees authorized by law for eligible citizens; providing for the membership, terms, payment, powers and duties of the commission; providing for the programs and activities of the commission; providing for the funding of the commission and programs administered by the commission; creating a Student Loan Guaranty Reserve Fund; providing for the location of the commission; providing for the financial and legal requirements of the commission; amending s. 230.761, Florida Statutes, and s. 240.052, Florida Statutes, 1976 Supplement; providing for the adoption of rules relating to deferral of payment of student fees; amending s. 239.705(2), Florida Statutes, 1976 Supplement; authorizing the outstanding amount of student loan revenue bonds to be increased from \$65 million to \$80 million after October 1, 1977; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 1, strike everything after the enacting clause and insert:

Section 1. Section 239.90, Florida Statutes, is created to read:

239.90 Florida Student Financial Assistance Commission.—

(1) There is hereby established the Florida Student Financial Assistance Commission which is assigned to the Department of Education. The commission shall serve as a state-chartered, nonprofit corporation to administer the comprehensive program of student grants, scholarships, loans, and loan guarantees authorized by law for citizens declared eligible under the applicable provisions of the law. The commission shall include nine members appointed as follows:

(a) Three persons from the commercial financial community in Florida appointed by the Governor.

(b) Three persons from the postsecondary education community in Florida appointed by the Governor.

(c) One student currently enrolled in postsecondary education in Florida appointed by the Governor.

(d) Two lay citizens who do not derive a majority of their income from education or the commercial financial field appointed by the Governor.

(2) Each of the members shall be appointed subject to the confirmation by the Senate for a term of 3 years. Of the original members appointed, three shall serve for a term of 1 year, three shall serve for a term of 2 years, and three shall serve for a term of 3 years. All members shall be residents of this state. In the event of a vacancy on the commission caused other than by expiration of a term, the appointing authority shall appoint a successor to serve the unexpired term.

(3) Members shall be paid travel and per diem expenses as provided in s. 112.061 while performing their duties under the provisions of this act.

Section 2. Section 239.91, Florida Statutes, is created to read:

239.91 Powers and duties of the commission.—

(1) The commission shall:

(a) Hold such meetings as are necessary to efficiently administer the provisions of this act.

(b) Adopt and use an official seal in the authentication of its acts.

(c) Adopt rules for its own government.

(d) Recommend rules to the State Board of Education.

(e) Administer this act and the rules adopted by the State Board of Education.

(f) Appoint, on the recommendations of its chairman, executives, deputies, clerks, and employees of the commission.

(g) Maintain a record of its proceedings.

(h) Cooperate with state and federal agencies in administering the provisions of this act.

(i) Prepare an annual budget.

(2) The commission may:

(a) Sue or be sued.

(b) Enter into contracts for services or contracts to provide services with the federal government, state departments and agencies, or with individuals.

(c) Receive bequests and gifts.

(d) Appoint committees to assist in carrying out applicable provisions of the law.

Section 3. Section 239.92, Florida Statutes, is created to read:

239.92 Administration by the commission.—

(1) The provisions of this act shall be administered by the commission pursuant to law and rules adopted by the State Board of Education.

(2) Where federal funding, insurance, or reinsurance is applicable to an assistance program administered by the commission, such shall be administered in full compliance with applicable federal law and regulation.

Section 4. Section 239.93, Florida Statutes, is created to read:

239.93 Assistance programs and activities of the commission.—

(1) The commission may contract for the administration of the student financial assistance programs provided in chapters 239 and 295 as specifically provided below:

- (a) Section 239.34.
- (b) Section 239.371.
- (c) Sections 239.38, 239.41, 239.42, 239.43, 239.44, and 239.441.
- (d) Section 239.451.
- (e) Section 239.461.
- (f) Sections 239.47, 239.49, 239.50, 239.51, and 239.52.
- (g) Section 239.66.
- (h) Sections 239.67, 239.671, and 239.672.
- (i) Sections 239.70, 239.705, 239.71, 239.715, 239.72, 239.725, 239.73, 239.735, 239.74, 239.745, 239.755, 239.76, and 239.80.
- (j) Section 295.01.

(2) The commission may contract to provide the planning and development activities provided in ss. 239.68 and 239.69.

(3) The commission shall administer the guarantee of student loans made by participating commercial financial institutions in such manner as to fully comply with applicable provisions of the Higher Education Act of 1965, as amended, relating to loan reinsurance.

Section 5. Section 239.94, Florida Statutes, is created to read:

239.94 Funding for programs administered by the commission.—

(1) In the preparation of its annual budget, the commission shall request that the Florida Legislature continue to provide funding for applicable programs from the General Revenue Fund.

(2) The commission is authorized to expend moneys from available trust funds in applicable student financial assistance programs.

(3) There is hereby created a Student Loan Guaranty Reserve Fund which shall be administered by the commission in carrying out the provisions of this act.

(4) The principal sources of operating funds shall be from the earnings from the temporary investment of the Student Loan Guaranty Reserve Fund and from compensation for services performed under contract for the administration of student financial assistance programs pursuant to s. 239.93 (1).

(5) The commission is authorized to accept grant funds under the state student incentive grant program of the federal government as provided by the Higher Education Act of 1965, as amended.

(6) The commission is authorized to accept federal advances for the establishment of the Student Loan Guaranty Reserve Fund pursuant to the Higher Education Act of 1965, as amended, under agreement with the United States Commissioner of Education and to maintain such advances until recalled by the United States Commissioner of Education.

(7) The commission is authorized to assess a student loan insurance premium on each loan guaranteed by the commission. The amount of insurance premium will be determined by the commission in the amount sufficient to maintain the pledged level of reserve funds but in no event may exceed the maximum provided by federal law.

(8) The commission shall invest or contract for the temporary investment of any unencumbered cash and the interest earned therefrom, except as otherwise provided for by law or covenant, shall accrue to the Student Loan Guaranty Reserve Fund or for the administration of the commission.

Section 6. Section 239.95, Florida Statutes, is created to read:

239.95 Location of the commission.—

(1) The principal offices of the commission shall be in Leon County, Florida; provided, that the commission is authorized to establish secondary offices elsewhere in the state when determined to be necessary and feasible by the commission. The principal location of the commission, for legal purposes, shall be Leon County, Florida, and all legal actions sought by the commission shall be initiated in Leon County, Florida.

(2) The commission is authorized to rent, lease, or otherwise purchase or occupy sufficient physical office space, equipment, supplies, and services necessary to administer the programs of the commission.

Section 7. Section 239.96, Florida Statutes, is created to read:

239.96 Financial and legal requirements of the commission.—

(1) The commission is authorized to establish banking accounts under negotiated terms and is authorized to perform necessary financial transactions.

(2) The Auditor General shall annually conduct post-audits and performance audits of the books, records and accounts of the commission.

Section 8. Subsection (2) of section 230.761, Florida Statutes, is amended to read:

230.761 Financial support of community colleges.—

(2) STUDENT FEES.—

(a) Fees may be charged to students attending a community college only as authorized by and pursuant to rules of the state board.

(b) *The state board shall adopt rules permitting the deferral of registration and tuition fees for those students receiving financial aid other than veterans benefits from federal or state assistance programs, where such aid is delayed in being transmitted to the student through circumstances beyond the control of the student. Failure to make timely application for such aid shall be insufficient reason to receive such deferral.*

Section 9. Subsection (5) is added to section 240.052, Florida Statutes, 1976 Supplement, to read:

240.052 Admission of students; fees.—

(5) *The Board of Regents shall adopt rules permitting the deferral of registration and tuition fees for those students receiving financial aid other than veterans benefits from federal or state assistance programs, where such aid is delayed in being transmitted to the student through circumstances beyond the control of the student. Failure to make timely application for such aid shall be insufficient reason to receive such deferral.*

Section 10. Subsection (2) of section 239.705, Florida Statutes, 1976 Supplement, is amended to read:

239.705 Issuance of revenue bonds pursuant to s. 15, Art. VII, State Constitution.—

(2) The amount of such revenue bonds to be issued shall be determined by the Division of Bond Finance of the Department of General Services. However, the total principal amount outstanding ~~issued~~ shall not exceed \$80 ~~\$65~~ million, other than re-funding bonds issued pursuant to s. 215.79.

Section 11. This act shall be effective as of July 1, 1977; provided, that no revenue bonds in excess of the total principal amount of \$65 million shall be issued prior to October 1, 1977.

On motion by Senator Peterson, the Senate concurred in the House Amendment.

CS for SB 869 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Votes after roll call:

Yeas—Myers, Williamson

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 amendment—

By the Committee on Governmental Operations and Senator Peterson—

CS for SB 653—A bill to be entitled An act relating to the ownership, custody, and control of state-owned aircraft, motor vehicles, facilities, and equipment used for law enforcement and fire control; amending s. 287.16(2), Florida Statutes, exempting state-owned aircraft, motor vehicles, facilities, and equipment used for law enforcement or fire control from transfer of ownership, custody, and control to the Department of General Services; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, strike all of lines 24 and 25, and insert: law enforcement or fire control purposes, to the Department of General

On motion by Senator Peterson, the Senate concurred in the House Amendment.

CS for SB 653 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gorman	Renick	Vogt
Chamberlin	Hair	Scarborough	Ware
Childers, Don	Henderson	Skinner	Williamson
Childers, W. D.	Holloway	Spicola	Winn
Dunn	MacKay	Thomas, Jon	Zinkil
Firestone	Myers	Thomas, Pat	
Gallen	Peterson	Tobiassen	
Glisson	Poston	Trask	

Nays—None

Vote after roll call:

Yea—McClain

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 the Committee on Natural Resources and Conservation and Senator Spicola and others—

SB 575—A bill to be entitled An act relating to safe drinking water; creating ss. 403.850-403.864, Florida Statutes; providing short title, declaration of policy, and definitions; requiring the Department of Environmental Regulation to adopt primary and secondary drinking water regulations; providing variances and exemptions from the regulations; authorizing the

department to take such actions as it deems necessary when presented with imminent hazards; requiring the department to adopt a plan for emergency provision of drinking water; providing for notice to users and regulatory agencies whenever there is a problem with the public water supply system or a failure to comply with regulations; providing for inspections of public water systems; prescribing prohibited acts; providing penalties and remedies; providing the powers and duties of the department; providing for the powers and duties of the Department of Health and Rehabilitative Services with respect to the act and for a coordinated budget request with the Department of Environmental Regulation; requiring a state public water supply laboratory certification program and a public water supply accounting program; amending s. 381.261, Florida Statutes; providing the Department of Health and Rehabilitative Services with certain supervisory duties over water systems not covered by this act; amending s. 381.291, Florida Statutes; authorizing the Department of Health and Rehabilitative Services to issue orders requiring owners to correct water systems, not covered by this act, which systems constitute a nuisance or menace to the public health; adding s. 403.101 (3)-(7), Florida Statutes; providing for the regulation of operators of water purification and wastewater treatment plants; prescribing fees with respect to examination and certification; repealing ss. 381.2611, 381.271, 381.281, 381.293, Florida Statutes; deleting the powers and duties of the Division of Health as they relate to water supply systems, methods of water purification, and disposal of drainage, sewage, and refuse, and regulation of operators of purification and wastewater treatment plants; providing severability; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 4, line 17, 18, strike “which may adversely affect public health or welfare”

House Amendment 2—On page 10, line 18, insert after the word “enter”: , take water samples from,

House Amendment 3—On page 10, line 23, insert after the word “rules”: or orders

House Amendment 4—On page 11, lines 25, through 27, strike all of subsection (1) and renumber subsequent sections

House Amendment 5—On page 11, line 30, strike “s. 403.859 (2) or (6)” and insert: s. 403.859 (1), (2), (4), (5) or (6)

House Amendment 6—On page 14, line 28 after the word “analysis” insert: and to keep sampling records as required under the federal act and make such records available to the department upon request

House Amendment 7—On page 14, line 27, strike “and” and insert: (,)

House Amendment 8—On page 7, line 1, after the word “the” insert: corresponding

House Amendment 9—On page 3, line 8, insert after the period: Without any relinquishment of Florida’s sovereign powers and responsibilities to provide for the public health, public safety, and public welfare of the people of Florida, the Legislature intends:

(1) To give effect to Public Law 93-523 promulgated under the commerce clause of the United States Constitution to the extent that interstate commerce is directly affected,

(2) To encourage cooperation between federal, state, and local agencies, not only in their enforcement, but also in their service and assistance roles to city and county elected bodies, and

(3) To provide for safe drinking water at all times throughout the state with due regard for economic factors and efficiency in government.

House Amendment 10—On page 5, line 24, insert after the word "department," : after public hearings,

House Amendment 11—On page 8, lines 3 through 10, strike entire section and insert: 403.854 Variances and exemptions.—

(1) The department may authorize variances or exemptions from the regulations issued pursuant to § 403.853 under conditions and in such manner as it deems necessary and desirable; provided that such variances or exemptions are authorized under such conditions and in such manner as are no less stringent than the conditions under which and the manner in which variances and exemptions may be granted under the federal act.

(2) The department shall exempt public water systems from any requirements respecting a maximum contaminant level or any treatment technique requirement, or both, when:

(a) Due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement;

(b) The public water system was in operation on the effective date of such contaminant level or treatment technique requirement; and

(c) The granting of the exemption will not result in an unreasonable risk to health.

Proposed additions to existing treatment plants not under contract for construction on the effective date of this act shall not be automatically exempt.

(3) (a) When the department receives an application for exemption, the department shall act upon such application within a time period under Section 1416 (g) of Public Law 93-523 or the Florida Administrative Procedure Act, whichever is earlier.

(b) The department shall prescribe a compliance schedule for the exempted system and shall notify the Environmental Protection Agency Administrator personally by certified mail pursuant to Public Law 93-523, Section 1416 (b) and (c).

House Amendment 12—On page 14, line 11, insert after the word "regulations": , including taking sanitary surveys

House Amendment 13—On page 4, lines 3 and 4, strike "(4) 'Noncommunity water system' means a public water system that is not a community water system." and insert: (4) "Noncommunity water system" means a public water system for provision to the public of piped water for human consumption that serves at least 25 individuals daily at least 60 days out of the year but that is not a community water system.

On motions by Senator Spicola, the Senate concurred in House Amendments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

SB 575 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Graham	Peterson	Thomas, Pat
Castor	Hair	Poston	Tobiassen
Chamberlin	Henderson	Renick	Trask
Childers, Don	Holloway	Sayler	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Dunn	MacKay	Skinner	Williamson
Firestone	McClain	Spicola	Winn
Gorman	Myers	Thomas, Jon	

Nays—None

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 Senators Henderson and Gallen—

SB 875—A bill to be entitled An act relating to the Health Facilities Authorities Law; amending s. 154.205(9), Florida

Statutes; redefining, for purposes of such law, "local agency" to include municipalities as well as counties, thereby authorizing each municipality to create a health facilities authority under that law; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, strike all of lines 21 and 22 and insert: Section 2. Short title.—This act may be cited as "The Florida Health Care Responsibility Act."

Section 3. Legislative intent.—It is the intent of the Legislature to place the ultimate financial obligation for the medical treatment of indigents on the county in which the indigent resides, for all those costs not fully reimbursed by other governmental programs or third-party payors.

Section 4. Definitions.—For the purpose of this act:

(1) "Certified indigent patient" means a patient who has been certified as indigent by the county in which he resides.

(2) "Department" means the Department of Health and Rehabilitative Services.

(3) "Hospital" means an establishment as defined in s. 395.01, Florida Statutes, and licensed by the department except that hospitals operated by the department shall not be considered hospitals for purposes of this act.

(4) "Regional referral hospital" means any hospital that provides services to patients who reside in counties other than the county in which the hospital is located.

Section 5. Financial responsibility for out of county indigent patients treated at a regional referral hospital.—Ultimate financial responsibility for treatment received at a regional referral hospital by a certified indigent patient, who is a resident of the State of Florida but is not a resident of the county in which the regional referral hospital is located, shall be the obligation of the county of which the certified indigent patient is a resident. A county's financial responsibility for each of its resident certified indigent patients receiving treatment at a regional referral hospital shall be limited to payment for 12 days of services per admission, not to exceed 45 days per annum, at the per diem reimbursement rate currently in effect for the regional referral hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended. However, no county shall be required to pay for services at a regional referral hospital when such services are available at a local hospital in the county where the indigent resides, except that the county where the indigent resides shall be in all instances liable for the cost of treatment provided to said certified indigent at a regional referral hospital for any emergency medical condition which will deteriorate from failure to provide such treatment and when such condition is determined by the attending physician to be of an emergency nature.

Section 6. Certification of indigency for the purpose of this act; rules.—Not later than October 1, 1977, the department, in consultation with the Florida Association of County Welfare Executives, shall adopt rules which provide a statewide eligibility standard to certify residents of each county as indigent for the purposes of this act. These rules shall further provide that certification as indigent for the purposes of this act may occur either prior to a person's admission to a regional referral hospital or subsequent to such admission, but in any event if a determination of whether a patient meets or does not meet eligibility standards for certification as indigent for the purpose of this act is not made within 30 days following notification to the county of residence of the patient's admission to a regional referral hospital, the patient shall be considered to have been a certified indigent patient upon admission. A patient certified as indigent for the purpose of this act subsequent to his or her admission to a regional referral hospital shall be considered to have been certified upon admission. Such certification shall be made by a person designated by the board of county commissioners, or in the absence of such a designated person, by the director of the full time health unit. Furthermore, any county may establish standards of eligibility which are less restrictive than the standards adopted by the department under this section and no county may establish standards which are more restrictive than the standards adopted by the department under this section.

Section 7. Obligation of the regional referral hospital.—As a condition of accepting the procedures of this act, each regional referral hospital in Florida shall be obligated to admit for treatment all Florida residents who meet the eligibility standards established pursuant to section 5 and who meet the medical standards for admission to such institutions.

Section 8. Procedure for settlement of disputes.—All disputes between a county and a regional referral hospital shall be resolved by order as provided in chapter 120, Florida Statutes.

Section 9. Certification of the State of Florida.—In the event payment for the costs of services rendered by a regional referral hospital is not received from the responsible county within 60 days of receipt of a statement for services rendered or if the payment is disputed and said payment is not received from the responsible county within 30 days of the date of exhaustion of all administrative and legal remedies as provided in chapter 120, Florida Statutes, the hospital shall certify the amount due to the Comptroller who shall forward the amount delinquent to the appropriate regional referral hospital from any funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution.

Section 10. No patient shall be treated or admitted except in the case of an emergency, to a regional referral hospital as an indigent unless and until the board of county commissioners of the county providing certification notifies the hospital that the patient is certified as an indigent and that he is approved by the board for treatment or admission.

Section 11. This act shall take effect October 1, 1977, except that Section 1. shall take effect upon becoming a law.

House Amendment 2—On page 1 in title, line 8, after the semicolon insert: creating the Florida Health Care Responsibility Act; providing legislative intent; providing definitions; providing that ultimate financial responsibility for the cost of treatment of a patient certified to be indigent, who is a resident of one county but receives services from a hospital in another county, shall be placed with the county of which the patient is a resident; providing limitations on such responsibility; providing that the Department of Health and Rehabilitative Services shall adopt rules for certifying patients as indigent; requiring hospitals to admit certified indigents under certain conditions; providing that disputes between hospitals and counties shall be resolved according to the provisions of chapter 120, Florida Statutes; providing that when a hospital does not receive payment from a county certain tax-sharing or revenue-sharing funds designated for said county may be directly forwarded to said hospital by the Comptroller;

House Amendment 3—On page 1 in title, line 2, after the word "to": insert: health care facilities and to

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

SB 875 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

The bill was ordered engrossed and then enrolled.

On motion by Senator Myers, the Senate reconsidered the vote by which—

By Senator Myers and others—

SB 94—A bill to be entitled An act relating to condominiums and cooperatives; creating ss. 718.122—718.124 and 719.109—719.111, Florida Statutes; prohibiting infringement upon right of owners to peaceably assemble at reasonable times and in a reasonable manner on common elements, common areas or recreational facilities; prohibiting infringement upon right of owner to invite public officers or candidates for public office to appear and speak on common elements, common areas or recreational facilities at reasonable times and in a reasonable manner; providing for injunction upon the application of an aggrieved owner; providing an effective date.

—passed this day.

On motion by Senator Myers, the Senate reconsidered the vote by which the Senate concurred in House Amendment 2.

Senator Myers moved the following amendment to House Amendment 2 which was adopted:

Amendment 2—On page 2, lines 16-25, strike all of section 3 and insert: Section 3. Paragraph (b) 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:

(b) Unless otherwise provided in the bylaws, the percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be a majority of the units, ~~the owners of 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 by proxy.

On motion by Senator Myers, the Senate concurred in House Amendment 2 as amended and the House was requested to concur.

SB 94 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Henderson	Sayler	Trask
Castor	Johnston	Scarborough	Vogt
Childers, Don	MacKay	Scott	Ware
Dunn	McClain	Skinner	Williamson
Firestone	Myers	Spicola	Winn
Glisson	Plante	Thomas, Jon	
Gorman	Poston	Thomas, Pat	
Hair	Renick	Tobiassen	

Nays—None

Votes after roll call:

Yeas—W. D. Childers, Graham

The Honorable Lew Brantley, President

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

By Senator Vogt—

SB 1012—A bill to be entitled An act relating to the Public Service Commission; repealing ss. 347.08, 347.09, 347.10, 347.11, 347.12, 347.13, 347.14, 347.15, 347.16, 347.17, and 347.18, Florida Statutes, relating to regulation of certain bridges, causeways, tunnels, toll highways, and ferries; amending s. 350.11, Florida Statutes, redefining common carrier as related to vessels; creating s. 350.125, Florida Statutes, requiring a certificate of public convenience and necessity to operate as a common carrier any vessel of 10 tons net or over; specifying contents of applications for certificates and filing fees therefor; specifying notice, hearing and disposition requirements for applications for certificates; providing that the Public Service Commission may consider and act upon an application without a hearing in the absence of any protest against said application; providing that such certificates be subject to the provisions of

ss. 323.041, 323.06, 323.07 and 323.08, Florida Statutes; providing an exemption; providing that the provisions of s. 350.125, Florida Statutes, shall also apply to applications for the operation of ferry facilities; providing for the transfer to chapter 338 of bridge franchises under the Public Service Commission for regulation by the Florida Department of Transportation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 8, line 4, add new Section 3 and renumber subsequent sections: 350.01(2) One member of the Commission shall be elected by majority vote to serve as Chairman for a term of 2 years. It shall be the duty of the chairman to serve as chief administrative officer of the Commission and in that capacity determine which proceedings shall be assigned to and heard by the full Commission or whether it should be assigned to a fewer number of Commissioners. This section shall not prohibit a Commissioner from conducting a hearing as provided under s. 120.57(1), s. 323.07 or s. 350.631, and the rules of the Commission adopted pursuant thereto.

Amendment 2—On page 1 in title, line 24, insert after the word "exemptions": Providing hearing procedures, 350.01(2);

Amendment 3—On page 8, line 18, insert new sections 5. and 6.: Section 5. Section 350.58, Florida Statutes, is amended by adding a new subsection (2) to read:

350.58 Annual Report to Governor.—

(2) The Commission may, by September 30 of each year, file with the Governor the balance sheet and statement of operations required to be filed with the Comptroller and the Auditor General required by section 216.102(1), Florida Statutes, in lieu of the annual report.

Section 6. Section 350.77, Florida Statutes, is amended by adding a new subsection (3) (renumbering subsequent subsections) to read:

350.77 Fees for copies; disposition and record.—

(3) The Commission is hereby authorized and directed to make available on an annual subscription basis a weekly summary of orders and copies of conference agendas at a charge to be determined by the Commission at no more than \$52 per year for the weekly summary and not more than \$26 per year for the agenda.

RENUMBER SUBSEQUENT SECTIONS

Amendment 4—On page 1 in title, line 31, strike "providing an effective date." and insert: Amending section 350.58, Florida Statutes, by adding a new subsection (2) providing an alternative method to the filing of annual reports to the Governor by the Public Service Commission; amending section 350.77, Florida Statutes, by adding a new subsection (3) authorizing the Florida Public Service Commission to furnish a weekly summary of orders and copies of conference agendas for sale on an annual subscription basis at a charge to be determined by the Public Service Commission; providing an effective date.

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

Amendment 1—On page 1, strike lines 1 through 7, and insert: Section 3. Section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commissioners; election.—

(1) The Florida Public Service Commission shall consist of three commissioners elected by the qualified electors of this state for terms of 4 years each dating from the expiration of the present existing terms of said commissioners.

(2) One member of the Commission shall be elected by majority vote to serve as Chairman for a term of 2 years. It shall be the duty of the chairman to serve as chief administrative officer of the Commission and in that capacity determine which proceedings shall be assigned to and heard by the full Commission or whether it should be assigned to a fewer number of Commissioners. This section shall not prohibit a Commissioner from conducting a hearing as provided under s. 120.57(1), s. 323.07 or s. 350.631, and the rules of the Commission adopted pursuant thereto.

Senator Vogt moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—On page 1 in title, strike line 1 and insert: amending s. 350.01, Florida Statutes; providing for election and duties of the chairman of the commission

On motions by Senator Vogt, the Senate concurred in House Amendments 1 and 2 as amended and the House was requested to concur.

On motions by Senator Vogt, the Senate concurred in House Amendments 3 and 4.

SB 1012 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

The Honorable Lew Brantley, President

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

CS for SB 1175	SB 428	SB 1277
SB 1145	SB 883	SB 461
SB 722		

Allen Morris, Clerk

The bills contained in the above message were ordered enrolled.

SPECIAL ORDER, continued

HB 2202—A bill to be entitled An act relating to flood plain management for state property; amending the introductory paragraph of s. 235.26, Florida Statutes, directing the Office of Educational Facilities Construction to recommend and the State Board of Education to adopt federally prescribed flood plain management criteria in the State Uniform Building Code for public school construction; adding subsection (6) to s. 255.25, Florida Statutes, directing the Division of Building Construction and Property Management of the Department of General Services to assure compliance with federally prescribed flood plain management criteria in all construction and renovation of state-owned buildings; amending s. 284.01(1), Florida Statutes, providing for certain flood insurance for state-owned structures; providing an effective date.

—was read the second time by title. On motion by Senator Vogt, by two-thirds vote HB 2202 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Graham

SB 1426—A bill to be entitled An act relating to hotels and restaurants; creating ss. 509.401-509.417, Florida Statutes; providing for a writ of distress and a prejudgement writ of distress; providing the innkeeper with the right to lockout a guest with a large outstanding account; defining innkeeper, guest, and account; providing for an innkeeper's writ of distress; providing for the elements of the complaint; providing for a prejudgement writ of distress; providing for execution of the writ and disposition of seized property; providing exemptions; providing for action to be taken when judgement is entered; providing for costs and attorney's fee; providing for sale of the distrained property; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendments which were adopted:

Amendment 1—On page 2, line 8, strike "tenant,"

Amendment 2—On page 2, line 14, after the word "establishment" insert: without a written lease

Amendment 3—On page 2, lines 17 and 18, strike "after waiting a period of 48 hours from the" and insert: upon

Amendment 4—On page 7, line 15 after the word "damages", line 23 after the word "property" line 25 after the word "judgement" insert: , which may include reasonable attorney fees and costs,

Amendment 5—On page 8, line 20, after the word "property," insert: which may include

Amendment 6—On page 8, line 28, strike "Plus" and insert: , which may include

On motion by Senator Vogt, by two-thirds vote SB 1426 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gorman	Poston	Vogt
Castor	Graham	Renick	Ware
Chamberlin	Hair	Scarborough	Williamson
Childers, Don	Henderson	Scott	Winn
Dunn	Holloway	Skinner	Zinkil
Firestone	Johnston	Spicola	
Gallen	McClain	Thomas, Jon	
Glisson	Peterson	Trask	

Nays—None

SB 256—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.052, Florida Statutes, 1976 Supplement; to provide that the employer may pay three-fourths of the entire contribution with respect to each justice or judge who is a member of the Elected State Officers' Class; giving a justice or judge who is not a member of such class the right, for a limited period, to transfer to such class; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining offered the following amendment which was moved by Senator Hair:

Amendment 1—On page 4, line 4, strike the word "or" and following the words, "County Court Judge" insert: , or state attorney

Senator Hair moved the following substitute amendment which was adopted:

Amendment 2—On page 4, lines 3 and 4 strike all of said lines and insert: (e) Any Governor, Lieutenant Governor, Cabinet Officer, Supreme Court Justice, District Court of Appeal Judge, Circuit Judge, County Court Judge, State Attorney, Public Service Commissioner, or Public Defender who is

The Committee on Personnel, Retirement and Collective Bargaining offered the following amendment which was moved by Senator Hair:

Amendment 3—On page 5, line 22, strike the word "or" and following the words, "County Court Judge" insert: , or state attorney

Senator Hair moved the following substitute amendment which was adopted:

Amendment 4—On page 5, lines 21 and 22, strike all of said lines and insert: class who is a Governor, Lieutenant Governor, Cabinet Officer, Supreme Court Justice, District Court of Appeal Judge, Circuit Judge, County Court Judge, State Attorney, Public Service Commissioner, or Public Defender shall contribute

The Committee on Appropriations offered the following amendments which were moved by Senator Hair and adopted:

Amendment 5—On page 1, line 26, after "State Attorney," insert: Public Defender,

Amendment 6—On page 2, line 7, after "State Attorney," insert: Public Defender,

Senator Scott moved that further consideration of SB 256 as amended be deferred and the motion failed.

Senator Hair moved the following amendment which was adopted:

Amendment 7—On page 8, lines 10-12, strike all of said lines and insert: (8) There is hereby appropriated \$55,080 from the General Revenue Fund to make such payments

The Committee on Personnel, Retirement and Collective Bargaining offered the following amendment which was moved by Senator Hair:

Amendment 8—On page 1, lines 6 and 8, insert after the word "Judge": or state attorney

Senator Hair moved the following substitute amendment which was adopted:

Amendment 9—On page 1, lines 6-9, strike all of said lines and insert: with respect to certain members of the Elected State Officers Class; giving certain officers the right, for a limited period,

Senator Hair moved the following amendment which was adopted:

Amendment 10—On page 1, line 4, after the semicolon ";," insert: adding public defenders to Elected State Officers Class;

On motion by Senator Hair, by two-thirds vote SB 256 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27

Mr. President	Graham	Poston	Thomas, Pat
Childers, W. D.	Hair	Renick	Tobiassen
Dunn	Henderson	Scarborough	Trask
Firestone	Holloway	Scott	Ware
Gallen	Johnston	Skinner	Williamson
Glisson	McClain	Spicola	Winn
Gorman	Peterson	Thomas, Jon	

Nays—3

Childers, Don Vogt Zinkil

Votes after roll call:

Nay—Sayler

Yea to Nay—Graham

Abstained from voting:

I did not vote on SB 256 because my husband is a county judge.

Betty Castor, 23rd District

Consideration of CS for HB 1641 was deferred.

HB 2269—A bill to be entitled An act relating to horseracing; amending s. 550.39(2), Florida Statutes, and adding a new subsection, relating to certain payments in lieu of taxes now imposed upon horseracing tracks; providing a fixed daily license fee for quarter horse race meets; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 2269 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Glisson	Plante	Tobiassen
Barron	Gorman	Poston	Vogt
Castor	Hair	Renick	Ware
Chamberlin	Holloway	Scarborough	Williamson
Childers, W. D.	Johnston	Skinner	Wilson
Dunn	MacKay	Spicola	Winn
Firestone	McClain	Thomas, Jon	Zinkil
Gallen	Peterson	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Graham

HB 2270—A bill to be entitled An act relating to quarter horse racing; adding subsection (13) to s. 550.16, Florida Statutes; providing for payment of an additional 1 percent from total contributions to quarter horse pari-mutuel pools to be deposited in the Florida Quarter Horse Racing Promotion Trust Fund; providing for the Department of Agriculture and Consumer Services to administer such funds; providing legislative intent that such funds be used to supplement and augment purses and promote the owning and breeding of quarter horses in Florida; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 2270 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gorman	Plante	Tobiassen
Barron	Hair	Poston	Trask
Castor	Henderson	Renick	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Johnston	Skinner	Wilson
Firestone	MacKay	Spicola	Winn
Gallen	McClain	Thomas, Jon	Zinkil
Glisson	Peterson	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Graham

HB 2192—A bill to be entitled An act relating to the Florida Banking Code; amending s. 659.06(1)(a), Florida Statutes, 1976 Supplement; removing certain requirements concerning the approval of branch bank applications; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 2192 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Graham	Renick	Tobiassen
Barron	Hair	Saylor	Trask
Castor	Henderson	Scarborough	Vogt
Childers, Don	Holloway	Skinner	Ware
Childers, W. D.	McClain	Spicola	Williamson
Dunn	Peterson	Thomas, Jon	Winn
Firestone	Poston	Thomas, Pat	

Nays—1

Johnston

Votes after roll call:

Yea—Zinkil

Yea to Nay—Don Childers

By the Committee on Natural Resources and Conservation and Senator Jon Thomas—

CS for SB 936—A bill to be entitled An act relating to water resources; creating s. 373.197, Florida Statutes, relating to the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; providing legislative intent; providing for adoption of certain plans; authorizing specified implementation measures; providing an appropriation; providing an effective date.

—was read the first time by title and SB 936 was laid on the table.

On motion by Senator Jon Thomas, by two-thirds vote CS for SB 936 was read the second time by title.

The Committee on Appropriations offered the following amendment which was moved by Senator Vogt:

Amendment 1—On page 1, line 30, strike everything after the enacting clause and insert: Section 1. There is hereby appropriated \$400,100 from the General Revenue Fund to the Special Trust Fund for the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin to be allocated during fiscal year 1977-1978 in accordance with the following schedule:

- (1) Upland detention/retention, as recommended by the Coordinating Council on the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin in its First Annual Report to the Florida Legislature: \$287,500
 - (2) Operations of the Coordinating Council \$112,600.
- Section 2. This act shall take effect July 1, 1977.

Senators Lewis and Vogt offered the following substitute amendment which was moved by Senator Vogt and adopted:

Amendment 2—On page 1, line 30, strike everything after the enacting clause and insert: Section 1. Section 373.197, Florida Statutes, is created to read:

373.197 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; specifying measures authorized—

(1) The Legislature hereby directs the Florida Department of Environmental Regulation, in conjunction with the South Florida Water Management District, to seek appropriate authorization by the Congress of the United States for a restudy of the Kissimmee River Valley and the Taylor Creek-Nubbins Slough Basin.

(2) The Legislature recommends that the authorization provide that the Board of Engineers for Rivers and Harbors, created under Section 3 of the Rivers and Harbors Act, approved June 13, 1902, be directed to review the report of the Chief of Engineers on Central and Southern Florida published as House Document Numbered 643, Eightieth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendations contained therein and of the system of works constructed pursuant thereto is advisable with respect to questions of the quality of water entering the Kissimmee River and Taylor Creek-Nubbins Slough and Lake Okeechobee therefrom, flood control, recreation, navigation, loss of fish and wildlife resources, other current and foreseeable environmental problems, and loss of environmental amenities in those areas. Potential modification alternatives, if any, shall include, but not be limited to, consideration of restoration of all or parts of the Kissimmee River below Lake Kissimmee and of the Taylor Creek-Nubbins Slough Basin.

(3) The Department and the Water Management District shall also seek to assure that this restudy be conducted by the Corps of Engineers in close cooperation with the Coordinating

Council on the Restoration of the Kissimmee River Valley and the Taylor Creek-Nubbin Slough Basin, that the study be responsive to the problems and needs identified by the Coordinating Council and consider development of detailed physical and mathematical models to assess and predict these identified problems.

Section 2. There is hereby appropriated \$400,100 from the General Revenue Fund to the Special Trust Fund for the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbin Slough Basin to be allocated during fiscal year 1977-1978, in accordance with the following schedule:

(1) Upland detention/retention demonstration project, as recommended by the Coordinating Council on the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbin Slough Basin in its First Annual Report to the Florida Legislature:

(2) Operation of the Coordinating Council: \$287,500
\$112,600

Section 3. This act shall take effect July 1, 1977.

The Committee on Appropriations offered the following amendment which was moved by Senator Vogt:

Amendment 3—On page 1, lines 1-26, strike everything before the enacting clause and insert: A bill to be entitled An act relating to water resources and the Kissimmee River Valley and Taylor Creek-Nubbin Slough Basin restoration project; authorizing specified measures; providing an appropriation; providing an effective date.

Senators Lewis and Vogt offered the following substitute amendment which was moved by Senator Vogt and adopted:

Amendment 4—On page 1, line 1-26, strike everything before the enacting clause and insert: A bill to be entitled An act relating to water resources; creating s. 373.197, Florida Statutes; relating to the Kissimmee River Valley and Taylor Creek-Nubbin Slough Basin restoration project; authorizing specified measures; providing an appropriation; providing an effective date.

On motion by Senator Jon Thomas, by two-thirds vote CS for SB 936 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Votes after roll call:

Yeas—Graham, Zinkil

Yea to Nay—Gallen

HB 1303—A bill to be entitled An act relating to water management; amending s. 373.0693(8), Florida Statutes, 1976 Supplement, providing for a basin within the St. Johns River Water Management District; providing a governing board therefor; providing an effective date.

—was read the second time by title.

Senators Glisson, MacKay and Skinner offered the following amendment which was moved by Senator Glisson and failed:

Amendment 1—On page 1, line 23, insert after the period: *One member of the board shall reside in Clay County; provided, however, that this requirement shall not apply until the next vacancy on the board occurs.*

On motion by Senator Scarborough, by two-thirds vote HB 1303 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Castor	Henderson	Spicola	Williamson
Childers, Don	Johnston	Thomas, Jon	Wilson
Childers, W. D.	McClain	Thomas, Pat	Winn
Dunn	Poston	Tobiassen	Zinkil
Gallen	Renick	Trask	
Glisson	Scarborough	Vogt	
Hair	Skinner	Ware	

Nays—4

Chamberlin Firestone Graham MacKay

Votes after roll call:

Yeas—Peterson, Scott

Yea to Nay—Glisson

SB 790, companion bill to HB 1303, was laid on the table.

Senator Gallen presiding

SB 612—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.06(2), Florida Statutes; eliminating certain fees and refunds relating to license plate transfer in the disposition of certain classes of motor vehicles; eliminating certain transfer fees with respect to the surviving spouse of a deceased registered motor vehicle owner; amending s. 320.08(2), (3), Florida Statutes, 1976 Supplement; altering the license fee structure with respect to automobiles for private use and certain trucks; amending s. 320.0805(7), Florida Statutes; eliminating transfer fees and refunds with respect to certain vehicles which have personalized prestige license tags; requiring payment of the registration license tax when the replacement vehicle to which the personalized prestige license plate is to be transferred is of a different weight classification; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following amendments which were moved by Senator Poston and adopted:

Amendment 1—On page 4, strike all of line 30 through and including line 31 and on page 5, strike all of line 1 through and including 12 and insert: (b) Net weight of less than 2,500 pounds: \$12.50 flat.

(c) Net weight of 2,500 pounds or more, but less than 3,500 pounds: ~~\$20.50~~ ~~\$20~~ flat.

(d) Net weight of 3,500 pounds or more, but less than 4,500 pounds: ~~\$30.50~~ ~~\$27.50~~ flat.

(e) Net weight of 4,500 pounds or more: ~~\$35~~ flat.

(3) Trucks.—

(a) Net weight of less than 2,000 pounds: ~~\$12.50~~ ~~\$2.50~~ flat plus ~~50 cents~~ per cwt.

(b) Net weight of 2,000 pounds but not more than 3,000 pounds: ~~\$20.50~~ ~~\$5~~ flat plus ~~60 cents~~ per cwt.

(c) Net weight more than 3,000 pounds but not more than 5,000 pounds: ~~\$30.50~~ ~~\$7.50~~ flat plus ~~75 cents~~ per cwt.

(Reletter subsequent subsections)

Amendment 2—On page 6, strike all of line 12 through and including line 13 and insert: Section 4. This act shall take effect November 1, 1977.

On motion by Senator Poston, by two-thirds vote SB 612 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—20

Castor	Gorman	Renick	Tobiassen
Childers, Don	Graham	Scarborough	Trask
Childers, W. D.	Hair	Skinner	Vogt
Dunn	Henderson	Thomas, Jon	Ware
Gallen	Poston	Thomas, Pat	Wilson

Nays—9

Chamberlin	Johnston	Williamson	Zinkil
Firestone	MacKay	Winn	
Glisson	McClain		

Votes after roll call:

Yea—Peterson

Nays—Sayler, Spicola

Yeas to Nays—W. D. Childers, Graham, Hair, Pat Thomas, Tobiassen

HB 2129—A bill to be entitled An act relating to the traffic code; creating s. 316.1956, Florida Statutes, authorizing businesses, firms, and other persons to provide parking spaces for certain disabled persons; requiring such spaces to be posted with a sign approved by the Department of Highway Safety and Motor Vehicles; prohibiting persons other than disabled persons from parking in such spaces; providing a penalty; providing enforcement; providing an effective date.

—was read the second time by title.

Senator Johnston moved the following amendments which were adopted:

Amendment 1—On page 1, line 15, insert: Section 1. Section 316.1955, Florida Statutes is amended to read:

316.1955 Parking spaces for certain disabled persons.—

(6) It is a violation of this act for any person other than those authorized in this section or in s. 316.1964, as herein amended, or in s. 320.0842, s. 320.084, or s. 320.0843, as herein amended, to stop, stand, or park a motor vehicle with any such specifically designated and marked parking spaces provided in accordance with this act. Whenever a law enforcement officer finds a vehicle violating these provisions, that officer *shall* be authorized to;

Amendment 2—On page 1 in title, line 2, after the word "code;" insert: amending 316.1955, Florida Statutes, as transferred from 316.165, Florida Statutes, by chapter 76-31, Laws of Florida, relating to parking spaces reserved for the physically disabled, prohibiting persons other than those authorized from parking in such spaces;

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

Amendment 3—On page 1 in title, strike all of line 7 through and including line 8 and insert: approved by the Department of Transportation; prohibiting persons other

On motion by Senator Poston, by two-thirds vote HB 2129 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Castor	Graham	Scarborough	Ware
Chamberlin	Hair	Scott	Williamson
Childers, Don	Holloway	Skinner	Wilson
Childers, W. D.	Johnston	Spicola	Winn
Dunn	MacKay	Thomas, Jon	Zinkil
Firestone	McClain	Thomas, Pat	
Gallen	Poston	Tobiassen	
Gorman	Renick	Vogt	

Nays—None

Votes after roll call:

Yeas—Glisson, Peterson

SB 1007—A bill to be entitled An act relating to musical compositions; repealing chapter 543, Florida Statutes, consisting of ss. 543.01-543.36, Florida Statutes, to remove provisions relating to combinations restricting the use of musical compositions; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator Vogt and adopted:

Amendment 1—On page 1, strike all of lines 11 and 12 and insert: Section 1. Sections 543.01, 543.02, 543.03, 543.04, 543.05

Amendment 2—On page 1, line 17, strike "is" and insert: are

Amendment 3—On page 1 in title, strike all of lines 3 and 4 and insert: repealing ss. 543.01-543.04 and 543.05-543.36, Florida

On motion by Senator Vogt further consideration of SB 1007 as amended was deferred.

HB 1241—A bill to be entitled An act relating to spearfishing; amending s. 370.172(1), Florida Statutes, providing that the possession of certain spearfishing equipment by a person swimming in a prohibited area shall be prima facie evidence of a violation of the law; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation offered the following amendment which was moved by Senator Don Childers:

Amendment 1—On page 1, line 22, after the word "a" insert: *clearly marked*

Amendment 1 failed by the following vote:

Yeas—8

Childers, Don	Johnston	Tobiassen	Wilson
Childers, W. D.	Sayler	Ware	Zinkil

Nays—20

Castor	Glisson	McClain	Skinner
Chamberlin	Graham	Poston	Spicola
Dunn	Hair	Renick	Thomas, Jon
Firestone	Henderson	Scarborough	Thomas, Pat
Gallen	MacKay	Scott	Williamson

Senator Renick moved that the rules be waived and HB 1241 be placed on third reading. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—17

Barron	Glisson	McClain	Thomas, Jon
Castor	Graham	Renick	Thomas, Pat
Chamberlin	Hair	Scott	
Dunn	Henderson	Skinner	
Gallen	MacKay	Spicola	

Nays—11

Childers, Don	Peterson	Scarborough	Williamson
Childers, W. D.	Poston	Tobiassen	Zinkil
Johnston	Sayler	Ware	

SB 928—A bill to be entitled An act relating to livestock sales; amending s. 534.49, Florida Statutes; requiring a draft given as payment for a livestock purchase to be deposited as a cash item; amending s. 534.50, Florida Statutes; making it the responsibility of the purchaser to authorize payment for transfer of funds to the seller and making it unlawful for the purchaser to delay payment of the draft upon presentation at the payor's bank; adding s. 534.52(3), Florida Statutes; providing a penalty for failure to comply with certain requirements; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendment which was moved by Senator Barron and adopted:

Amendment 1—On pages 1 and 2, lines 31 and 1-25, strike after the word "market.": the remainder of line 31 and on page 2, all of lines 1 through and including line 25 and insert:

For the purposes of this section, livestock drafts given as payment at livestock auction markets for livestock purchases shall not be deemed an express extension of credit to the buyer and shall not defeat the creation of a lien on such an animal and its carcass, all products therefrom, and proceeds thereof, to secure all or a part of its sales price, as provided in s. 534.54 (4).

Section 2. Section 534.501, Florida Statutes, is created to read:

534.501—It shall be unlawful for the purchaser of livestock to delay payment of the livestock draft upon presentation of said draft at the payor's bank. Nothing contained in this section shall be construed to preclude a payor's right to refuse payment of an unauthorized draft.

Section 3. Subsection (3) is added to section 534.52, Florida Statutes, to read:

534.52 Violations; refusal, suspension, revocation; penalties.—

(3) Failure to comply with the provisions of ss. 534.49 and 534.501 shall be a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. This act shall take effect upon becoming a law.

The Committee on Judiciary-Criminal offered the following amendment which was moved by Senator Barron and adopted:

Amendment 2—On page 2, line 14, strike "for" and insert: or

The Committee on Commerce offered the following title amendment which was moved by Senator Barron and adopted:

Amendment 3—On page 1, strike all of lines 3 through and including line 14 and insert: 534.49, Florida Statutes, providing that livestock drafts given as payment shall not be deemed an extension of credit to the buyer and shall not defeat the creation of liens; creating s. 534.501, Florida Statutes, making it unlawful for the purchaser of livestock to delay payment of the livestock draft under certain circumstances; adding subsection (3) to s. 534.52, Florida Statutes, providing a penalty; providing an effective date.

The President presiding

On motion by Senator Barron, by two-thirds vote SB 928 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Glisson	Poston	Ware
Barron	Graham	Renick	Williamson
Castor	Hair	Sayler	Wilson
Chamberlin	Holloway	Scarborough	Winn
Childers, Don	Johnston	Scott	Zinkil
Childers, W. D.	MacKay	Thomas, Pat	
Firestone	McClain	Tobiassen	
Gallen	Peterson	Trask	

Nays—None

HB 198—A bill to be entitled An act relating to the Beverage Law; amending s. 561.25, Florida Statutes, relating to the prohibition against law enforcement officers and certain employees engaging in business related to the sale of alcoholic beverages, to provide that such officers and employees may own certain securities which are traded on a major stock exchange; amending s. 561.15(2), Florida Statutes, relating to qualifications for licensure; providing that conviction within the last 15 years, of a felony outside the state shall be grounds for denial of an alcoholic beverage license; renumbering s. 562.10, Florida Statutes, relating to regulations for vendors licensed to sell liquor on the premises, as s. 565.045, Florida Statutes; amending subsection (1) of section 561.29, Florida Statutes, removing language which presently prohibits the introduction of criminal convictions of specified violations with respect to administrative revocation or suspension of alcoholic beverage license proceedings before the Division of Beverage of the Department of Business Regulation; providing an effective date.

—was read the second time by title.

Senator Gallen moved the following amendment which was adopted:

Amendment 1—On page 5, lines 12-13, strike the effective date section and insert: Section 5. Paragraph (c) of subsection (7) of section 561.20, Florida Statutes, 1976 Supplement, is amended to read:

561.20 Limitation of number of licenses issued.—

(7)

(c) Any chartered or incorporated club owning or leasing and maintaining any bona fide tennis club or four-wall indoor racquetball club consisting of not less than 10 regulation-size tennis courts or 10 regulation-size four-wall indoor racquetball courts, with clubhouse facilities, pro shop, locker rooms, and attendant tennis or racquetball facilities, all located on a contiguous tract of land owned or leased by such club, may be issued a license under s. 565.02(4), but failure of such club to maintain such tennis courts and tennis court facilities shall be grounds for revocation of any such license so issued.

Section 6. This act shall take effect upon becoming law.

On motion by Senator Johnston, by two-thirds vote HB 198 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—23

Mr. President	Glisson	McClain	Thomas, Jon
Barron	Graham	Renick	Tobiassen
Castor	Hair	Scarborough	Ware
Childers, W. D.	Henderson	Scott	Williamson
Firestone	Holloway	Skinner	Wilson
Gallen	Johnston	Spicola	

Nays—5

Childers, Don	Poston	Sayler	Zinkil
Peterson			

SB 1091—A bill to be entitled An act relating to the sales and use tax; amending s. 212.08(8), Florida Statutes; providing that all items purchased for use or consumption on board a vessel used to transport persons or property in interstate or foreign commerce shall be deemed to be part of the vessel; adding s. 212.081(6), Florida Statutes; providing legislative intent that common carriers; contract carriers, and private carriers engaged in interstate or foreign commerce be taxed only as provided in s. 212.08(8), Florida Statutes; providing an effective date.

—was read the second time by title. On motion by Senator Scarborough by two-thirds vote SB 1091 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Hair	Renick	Ware
Barron	Henderson	Scarborough	Williamson
Castor	Holloway	Scott	Wilson
Childers, Don	Johnston	Skinner	Winn
Childers, W. D.	MacKay	Spicola	Zinkil
Firestone	McClain	Thomas, Pat	
Glisson	Peterson	Tobiassen	
Graham	Poston	Trask	

Nays—1

Chamberlin

Senator Zinkil moved that the Senate reconsider the vote by which HB 1241 failed to be placed on third reading and the motion failed.

Senator Barron presiding

CS for HB's 406 and 491—A bill to be entitled An act relating to public school facilities; amending s. 228.091, Florida Statutes; providing penalties for trespass upon the grounds or facilities of public schools; providing for the arrest of persons suspected of such trespass; providing exemption from liability

for false arrest, false imprisonment, or unlawful detention; providing an effective date.

—was read the second time by title. On motion by Senator Ware, by two-thirds vote CS for HB's 406 and 491 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Glisson	Myers	Spicola
Castor	Gorman	Peterson	Thomas, Jon
Chamberlin	Graham	Poston	Tobiassen
Childers, Don	Hair	Renick	Trask
Childers, W. D.	Henderson	Sayler	Vogt
Dunn	Holloway	Scarborough	Ware
Firestone	Johnston	Scott	Williamson
Gallen	McClain	Skinner	Wilson

Nays—None

SB 1073, companion bill to CS for HB's 406 and 491, was laid on the table.

CS for SB 772—A bill to be entitled An act relating to local resource recovery and management programs; amending s. 403.706(1), (2), Florida Statutes; providing for the establishment, within a specified time period, of a local resource recovery and management program by interlocal agreement of a county or counties and all municipalities therein or by special act of the Legislature; directing that such program include an implementation schedule subject to certain requirements; providing for program control and review at the local level; providing that the Department of Environmental Regulation determine the practicality of resource recovery and management programs; amending s. 403.710(1), (4), Florida Statutes, and adding subsection (9) to said section; providing that the chairman of the Resource Recovery Council be selected by the members of the council; limiting the review by the council of local programs to those areas required to plan for resource recovery; providing for termination of the council and transfer of its records and property to the department; repealing s. 403.710, Florida Statutes, relating to the Resource Recovery Council, effective October 1, 1979; providing an effective date.

—was taken up with pending Amendment 4 having been reconsidered on May 31.

Amendment 4 failed.

On motion by Senator Sayler, by two-thirds vote CS for SB 772 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—1

Spicola

SB 482—A bill to be entitled An act relating to the Florida Consumer Finance Act; amending s. 516.11(2), Florida Statutes; reducing the minimum number of times a year the Department of Banking and Finance is required to examine the loans and business of persons licensed to engage in the business of making loans; increasing the examination fee; providing an effective date.

—was read the second time by title. On motion by Senator Scarborough, by two-thirds vote SB 482 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Myers

SB 1135—A bill to be entitled An act relating to the Bicentennial Commission of Florida; requiring the Department of Commerce upon the abolishment of the commission to administer and enforce such grants and contracts of the commission as remain in effect at the time of its abolishment; providing an effective date.

—was read the second time by title.

The Committee on Executive Business offered the following amendments which were moved by Senator Trask and adopted:

Amendment 1—On page 1, strike all of lines 12 and 13 and "Statutes, t" on line 14 and insert: Section 1. Part V, Chapter 13, Florida Statutes, is repealed December 31, 1977. T

Amendment 2—On page 1, line 15, after the word "contracts" insert: , and shall be a successor in interest to such contracts,

On motion by Senator Trask, by two-thirds vote SB 1135 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Barron	Graham	Renick	Ware
Castor	Hair	Sayler	Williamson
Chamberlin	Henderson	Scarborough	Wilson
Childers, Don	Holloway	Scott	Winn
Childers, W. D.	Johnston	Skinner	Zinkil
Firestone	McClain	Spicola	
Gallen	Peterson	Tobiassen	
Glisson	Poston	Trask	

Nays—None

Votes after roll call:

Yeas—Gorman, Vogt

SB 985—A bill to be entitled An act relating to the Retail Installment Sales Act; adding s. 520.32(3), Florida Statutes; to provide an exemption from the license and fee requirements for certain retail sellers; providing an effective date.

—was read the second time by title. On motion by Senator Scarborough, by two-thirds vote SB 985 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Hair	Scarborough	Vogt
Chamberlin	Henderson	Scott	Ware
Childers, W. D.	Holloway	Skinner	Williamson
Dunn	MacKay	Spicola	Wilson
Firestone	McClain	Thomas, Jon	Winn
Gallen	Peterson	Thomas, Pat	Zinkil
Glisson	Poston	Tobiassen	
Gorman	Sayler	Trask	

Nays—None

Votes after roll call:

Yeas—Don Childers, Myers

HB 636—A bill to be entitled An act relating to veterans; amending s. 20.18(5)(a), Florida Statutes, relating to membership on the Interdepartmental Coordinating Council on Community Services of the Department of Community Affairs; amending s. 292.05, Florida Statutes; transferring thereto provisions of s. 292.06, Florida Statutes, relating to employment of a state service officer for veterans; renaming the state service officer as the Director of the Division of Veterans' Affairs of the Department of Community Affairs and providing for his selection; providing additional qualifications for employment as director; deleting certain provisions relating to training schools for service officers; requiring the division's semiannual report to be submitted to the leadership of the Legislature as well as to the Governor; amending s. 292.07, Florida Statutes; renaming the administrative personnel of the division; providing qualifications for such personnel; amending s. 292.10, Florida Statutes, empowering cities to assist veterans in filing claims and securing benefits; amending s. 292.11, Florida Statutes, requiring counties to employ county veteran service officers and provide them with certain assistance; authorizing cities to employ city veteran service officers and provide such assistance; providing uniform qualifications for all such veteran service officers; transferring thereto provisions relating to the employment of such officers from s. 292.08, Florida Statutes; requiring the training program for county veteran service officers to include city veteran service officers; providing traveling expenses to county and city veteran service officers while meeting training requirements; transferring provisions relating to appropriations and provisions subjecting veteran service officers to rules of the division; amending s. 292.12, Florida Statutes, authorizing cities to cooperate with federal, state, county or city agencies to provide services to veterans and to jointly employ veteran service officers with counties or cities; amending s. 292.13, Florida Statutes, providing that services by city veteran service officers shall be free to veterans; amending s. 292.15, Florida Statutes, conforming terminology; excepting present state service officers and assistant state service officers from certain employment qualifications; repealing s. 292.01, Florida Statutes, removing the duty of the Adjutant General to assist veterans in preparing claims for veterans' benefits; repealing s. 292.06, Florida Statutes, relating to the employment of a state service officer by the division; repealing s. 292.08, Florida Statutes, relating to local service officers; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community and Consumer Affairs offered the following amendment which was moved by Senator Trask and adopted:

Amendment 1—On page 1, lines 26, 27, strike "requiring counties to" and insert: providing that counties may

On motion by Senator Glisson, by two-thirds vote HB 636 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Gorman	Poston	Tobiassèn
Castor	Hair	Renick	Trask
Chamberlin	Henderson	Sayler	Vogt
Childers, Don	Holloway	Scarborough	Ware
Childers, W. D.	Johnston	Scott	Wilson
Dunn	MacKay	Skinner	Winn
Firestone	McClain	Spicola	Zinkil
Gallen	Myers	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	

Nays—None

By direction of the Presiding Officer the following Conference Committee Report was read:

CONFERENCE COMMITTEE REPORT ON SB 598

The Honorable Lew Brantley
President of the Senate

The Honorable Donald L. Tucker
Speaker, House of Representatives

Sirs:

Your conference committee on the disagreeing votes of the two houses on SB 598, same being:

SB 598—A bill to be entitled An act relating to public schools; amending s. 233.17, Florida Statutes; altering the term of adoption for instructional materials; amending sections 233.14 and 233.16, Florida Statutes; providing for instructional materials to be delivered to the Instructional Materials Council; providing conforming technical amendments; providing for a price escalation clause; amending subsection (2) of section 233.25, Florida Statutes; providing that copies of materials or descriptions therefrom be loaned to participating districts; providing an effective date.

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the Senate do recede from its Amendment 1 to House Amendment 2.
2. That the House do recede from its Amendment 2.
3. That the House and Senate adopt Conference Committee Amendment 1.
4. That the House and Senate pass SB 598 as amended by the Conference Committee Amendment.

The following statement is submitted in explanation of the effect of the action agreed upon and recommended in this report:

1. Provides for the escalation in price of adopted instructional materials to the then-current wholesale price, or 10 percent over the original price, whichever is less, at the end of the third year of the contract.

Don C. Childers
Curtis Peterson
Tom Tobiassen

Clark Maxwell, Jr.
Steve Pajcic
James L. Redman

Managers on the part of the Senate

Managers on the part of the House of Representatives

Conference Committee Amendment 1—On page 1, strike all of lines 19-28 and insert: (2) Any contract placing an instructional material on adoption for four or more years shall provide that a publisher may, at the end of the third year during the term of the contract, upon giving 60 days notification, increase such contract price to the publisher's then-current lowest wholesale price at which the materials are then being offered to any state or school district in the United States; provided that such increase shall not exceed 10 percent of the original price. Such price increase shall remain in effect for the remaining term of the contract unless the contract price is increased as permitted above.

On motion by Senator Don Childers the Conference Committee Report was adopted, and SB 598 passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—28

Barron	Gorman	Plante	Tobiassen
Castor	Hair	Poston	Trask
Childers, Don	Holloway	Renick	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Firestone	McClain	Scott	Wilson
Gallen	Myers	Thomas, Jon	Winn
Glisson	Peterson	Thomas, Pat	Zinkil

Nays—5

Chamberlin	MacKay	Skinner	Spicola
Graham			

Vote after roll call:

Nay—Dunn

HB 52—A bill to be entitled An act relating to Pascua Florida Day; adding a new paragraph (g) to s. 683.01(1), Florida Statutes, providing that Pascua Florida Day is a legal and public holiday; amending s. 683.06(2), Florida Statutes, providing for conformity with respect to the day upon which such holiday is to be observed when the regularly designated calendar day falls on a Sunday; providing an effective date.

—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 1, line 21, strike “legal and”

Amendment 2—On page 1 in title, line 5, strike “legal and”

On motion by Senator Gallen, by two-thirds vote HB 52 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Gorman	Plante	Trask
Castor	Graham	Poston	Vogt
Chamberlin	Hair	Renick	Ware
Childers, Don	Holloway	Saylor	Wilson
Childers, W. D.	Johnston	Scott	Winn
Dunn	MacKay	Spicola	Zinkil
Firestone	McClain	Thomas, Jon	
Gallen	Myers	Thomas, Pat	
Glisson	Peterson	Tobiassen	

Nays—None

On motion by Senator Hair 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 the Committees on Appropriations and Governmental Operations and Senator Graham and others—

CS for CS for SB 23, SB's 372, 735, 1111 and 1376—A bill to be entitled An act relating to budgeting; amending s. 215-32(2)(c), Florida Statutes; prescribing conditions for transfer of moneys in the Working Capital Fund to the General Revenue Fund; adding s. 216.011(1)(ee), (ff), Florida Statutes; providing definitions; amending s. 216.023, Florida Statutes; providing for biennial budgets; amending the introductory paragraph and subsection (4) of s. 216.031, Florida Statutes, and adding subsections (5) and (6) to said section; prescribing contents of biennial budgets for operational expenditures; amending s. 216.043, Florida Statutes; prescribing contents of biennial budgets for fixed capital outlay; amending s. 216-044, Florida Statutes; clarifying language; creating s. 216.045, Florida Statutes; providing for supplemental appropriations; amending s. 216.081, Florida Statutes; conforming language; adding s. 216.091(5), Florida Statutes; requiring copies of certain statements to be furnished to legislative appropriations committees; amending s. 216.162, Florida Statutes; prescribing contents of and providing for budgets to be furnished to the Legislature and its members; amending s. 216.181(1), (2), (5), Florida Statutes; providing for approved budget for operations and fixed capital outlay; amending ss. 216.182(2), 216-192(2), Florida Statutes; providing for the appropriations committees of the Legislature to advise the Administration Commission of certain matters; amending s. 216.212(2), Florida Statutes; prescribing regulations with respect to budget requests involving federal funds; amending s. 216.231(1), Florida Statutes; prescribing regulations relating to the release of certain appropriated funds; amending s. 216.262(1)(b), Florida Statutes, 1976 Supplement; requiring the Department of Administration to delegate to any state agency certain authority with respect to authorized positions; amending ss. 216-271(1), 216.275, Florida Statutes; conforming language; amending s. 216.301(1), Florida Statutes; providing for the reversion of certain funds; amending s. 216.311, Florida Statutes; conforming provisions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 10, after the word “department” insert: *in consultation with and with the approval of the legislative appropriations committees*

Amendment 2—On page 7, line 10, after the word “department” insert: *, and consistent with the provisions of s. 216.023,*

Amendment 3—On page 7, line 23, strike all of line 23 and insert: *prepared in the prescribed budget format referenced to the legislative budget requests prescribed in ss. 216.031 and 216.043 and shall be*

Amendment 4—On page 3, line 23, after the colon “:” insert:

(c) “Approved budget” means an operating budget consistent with the general appropriations act or special appropriations acts and prepared in accordance with s. 216.181 legislative budget, as modified in the Governor’s recommendations pursuant to s. 216.162 or by the Legislature, and furnished a state agency pursuant to s. 216.181, together with any amendments thereto as provided by law, for the annual expenditure of moneys within the amounts provided such agency or branch in the appropriations acts and for the functions authorized by law to be performed.

Amendment 5—On page 4, line 22, after the colon “:” insert:
(1) A complete financial plan of operations showing, to the level of detail established by the legislative appropriations committees, the prior year’s expenditures compared to appropriations, the estimated operating budget for the current year and the proposed operating budgets for each of the two years of the next biennium with all proposed expenditures itemized and classified by prescribed appropriation categories and funds.

(2) A statement and such other detailed information as may be necessary for the Legislature to evaluate the following: to identify the amounts requested;

(a) the effectiveness of current programs including a zero base justification for those programs or other major issues selected, in advance of the agencies submission of their budget requests, for detailed examination by the appropriations committees to continue current programs,

(b) proposed improvements in to improve existing programs, and,

(c) the justification for proposed new programs.

Amendment 6—On page 10, line 14, after “budgets.—” insert:

(1) The department shall furnish the Comptroller an annual a plan for the release of appropriations. Such releases shall at no time exceed the total appropriations available to a state agency, or the approved budget for such agency if less. The Comptroller shall enter such releases in his records in accordance with the release plan prescribed by the department, unless otherwise amended as provided by law. The department shall transmit a copy of the approved annual releases to the head of the state agency, the chairmen of the legislative appropriations committees, and the Auditor General. The Comptroller shall authorize all expenditures to be made from the appropriations on the basis of such releases and in accordance with the approved budget and not otherwise. Expenditures shall be authorized only in accordance with legislative authorizations.

Amendment 7—On page 10, lines 11 and 12, strike all of said lines and insert: Section 13. Subsections (1) and (2) of section 216.192, Florida Statutes, is amended to read:

Amendment 8—On page 4, line 16, after the word “paragraph” insert: *, subsection (1), subsection (2),*

Amendment 9—On page 3, line 19, after the word “Statutes,” insert: *and paragraph (c) of subsection (1) is amended*

Amendment 10—On page 14, strike all of lines 15 through 31 and on page 15 strike all of lines 1 through 3, and insert: 216.311 Unauthorized agency contracts in excess of appropriations, prohibited.—

(1) No agency of the state government shall contract to spend or enter into any agreement to spend any moneys in excess of the amount appropriated to such agency unless specifically authorized by law, and any contract or agreement in violation of this chapter shall be null and void. However, the department, upon written request of the Board of Regents of the Division of Universities of the Department of Education may in its discretion authorize the Board of Regents to recruit for the first year of the biennium following fiscal year up to

fifty percent of the new positions recommended in the Governor's budget submitted at least 45 ~~30~~ days prior to scheduled annual legislative session in each odd-numbered year in accordance with s. 216.162. The salaries for the new positions so authorized shall be based on current salary schedules and the total shall not exceed the average salary approved in the current appropriation. The department shall notify the chairman of the appropriation committee of each house of the Legislature of the number approved under this authorization.

(2) Any person who willfully contracts to spend, or enters into an agreement to spend, any money in excess of the amount appropriated to the agency for whom the contract or agreement is executed is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Amendment 11—On page 2 in the title, line 18, after the semi-colon “;” insert: “providing a penalty with respect to persons who willfully contract to spend certain moneys in excess of the amount appropriated;”

Amendment 12—On page 1, line 6, following “216.011(1)” insert: (c)

Amendment 13—On page 1, strike all of line 10 and insert: paragraph and subsections (1), (2) and (4) of s. 216.031,

Amendment 14—On page 1 in the title, line 30, following “outlay:” insert: amending s. 216.192(1), Florida Statutes; providing for release;

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

Amendment 1—On page 4, line 10, strike “in consultation with and with the approval of” and insert: after consultation with

Senator Hair moved the following amendments to House Amendment 5 which were adopted:

Amendment 1—On page 1, line 3, strike “by the legislative appropriations committees” and insert: pursuant to section 216.023

Amendment 2—On page 1, in the first line of subsection (a), strike “a zero base”

Senator Hair moved the following amendment to House Amendment 6 which was adopted:

Amendment 1—after the period “.” on line 13 of the amendment insert: Nothing herein shall preclude periodic reexamination and revision by the department of the annual plan for release of appropriations and the notification of the parties of all such revisions.

On motions by Senator Hair, the Senate concurred in House Amendments 2, 3, 4, 7, 8, 9, 10, 11, 12, 13 and 14 to CS for CS for SB 23, SB's 372, 735, 1111 and 1376.

On motions by Senator Hair, the Senate concurred in House Amendments 1, 5 and 6 as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for CS for SB 23, SB's 372, 735, 1111 and 1376 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Barron	Gorman	Lewis	Poston
Castor	Graham	MacKay	Renick
Childers, Don	Hair	McClain	Scarborough
Childers, W. D.	Henderson	Myers	Scott
Firestone	Holloway	Peterson	Skinner
Gallen	Johnston	Plante	Spicola

Thomas, Jon	Trask	Williamson	Zinkil
Thomas, Pat	Vogt	Wilson	
Tobiassen	Ware	Winn	

Nays—None

Vote after roll call:

Yea—Glisson

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to CS for HB 1558, again requests the Senate to recede, and in the event the Senate refuses to recede requests a Conference Committee. The Speaker has appointed Representatives Jones, Forbes, Ogden and Hill as conferees on the part of the House.

Allen Morris, Clerk

By the Committee on Transportation and Representative Forbes and others—

CS for HB 1558—A bill to be entitled An act relating to the Jacksonville Transportation Authority; creating s. 349.18, Florida Statutes; authorizing the Department of Transportation to covenant to complete the Dame Point Expressway, a certain revenue producing project for the Jacksonville expressway system; providing certain conditions; providing an effective date.

On motions by Senator Brantley, the Senate refused to recede from the Senate Amendments and the Senate again requested the House to concur. The action, with the bill and amendments, was certified to the House.

The Honorable Lew Brantley, President

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

By the Committee on Transportation—

SB 958—A bill to be entitled An act relating to state uniform traffic control; amending s. 316.072(3), Florida Statutes, as transferred from s. 316.051, Florida Statutes, 1976 Supplement; providing that failure or refusal to comply with an order of a police officer or member of a fire department relating to traffic control is a misdemeanor; amending s. 316.655(4), Florida Statutes, as transferred from s. 316.026, Florida Statutes, 1976 Supplement; conforming language; adding s. 318.17(6), Florida Statutes, 1976 Supplement; excepting such violations from designation as noncriminal traffic infractions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 18, after the colon “:” insert:

Section 1. Section 316.1967, Florida Statutes, is created to read:

316.1967 Liability for payment of parking ticket violations.—The owner of a vehicle is responsible for and liable for payment of any parking ticket violations unless the owner of the vehicle can furnish evidence that the vehicle at the time of the parking violation was in the care, custody, or control of another person. In such instances the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the appropriate law enforcement authorities the name and the address of the person or company who leased, rented, or otherwise had the care, custody, or control of the vehicle. The owner of a vehicle is not responsible for parking ticket violations if the vehicle involved was at the time stolen, or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

and renumber the subsequent sections

House Amendment 2—On page 1 in title, line 3, after the semi-colon “;” insert: creating s. 316.1967, Florida Statutes; providing that the owner of a vehicle is liable for payment of parking

ticket violations unless the vehicle was stolen or otherwise in the control of another person at the time of the violation;

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

SB 958 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Barron	Henderson	Poston	Thomas, Pat
Castor	Holloway	Renick	Trask
Chamberlin	Johnston	Sayler	Vogt
Childers, Don	MacKay	Scarborough	Ware
Firestone	McClain	Scott	Wilson
Glisson	Myers	Skinner	Winn
Gorman	Peterson	Spicola	Zinkil
Hair	Plante	Thomas, Jon	

Nays—None

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 amendment—

By the Committees on Commerce and Governmental Operations and Senator Holloway and others—

CS for CS for SB 1072—A bill to be entitled An act relating to building codes; amending ss. 553.70, 553.71, and 553.73, Florida Statutes; providing a new date; providing short title; requiring that, by a certain date, local governments and state agencies which regulate building construction shall adopt one of certain model building codes designated as the State Minimum Building Codes, including provisions of state law on accessibility by handicapped persons in addition to certain state laws regulating liquefied petroleum gas, plumbing, electrical, and glass construction; authorizing local governments and state agencies to provide more stringent requirements under certain conditions; providing for application and enforcement of State Minimum Building Codes; exempting certain buildings; providing that such codes shall not contain a housing code, as defined in the act, except upon local request; providing procedures for recommending amendments; amending ss. 553.74(1), 553.77, Florida Statutes; deleting authorization for the board to make rules concerning construction or construction permits or to hear appeals; authorizing the board to issue advisory opinions on certain subjects; amending s. 553.79(3) and (4), Florida Statutes; providing that when certain conditions specified by law are met, a local building code may impose more stringent requirements than the State Minimum Building Codes without notifying the board; amending ss. 553.80 and 553.83, Florida Statutes; correcting terminology and deleting authorization for the board to impose State Minimum Building Codes where a city or county fails to enforce same; correcting terminology; repealing s. 553.78, Florida Statutes, 1976 Supplement, which provides guidelines and standards for the State Minimum Building Codes; repealing ss. 553.81, 553.82, Florida Statutes, which provide for the board to hear appeals and which directs the board to publish and distribute copies of the State Minimum Building Codes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 2—On page 5, line 25, insert: *The model building codes adopted by state agencies shall be enforced by the adopting agency and shall be expressly exempted from municipal, county, or political subdivision interpretations, building permits and assessment of fees for building permits.*

On motion by Senator Holloway, the Senate refused to concur in the House amendment and the House was requested to recede. The action, with the bill and amendment, was certified to the House.

The Honorable Lew Brantley, President

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

By Senator Ware—

SB 1014—A bill to be entitled An act relating to podiatrists; amending s. 461.08(1)(d), Florida Statutes; providing that the license or registration of a practitioner of podiatry may be revoked, suspended, or annulled, or such practitioner may be reprimanded, when he becomes mentally or physically unable to competently practice podiatry; authorizing the State Board of Podiatry Examiners to compel a podiatrist to submit to examination under certain circumstances; providing that failure to submit to the examination constitutes an admission of the allegations; providing that an affected podiatrist shall have the opportunity to demonstrate that he can resume the competent practice of podiatry; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On pages 1 and 2, strike everything after the enacting clause and insert: Section 1. Paragraph (d) of subsection (1) of section 461.08, Florida Statutes, is amended to read:

461.08 Revocation of license; preferment of charges; appeal.—

(1) The license or registration of a practitioner of podiatry may be revoked, suspended, or annulled, or such practitioner reprimanded, upon the following grounds:

(d) *That the podiatrist is unable to practice podiatry with reasonable skill and safety by reason of illness, excessive use of drugs, or alcohol, or as a result of any mental or physical condition. In enforcing this paragraph, the board shall, upon probable cause, have authority to compel a podiatrist to submit to a mental or physical examination by a Florida physician licensed under chapter 458 or 459 of the medical specialty involved. Failure of a podiatrist to submit to such examination when directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, in which case, a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatrist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the practice of podiatry. That the podiatrist is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate him for the performance of his professional duties.*

Section 2. This act shall take effect upon becoming a law.

House Amendment 2—On page 1 in title, lines 1-18, strike all of said lines and insert: A bill to be entitled An act relating to podiatry; amending s. 461.08(1)(d), Florida Statutes, relating to revocation of license to practice podiatry; specifying conditions of mental or physical incompetence; authorizing the Board of Podiatry Examiners to compel a podiatrist to undergo mental or physical examination and providing that failure of a podiatrist to do so is an admission of the allegations against him; providing opportunity for reinstatement; providing an effective date.

On motion by Senator Ware, the Senate concurred in the House Amendments.

SB 1014 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

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 Jon Thomas—

SB 793—A bill to be entitled An act relating to restoration and perpetuation of original government cadastral surveys; creating part III, chapter 177, Florida Statutes, entitled Restoration of Corners; providing a short title and legislative declaration of policy; providing definitions; providing powers and duties of the Department of Natural Resources; providing for establishment of an advisory board; providing for records exchange; providing for the validation and certification of corners; providing no limitation on the practice of land surveying under chapter 472, Florida Statutes; establishing personnel requirements; providing penalties for willful damage or destruction of cadastral monuments and corner records; providing severability; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 3, line 16 and 17, strike in private practice

House Amendment 2—On page 3, line 18 and page 4, line 9, strike: an individual and insert: a

House Amendment 3—On page 3, line 19, after the word "department" insert: land surveyor

House Amendment 4—On page 3, line 19, strike the and before the word "department" insert: a

House Amendment 5—On page 4, line 4, strike individual

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

SB 793 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Barron	Hair	Saylor	Trask
Castor	Henderson	Scarborough	Vogt
Childers, Don	Holloway	Scott	Ware
Childers, W. D.	MacKay	Skinner	Williamson
Firestone	McClain	Spicola	Wilson
Glisson	Peterson	Thomas, Jon	Winn
Gorman	Poston	Thomas, Pat	Zinkil
Graham	Renick	Tobiassen	

Nays—None

The bill was ordered engrossed and then enrolled.

The President presiding

The Honorable Lew Brantley, President

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

By the Committee on Commerce and Senator Henderson and others—

CS for SB 341—A bill to be entitled An act relating to lighting standards; creating s. 553.89, Florida Statutes; stating title and legislative purpose; providing definitions; providing that the act applies to new public buildings for which a permit is obtained on or after December 31, 1978; providing statewide lighting standards; providing for inspection; providing that the required standards are in addition to local building codes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1— On pages 1-3, strike everything after the enacting clause and insert: Section 1. Section 553.89, Florida Statutes, is created to read:

553.89 Florida Lighting Efficiency Code.—

(1)(a) This act shall be known and may be cited as the "Florida Lighting Efficiency Code."

(b) The purpose of the lighting code is to provide a uniform minimum standard for energy efficiency in lighting design and utilization to meet energy conservation goals, and to best provide for public safety, health, and general welfare, for public buildings.

(2) As used in this section:

(a) "Public building" means any building which is open to the public during normal business hours, except exempted public building. Each of the following is a public building within the meaning of this section unless it is an exempted public building or building less than 1500 square feet:

1. Any building which provides facilities or shelter for public assembly, or which is used for educational, office, or institutional purposes.

2. Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retails merchandise.

3. Any portion of an industrial plant building used primarily as office space.

4. Any building owned by the state or a political subdivision thereof, including libraries, museums, schools, hospital, auditoriums, sports arenas, and university buildings.

(b) "Exempted public building" means:

1. Any public building or portion thereof whose peak design rated energy usage for all purposes is less than 1 watt (3.4 British Thermal Units per hour) per square foot of floor area for all purposes.

2. Any public building which is neither heated nor cooled.

3. Any mobile home.

4. Any building or portion thereof subject to standards established by the United States.

5. Any public building constructed on or before December 31, 1978.

6. Any state building that must conform to the more stringent "Florida Energy Conservation Act of 1974."

(c) "Local enforcement agency" means the agency of local government with authority to make inspections of buildings and to enforce a code or codes which establish standards for construction, renovation, or occupancy of buildings. It includes any agency within the definition of s. 553.71(3).

(d) "ASHRAE Standard 90-75" means the American Society of Heating, Refrigeration, and Air Conditioning Engineers Standard 90-75 concerning energy conservation in new building design.

(3) This section shall apply to all new public buildings in the state for which a building permit is obtained on or after December 31, 1978. This part shall not apply to exempted public buildings.

(4) Any public building constructed on or after December 31, 1978, shall provide a design for energy utilization in such a manner as to provide that the design for energy use for illumination be no less stringent than a standard consistent with the provisions of Section 9 of ASHRAE Standard 90-75.

(5) During or after construction of any new public building each local enforcement agency shall inspect the building for compliance with the provisions of this section.

(6) The provisions of Section 9, ASHRAE Standard 90-75 shall be in addition to any minimum in any building code adopted by a county under authority of s. 125.56 or by any municipality.

Section 2. This act shall take effect upon becoming a law.

House Amendment 2—On page 1 in title, lines 1-11, strike the entire title and insert: A bill to be entitled An act relating to lighting standards; creating s. 553.89, Florida Statutes, entitled the "Florida Lighting Efficiency Code"; providing legislative purpose; providing definitions; providing that the act applies to new public buildings for which a permit is obtained on or after December 31, 1978; providing statewide lighting standards; providing for inspection; providing that the required standards are deemed to be a part of certain county building codes; providing an effective date.

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

CS for SB 341 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Graham	Peterson	Thomas, Pat
Castor	Hair	Renick	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, Don	Holloway	Scott	Williamson
Firestone	Johnston	Skinner	Wilson
Glisson	McClain	Spicola	Winn
Gorman	Myers	Thomas, Jon	Zinkil

Nays—None

Votes after roll call:

Yeas—W. D. Childers, Tobiassen

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 recalled from the Senate, reconsidered passage, reconsidered Senate Amendment 1 to House Amendment 1, has amended Senate Amendment 1 to House Amendment 1, concurred in same as amended and passed SB 127, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Senator Johnston—

SB 127—A bill to be entitled An act relating to final process; amending s. 56.21, Florida Statutes; requiring a copy of the notice of sale under execution to be furnished by certified mail to the judgment debtor's attorney of record or to the judgment debtor if he does not have an attorney of record; providing an effective date.

House Amendment 1—On page 1, line 12, insert: Section 1. Section 55.10, Florida Statutes, is amended to read:

55.10 Judgments and decrees; lien of all, generally; transfer of liens of security—

(1) A judgment or decree becomes a lien on real estate in any county when a certified copy of it is recorded in the official records or judgment lien record of the county, whichever is maintained at the time of recordation.

(2) Any lien claimed under of this section may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either:

(a) Depositing in the clerk's office a sum of money, or

(b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state,

either to be in an amount equal to the amount demanded in such claim of lien plus interest thereon at 6 percent per year for 3 years plus \$100 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs not to exceed \$100. Upon making such deposit or filing such bond the clerk shall make and record a certificate showing the transfer of the lien

from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred at the address stated therein. Upon filing the certificate of transfer the real property shall thereupon be released from the lien claimed and such lien shall be transferred to said security. The clerk shall be entitled to a fee for making and serving the certificate in the sum of \$2. Any number of liens may be transferred to one such security.

(3) Any excess of the security over the aggregate amount of any judgments or decrees rendered plus costs actually taxed shall be repaid to the party filing the same or his successor in interest. Any deposit of money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of same.

(4) Any party having an interest in such security or the property from which the lien was transferred may at any time, and any number of times, file a complaint in chancery in the circuit court of the county where such security is deposited for an order to require additional security, reduction of security, change or substitution of sureties, payment or discharge thereof or any other matter affecting said security.

and renumber subsequent sections

Senate Amendment 1 to House Amendment 1—On page 1, line 3, after the word "under" insert: subsection (4)

House Amendment 1 to Senate Amendment 1 to House Amendment 1—On page 1, line 1, strike (4) and insert: (1)

On motions by Senator Johnston, the Senate concurred in the House Amendments as amended.

SB 127 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

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 recalled from the Senate, reconsidered passage, reconsidered House Amendment 10, has withdrawn House Amendment 10, has further amended House Amendment 2, concurred in same as amended and passed SB 553, as amended, and requests the concurrence of the Senate.

(House Amendment 2 attached to original bill)

Allen Morris, Clerk

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 committee 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.

House Amendment 11 to House Amendment 2—On page 2, line 21, after the comma insert: a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist,

On motion by Senator Ware, the Senate concurred in the House Amendment.

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

Yeas—34

Mr. President	Hair	Renick	Trask
Castor	Henderson	Saylor	Vogt
Chamberlin	Holloway	Scarborough	Ware
Childers, Don	Johnston	Scott	Williamson
Childers, W. D.	MacKay	Skinner	Wilson
Firestone	McClain	Spicola	Winn
Gallen	Myers	Thomas, Jon	Zinkil
Glisson	Peterson	Thomas, Pat	
Gorman	Poston	Tobiassen	

Nays—1

Graham

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the Speaker of the House of Representatives has appointed Representatives Redman, Maxwell and Jones as Conferees on the part of the House on CS for SB 696.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

SB 1249 SB 919 SB 938
 SB 861

Allen Morris, Clerk

The bills were ordered enrolled.

SPECIAL ORDER, continued

HB 18—A bill to be entitled An act relating to nonpublic colleges; adding a subsection (3) to s. 246.081, Florida Statutes; prohibiting such colleges or any person on behalf of such colleges from causing to be published any advertisement soliciting students or offering a diploma or degree if such college does not have a valid license to operate or if such college is under an injunction against operating, soliciting students, or offering a diploma or degree; amending s. 246.101, Florida Statutes, providing for license fees; amending s. 246.091(1), Florida Statutes, 1976 Supplement, providing for annual review and renewal of certain licenses; providing an effective date.

—was read the second time by title.

Senator Peterson moved the following amendments which were adopted:

Amendment 1—On page 3, line 6, insert: Section 4. Paragraph (j) of subsection (1) of section 246.207, Florida Statutes, is amended to read:

246.207 Powers and duties of board.—

(1) The board shall:

(j) Transmit all fees, donations, or other receipts of money to the State Treasurer to be deposited in the *General Revenue Fund Independent Postsecondary Vocational, Technical, Trade, and Business Services Trust Fund*.

Section 5. Subsection (3) of section 246.219, Florida Statutes, is amended to read:

246.219 License fees.—

(3) All license fees shall be transmitted by the board to the State Treasurer to be deposited in the *General Revenue Fund Independent Postsecondary Vocational, Technical, Trade, and Business Service Trust Fund*, and disbursed for the payment of expenses incurred in the printing of forms and bulletins, the issuing of licenses, and the storage of students' records from discontinued schools and for other lawful purposes necessary for the administration of ss. 246.201-246.231 upon vouchers approved by the board.

Renumber subsequent section.

Amendment 2—On page 3, line 6, insert: Section 4. Section 246.213, Florida Statutes, is amended to read:

246.213 Power of State Board of Education.—

(1) The State Board of Education, acting on the recommendation of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, shall adopt such minimum standards, and rules, and regulations as are required for the administration of ss. 246.201-246.231.

(2) The minimum educational standards for the licensing of schools shall include: purpose, administrative organization, educational program and curricula, finances, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution in relation to professional certification and licensure.

(3) The minimum requirements for the licensing of agents shall include: name, residential and business address, background training, and institution or institutions to be represented.

Section 5. Section 246.217, Florida Statutes, is amended to read:

246.217 License period and renewals.—

(1) Each original license issued shall be effective for a maximum period of 1 year from the date of issuance and be subject to renewal annually thereafter by an application on a form prepared and furnished by the board. Each school and agent shall have a separate license, which shall not be transferable.

(2) A licensed school which seeks to expand its educational program and degrees to be conferred shall file an amendment to the application.

(3) A licensed school, prior to discontinuance of operation, shall convey all student records to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, or to another location designated by the board.

Renumber subsequent section.

Amendment 3—On page 3, line 6, insert: Section 4. Section 244.07, Florida Statutes, is amended to read:

244.07 Florida Education Council.—There is hereby established the Florida Education Council composed of the members of the ~~Education~~ Educational Commission of the States representing this state, and six other persons appointed by the Governor, ~~two of whom shall serve one year terms, two of whom shall serve two year terms and two of whom shall serve three year terms.~~ Initial appointments shall be staggered so that after the initial appointments have been made one-third of the membership is appointed annually. The maximum length of any appointment shall be 3 years. In addition, the President of the Senate and Speaker of the House shall each appoint two members who shall serve 2-year terms. These four persons shall not be members of the Legislature and shall not derive a majority of their income from educational or education-related fields. ~~The ten~~ ~~These six~~ persons shall broadly represent the people of Florida be selected to broadly represent professional and lay interests within this state having responsibilities for, and knowledge of educational matters. The chairman shall be designated by the Governor from among council members. The council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the council shall meet at least two times each year. The council may consider any matter relating to recommendations of the ~~Education~~ Educational Commission of the States and state issues on which Florida may receive technical assistance from the ~~Education Commission of the States~~ the activities of the council members in representing Florida on the commission. The activities of the council shall be supported through existing resources of the Department of Education.

(Renumber subsequent section.)

Amendment 4—On page 1, in title, line 2, strike “nonpublic colleges” and insert: education

Amendment 5—On page 1, in title, line 15, after the semicolon (;) insert: amending s. 246.213, Florida Statutes, specifying minimum standards to be adopted by the board for licensing of schools and agents of the schools; amending s. 246.217,

Florida Statutes, requiring a licensed school to file an amendment to expand programs and degrees; requiring a licensed school to convey student records to the board prior to discontinuance of operations;

Amendment 6—On page 1 in title, line 2, strike “nonpublic colleges” and insert: education

Amendment 7—On page 1 in title, line 15, after the semicolon (;) insert: amending ss. 246.207(1)(j) and 246.219(3), Florida Statutes; providing that the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall deposit all fees and receipts in the General Revenue Fund;

Amendment 8—On page 1 in title, line 15, [after the semicolon (;)] insert: amending s. 244.07, Florida Statutes; prescribing the membership and duties of the Florida Education Council; requiring the Department of Education to support the activities of the council through existing resources;

Amendment 9—On page 1, line 2, strike “nonpublic colleges” and insert: education

Senator Myers presiding

On motion by Senator Peterson, by two-thirds vote HB 18 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Castor	Henderson	Poston	Tobiassen
Chamberlin	Holloway	Renick	Trask
Childers, Don	Johnston	Scarborough	Williamson
Childers, W. D.	MacKay	Scott	Wilson
Firestone	McClain	Skinner	Winn
Gallen	Myers	Spicola	Zinkil
Glisson	Peterson	Thomas, Jon	
Graham	Plante	Thomas, Pat	

Nays—2

Sayler Ware

Vote after roll call:

Yea—Hair

The President presiding

On motion by Senator Plante the Senate reconsidered the vote by which—

CS for HB 786—A bill to be entitled An act relating to motor carriers; amending s. 323.01(4), (6), (10) and (18), Florida Statutes, 1976 Supplement, and adding subsections, providing definitions; creating s. 323.011, Florida Statutes, providing a fee schedule for various applications or petitions for hearings relating to motor carriers and a penalty fee schedule for violations by motor carriers; providing for the disposition of moneys collected from such fees and penalties; providing a new fee for temporary authority to operate a motor carrier; increasing and decreasing certain existing application, cab card and other fees; amending s. 323.02, Florida Statutes, 1976 Supplement, relating to the prohibited operation of a motor carrier without a certificate or permit; amending s. 323.03, Florida Statutes, relating to the issuance of certificates of convenience to combine all types of motor carriers within its provisions; specifying items to be considered in issuing a certificate and providing for the issuance thereof absent timely protest; provides for the issuance of temporary certificates; deleting provisions requiring a hearing if no protests filed; creating s. 323.032, Florida Statutes, transferring provisions relating to detour authority for charter carriers and to charter rights; amending s. 323.041 (2) and (6), Florida Statutes, deleting provisions relating to the refund of fees to applicants for the transfer of certificates under certain circumstances; authorizing the Public Service Commission to cancel any duplicating authority involved in the reissuance of a transfer of a certificate; amending s. 323.042, Florida Statutes, deleting the hearing requirement for

determinations of whether multiple transportation authority by a motor carrier is contrary to the public interest; amending s. 323.05, Florida Statutes, exempting specified motor carriers and types of transportation from requirements of securing a certificate but requiring them to secure permits; providing a procedure for the issuance of such permits; prohibiting the assignment, sale or transfer of permits; creating s. 323.053, Florida Statutes, requiring taxicab operators to obtain a master taxi permit; providing for the application for such permits by motor carriers; exempting taxicab operators operating wholly within a municipality or its suburban areas of within certain counties; creating s. 323.054, Florida Statutes, authorizing municipalities to regulate motor carriers within their boundaries and suburban areas; amending s. 323.06(1) and (3), Florida Statutes, authorizes the commission to fix the amount of insurance required of carriers from time to time instead of only at the issuance of the certificate or permit; clarifying information to be supplied by carriers wishing to self-insure; amending s. 323.08, Florida Statutes, specifying items to be considered by the commission in fixing rates and charges for motor carriers; deleting provisions requiring a public hearing for rate increases; authorizing charter carriers and newspaper carriers to negotiate their compensation with the parties to be served; amending s. 323.09, Florida Statutes, deleting provisions relating to mileage reports maintained by certificate and permit holders; amending s. 323.10(1), (3) and (5), Florida Statutes, relating to the application fee for suspensions of operations of certificate holders; amending s. 323.15(1), (2) and (6), Florida Statutes, incorporating various road taxes imposed upon motor carriers into categories based upon capacity and location of operation; amending s. 323.16, Florida Statutes, 1976 Supplement, relating to separate accounts kept with respect to moneys collected from motor carriers; amending s. 323.21, Florida Statutes, authorizing commission investigators to inspect the contents of trucks and motor carriers; amending s. 323.22, Florida Statutes, 1976 Supplement, authorizing motor carriers to obtain emergency or trip-lease permit cards to identify vehicles under certain circumstances; amending s. 323.28(2), Florida Statutes, conforming fee provisions to the act; amending s. 323.29, Florida Statutes, 1976 Supplement, relating to transportation exempted from regulation of motor carriers; repealing s. 323.01(9), Florida Statutes, which defines “for hire” for purposes of the regulation of motor carriers; repealing s. 323.031, Florida Statutes, relating to certificates for the hauling of construction aggregates; repealing s. 323.04, Florida Statutes, relating to requirements for obtaining a contract carrier certificate; repealing s. 323.051, Florida Statutes, relating to single county road aggregate permits; repealing s. 323.14(2)-(8), Florida Statutes, relating to charter carriers, to conform to the act; repealing s. 323.151, Florida Statutes, relating to the imposition of additional taxes on certificates and permits; repealing s. 323.19, Florida Statutes, which prohibits carriers from varying from tariffs which are on file; repealing s. 323.191, Florida Statutes, which permits carriers to negotiate fees for carrying newspapers; repealing s. 323.20, Florida Statutes, conforming suspension provisions to the act; repealing s. 323.27, Florida Statutes, which exempts certain carriers from being considered common carriers; repealing s. 323.33, Florida Statutes, conforming fee provisions to the act; providing an effective date.

—passed this day.

On motion by Senator Plante the Senate reconsidered the vote by which CS for HB 786 was placed on third reading.

On motion by Senator Plante the Senate reconsidered the vote by which Amendment 4 was adopted.

By permission Senator Ware withdrew Amendment 4.

On motion by Senator Plante, by two-thirds vote CS for HB 786 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gallen	Johnston	Poston
Castor	Glisson	MacKay	Renick
Chamberlin	Gorman	McClain	Sayler
Childers, Don	Graham	Myers	Scarborough
Childers, W. D.	Henderson	Peterson	Scott
Firestone	Holloway	Plante	Skinner

Spicola	Tobiassen	Ware	Winn
Thomas, Jon	Trask	Williamson	Zinkil
Thomas, Pat	Vogt	Wilson	

Nays—None

Vote after roll call:

Yea—Hair

CS for HB 1641—A bill to be entitled An act relating to burial contracts; amending s. 639.07(1), Florida Statutes, and adding subsection (5) thereto; defining preneed burial supply contracts; including unauthorized or unlicensed persons who engage in the preneed sale of burial supplies within provisions regulating burial contracts; amending ss. 639.08, 639.09, 639.10(2)(a)-(c) and (4), 639.11, 639.13, 639.14, 639.15, 639.16(1), 639.17, and 639.18, Florida Statutes, including preneed burial supply contracts within provisions relating to preneed funeral service contracts and which provide for the regulation of such contracts, the issuance of certificates of authority, annual statements, disposition of proceeds received on such contracts, cancellation or default on contracts, payment of funds upon death of the named beneficiary, examinations and investigations by the Department of Insurance, revocation of certificates, penalties, and false, fraudulent, and deceptive advertising and selling practices; amending s. 639.19, Florida Statutes, providing legislative intent to restrict certain persons from accepting prepayments for burial supplies; creating s. 639.21, Florida Statutes, requiring persons not licensed as funeral directors or embalmers or under the Cemetery Act who engage in preneed sales of burial supplies to notify the purchaser that the merchandise will be accepted by the cemetery of the purchaser's choice; repealing s. 639.12, Florida Statutes, relating to the deposit required for issuance of certificates of authority; providing an effective date.

—was read the second time by title.

Senator MacKay moved the following amendment:

Amendment 1—On page 5, line 22, after the period insert: The Department of Insurance shall promulgate regulations regarding quality of investments of trust funds. Such regulations shall prohibit investment in any project or venture in which the funeral director or other pre-need seller has a financial interest, and shall otherwise set standards to reasonably assure the safety of trust funds.

Amendment 1 failed by the following vote:

Yeas—10

Chamberlin	Glisson	MacKay	Zinkil
Childers, Don	Graham	Myers	
Gallen	Holloway	Williamson	

Nays—22

Mr. President	Henderson	Saylor	Trask
Barron	Johnston	Scarborough	Vogt
Childers, W. D.	McClain	Scott	Ware
Firestone	Peterson	Skinner	Winn
Gorman	Poston	Thomas, Pat	
Hair	Renick	Tobiassen	

Votes after roll call:

Nay to Yea—Firestone, Poston

On motion by Senator Barron, the rules were waived and time of adjournment was extended until final action on CS for HB 1641.

Senator Graham moved the following amendment which failed:

Amendment 2—On page 6, line 26, Strike the period (.) and insert: , or the value of the goods or services which were the subject of the contract on the date of the termination.

On motion by Senator Vogt, by two-thirds vote CS for HB 1641 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—18

Mr. President	Holloway	Scarborough	Tobiassen
Childers, Don	Lewis	Scott	Vogt
Childers, W. D.	Myers	Skinner	Winn
Gorman	Peterson	Spicola	
Hair	Poston	Thomas, Pat	

Nays—13

Barron	Graham	McClain	Zinkil
Chamberlin	Henderson	Renick	
Firestone	Johnston	Saylor	
Glisson	MacKay	Williamson	

Votes after roll call:

Yea—Trask

Yea to Nay—Poston

Nay to Yea—Henderson

Abstained from voting

I recused from voting on CS for HB 1641. Since I am regulated by Chapters 470, 639 and 559, Florida Statutes, my voting on this bill would represent a conflict of interest.

Jon C. Thomas, 30th District

On motion by Senator Trask, the rules were waived and time of adjournment was extended until final consideration of the following:

On motion by Senator Williamson, 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 Glisson—

SB 343—A bill to be entitled An act relating to the Workmen's Compensation Law; amending s. 440.02(2)(d), Florida Statutes, redefining the term "employee" for the purposes of the Workmen's Compensation Law to exclude real estate salesmen or agents who perform services for remuneration solely by way of commission; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 10, strike everything after the enacting clause and insert: Section 1. Paragraph (d) or subsection (2) of section 440.02, Florida Statutes, is amended and subsections (20) and (21) are added to section 440.02, Florida Statutes, to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(2) "Employee."

(d) The term "employee" shall not include:

1. Independent contractors, including an individual who agrees in writing to perform services for a person or corporation without supervision or control as a real estate salesman or agent, if such service by such individual for such person or corporation is performed for remuneration solely by way of commission; or

2. Persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

(20) The term "substantially the whole of 13 weeks," as used in s. 440.14(1), shall be deemed to mean and refer to a constructive period of 13 weeks as a whole, which shall be defined as a consecutive period of 91 days, and the term "during substantially the whole of 13 weeks" shall be deemed to mean during not less than 90 percent of the total customary full-time hours of employment within such period considered as a whole.

(21) The term "weekly compensation rate" shall be deemed to mean and refer to the amount of compensation payable for a period of 7 consecutive days, including any Saturdays, Sundays, holidays, and other nonworking days which fall within such period of 7 consecutive days. When Saturdays, Sundays, holidays, or other nonworking days immediately follow the first 7 days of disability or occur at the end of a period of disability as the last day or days of such period, such nonworking days constitute a part of the period of disability with respect to which compensation is payable.

Section 2. Subsection (3) of section 440.09, Florida Statutes, is amended to read:

440.09 Coverage.—

(3) No compensation shall be payable if the injury was occasioned primarily by the intoxication of the employee, by the influence of any narcotic drugs, barbiturates, or other stimulants not prescribed by a physician which affected the employee to such an extent that the employee's normal faculties were impaired, or by the willful intention of the employee to injure or kill himself, herself, or another. *If there was at the time of the injury 0.10 percent or more by weight of alcohol in the employee's blood, it shall be presumed, in the absence of substantial evidence to the contrary, that the injury was occasioned primarily by the intoxication of the employee. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.* Where injury is caused by the willful refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully promulgated by the division, and brought prior to the accident to his or her knowledge, the compensation as provided in this chapter shall be reduced 25 percent.

Section 3. Subsection (1) of section 440.13, Florida Statutes, is amended, and subsection (4) is added to said section to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(1) Subject to the limitations specified in paragraph (3)(b), the employer shall furnish to the employee such remedial treatment, care, and attendance under the direction and supervision of a qualified physician or surgeon, or other recognized practitioner, nurse or hospital, and for such period as the nature of the injury or the process of recovery may require, including medicines, crutches, artificial members, and other apparatus. If the employer fails to provide the same after request by the injured employee, such injured employee may do so at the expense of the employer, the reasonableness and the necessity to be approved by a judge of industrial claims. The employer shall not be entitled to recover any amount personally expended for such treatment or service unless such employee shall have requested the employer to furnish the same and the employer shall have failed, refused or neglected to do so, or unless the nature of the injury required such treatment, nursing, and services and the employer or the superintendent or foreman thereof, having knowledge of such injury, shall have neglected to provide the same; nor shall any claim for medical, surgical, or other remedial treatment be valid and enforceable unless within 10 days following the first treatment (except in cases where first-aid only is rendered), and thereafter at such intervals as the division by regulation may prescribe, the physician or other recognized practitioner giving such treatment or treatments furnish to the division and to the employer, or to the carrier if the employer is not self-insured, a report of such injury and treatment on forms prescribed by the division, provided that a judge of industrial claims for good cause may excuse the failure of the physician or other recognized practitioner to furnish any report within the period prescribed and may order the payment to such employee of such remuneration for treatment or service rendered as the judge of industrial claims finds equitable. *All medical reports obtained or received by the employer, the carrier, the injured employee, or the attorney for any of them, with respect to the remedial treatment, care and attendance of the injured employee, including reports of every examination, diagnosis, or disability evaluation, shall be filed with the Bureau of Workmen's Compensation within 5 days after receipt of same. A medical report not previously filed with the bureau shall not be received in evidence in a contested case unless the party offering same has furnished a copy thereof to the opposing party or his*

attorney at least 5 days prior to the hearing at which it is offered. The physician shall also furnish to the injured employee, or to his attorney, on demand, a copy of each such report without charge to the injured employee, except actual cost to the physician or hospital furnishing same.

(4) An injured employee is entitled as a part of his remedial treatment, care, and attendance to reasonable actual cost of transportation to and from the doctor's office, hospital, or other place of treatment by the most economical means of transportation available and suitable in the individual case. When the employee is entitled to such reimbursement for transportation by private automobile, it shall, in the absence of proof, be presumed that the actual cost is the amount allowed by the state to employees for official travel.

Section 4. Paragraphs (f) and (g) are added to subsection (1) of section 440.15, Florida Statutes, paragraph (c) of subsection (10) of said section is amended, and subsection (11) is added thereto to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(e) In case of permanent total disability resulting from injuries which occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under the provisions of subsection 440.20(10), the injured employee shall receive from the division additional weekly compensation benefits equal to 5 percent of the injured employee's weekly compensation rate as established pursuant to the law in effect on the date of his injury, multiplied by the number of calendar years since the date of injury, and subject to the maximum weekly compensation rate set forth in subsection 440.12(2). Such additional benefits shall be paid out of the Workmen's Compensation Trust Fund. This applies to payments due after October 1, 1974.

(f) *The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under paragraph (e). Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by paragraph (e) for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by said rules.*

(g) *The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier shall not be required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by said rules.*

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (e) of subsection (1), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. s. 423 and s. 402 and the employee has begun receiving such social security benefit payments. *The employee shall, upon demand by the division or employer or carrier, authorize the Social Security Administration to release disability information relating to him in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (e) of subsection (1) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by said rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority renewable as the division may prescribe by rule.*

(11) **EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED UNEMPLOYMENT COMPENSATION.**—Weekly compensation benefits payable under this chapter for temporary total disability resulting from injuries to an employee who has received unemployment compensation under chapter 443, or under the unemployment compensation law of any other state, for any week with respect to which weekly compensation benefits are payable under this chapter for temporary total disability, shall be reduced by the amount of unemployment compensation received.

Section 5. Subsections (5) and (10) of section 440.20, Florida Statutes, are amended, subsection (11) is renumbered as subsection (12), and new subsections (11) and (13) are added to said section to read:

440.20 Payment of compensation.—

(5) If any installment of compensation payable without an award is not paid within 14 days after it becomes due, as provided in subsection (2), there shall be added to such unpaid installment an amount equal to 10 percent thereof, which shall be paid at the same time as, but in addition to, [such installment of compensation], unless notice is filed under subsection (4), or unless such nonpayment results from conditions over which the employer or carrier had no control. *When any installment of compensation payable without an award has not been paid within 14 days after it became due and the claimant concludes the prosecution of the claim before a judge without having specifically claimed additional compensation in the nature of a penalty under this section, he will be deemed to have acknowledged that owing to conditions over which the employer or carrier had no control such installment could not be paid within the period prescribed for payment and to have waived his right to claim such penalty; provided that during the course of a hearing the judge on his own motion may raise the question of whether such penalty should be awarded or excused. If no claim for such penalty is presented and the judge does not raise the question on his own motion during the hearing, no penalty will be awarded and it will be deemed that the judge has excused such delay in payment of compensation pursuant to this section.* The division may assess without a hearing the above-mentioned 10 percent additional payment against either the employer or the insurance carrier, depending upon who was at fault in causing the delay. However, if any party requests a hearing within 20 days of the assessment, such hearing shall be conducted before a judge of industrial claims in accordance with s. 440.25. The insurance policy cannot provide that this sum will be paid by the carrier if the division or the judge of industrial claims determines that the 10 percent additional payment should be made by the employer rather than the carrier.

(10) Upon the application of any party in interest and after giving due consideration to the interests of all interested parties, if a judge of industrial claims finds that it is for the best interests of the person entitled to compensation, said judge of industrial claims may enter a compensation order requiring that the liability of the employer for compensation shall be discharged by the payment of a lump sum equal to the present value of all future payments of compensation, computed at 4 percent true discount compounded annually, or requiring that the employer make advance payment of a part of the compensation for which said employer is liable by the payment of a lump sum equal to the present value of such part of the compensation computed at 4 percent true discount compounded annually. Upon joint petition of all interested parties and after giving due consideration to the interests of all interested parties, if a judge of industrial claims finds that it is for the best interests of the person entitled to compensation, such judge of industrial claims may enter a compensation order approving and authorizing the discharge of the liability of the employer for both compensation and remedial treatment, care, and attendance by the payment of a lump sum equal to the present value of all future payments for both compensation and remedial treatment, care, and attendance; and a compensation order so entered upon joint petition of all interested parties shall not be subject to modification or review under s. 440.28. *The judge shall make or cause to be made such investigations as he considers necessary in each case in which the parties have stipulated that a proposed final settlement of all liability of the employer shall not be subject to modification or review under s. 440.28, to determine whether such final disposition will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the*

person entitled to compensation, and in his discretion may have an investigation made by the Rehabilitation Section of the Bureau of Workmen's Compensation. The joint petition and the report of any investigation so made will be deemed a part of the proceeding. A judge, in his discretion, may hear testimony relating to a proposed stipulation for settlement under this subsection without having in hand the bureau file; however, he shall in no event enter an order thereon without first having reviewed the bureau file. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which such person is entitled to compensation shall, in the absence of special circumstances making such course improper, be determined in accordance with the most recent United States Life Tables published by the National Office of Vital Statistics of the United States Department of Health, Education, and Welfare a standard experience table of mortality approved by the division. The probability of the happening of any other contingency affecting the amount or duration of the compensation, except the possibility of the remarriage of a surviving spouse, shall be disregarded. As a condition of approving a lump sum payment to a surviving spouse, the judge of industrial claims in the judge's discretion may require security which will insure that in the event of the remarriage of such surviving spouse any unaccrued future payments so paid may be recovered or recouped by the employer or carrier. Such applications shall be considered and determined in accordance with ss. 440.25 and 440.27 and the workmen's compensation rules of procedure prescribed by the commission and adopted by the Supreme Court.

(11)(a) *Liability of an employer for future payments of compensation shall not be discharged by advance payment unless prior approval of a judge of industrial claims or the bureau has been obtained as hereinafter provided. The approval shall not constitute an adjudication of the claimant's percentage of disability.*

(b) *When the claimant has reached maximum recovery and returned to his former or equivalent employment with no substantial reduction in wages, such approval of a reasonable advance payment of a part of the compensation payable to the claimant may be given informally by letter by a judge of industrial claims, by the bureau chief, or by the administrator of claims of the bureau.*

(c) *When the claimant has not returned to the same or equivalent employment with no substantial reduction in wages or has suffered a substantial loss of earning capacity, or a physical impairment, actual or apparent:*

1. *An advance payment of compensation not in excess of \$2,000 may be approved informally by letter, without hearing, by any judge of industrial claims, by the bureau chief, or by the administrator of claims of the bureau.*

2. *An advance payment of compensation not in excess of \$2,000 may be ordered by any judge of industrial claims after giving the interested parties opportunity for a hearing thereon pursuant to not less than 10 days' notice by mail, unless such notice is waived, and after giving due consideration to the interests of the person entitled thereto; and when the parties have stipulated to an advance payment of compensation not in excess of \$2,000, such advance may be approved by an order of a judge of industrial claims, with or without hearing, or informally by letter by any such judge, or by the bureau chief, if such advance is found to be for the best interests of the person entitled thereto.*

3. *When the parties have stipulated to an advance payment in excess of \$2,000, subject to the approval of the bureau, said payment may be approved by a judge of industrial claims by order if he finds that same is for the best interests of the person entitled thereto and is reasonable under the circumstances of the particular case. The judge shall make or cause to be made such investigations as he considers necessary concerning the stipulation, and in his discretion may have an investigation of the matter made by the Rehabilitation Section of the bureau. The stipulation and the report of any investigation shall be deemed a part of the record of the proceedings.*

(d) *When an application for an advance payment in excess of \$2,000 is opposed by the employer or carrier, it shall be heard by a judge of industrial claims after giving the interested parties not less than 10 days' notice of such hearing by mail,*

unless such notice is waived. In his discretion the judge may have an investigation of the matter made by the Rehabilitation Section of the bureau, in which event the report and recommendation of said section will be deemed a part of the record of the proceedings. If the judge finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, he may order same paid.

(13) When an employee is injured and the employer pays his full wages or any part thereof during the period of disability, or pays medical expenses for such employee, and the case is contested by the carrier, and/or the carrier and employer, and thereafter the carrier, either voluntarily or pursuant to an award, makes a payment of compensation or medical benefits, the employer shall be entitled to reimbursement to the extent of the compensation paid or awarded, plus medical benefits, if any, out of the first proceeds paid by the carrier in compliance with said voluntary payment or award, provided the employer furnishes satisfactory proof to the judge of such payment of compensation and medical benefits. Any payment by the employer over and above compensation paid or awarded and medical benefits, pursuant to subsection (12), shall be considered a gratuity.

Section 6. Paragraph (c) of subsection (3) and paragraph (b) of subsection (4) of section 440.25, Florida Statutes, are amended, paragraphs (c) and (d) of subsection (4) are redesignated paragraphs (d) and (e), and a new paragraph (c) is added to said subsection to read:

440.25 Procedure in respect to claims.—

(3)

(c) The order making an award or rejecting the claim, referred to in this chapter as a compensation order, shall set forth the findings of ultimate facts and the mandate, and the order need not include any other reason or justification for such mandate, and shall be filed in the office of the division at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record ~~claimant and to the employer~~ at the last known address of each, with the date of mailing noted thereon.

(4)

(b) The appellant shall have prepared, in accordance with the workmen's compensation rules of procedure, a record or appeal transcript of the proceedings before the judge of industrial claims, certified by the judge of industrial claims, which record transcript must be filed with the commission within 45 days from the date of the filing of the application for review, unless the commission for good cause shown by verified petition presented prior to the expiration of said period shall extend the time therefor. The appellant shall have a copy of the record transcript served on the opposing party or parties or their counsel and evidence of such service shall be filed with the record transcript when filed with the commission. Upon failure of the appellant to file a record transcript of the proceedings with the commission, together with evidence of service of a copy thereof on the opposing party or parties, within the time specified or within such time as allowed by the commission pursuant to petition for an extension of time as aforesaid, the commission shall dismiss the application for review.

(c) Within 15 days after the content of the record on appeal has been determined, the judge of industrial claims shall serve notice upon the appellant or his attorney of the estimated cost of preparing the record on appeal and necessary copies thereof, and the appellant shall, within 15 days of the date of service, deposit the amount of the estimated cost of preparing the record at the office of the judge of industrial claims. If the appellant fails to deposit the amount of costs within the time allotted, the judge of industrial claims shall promptly notify the commission of such failure and the commission shall dismiss the application for review. However, neither the division, the special disability trust fund, nor any self-insured state agency shall be required to make the deposit.

Section 7. Section 440.26, Florida Statutes, is amended to read:

440.26 Presumptions.—In any proceeding for the enforcement of a claim for compensation under this chapter it shall

be presumed, in the absence of substantial evidence to the contrary:

(1) That the claim comes within the provisions of this chapter.

(2) That sufficient notice of such claim has been given.

~~(3) That the injury was not occasioned primarily by the intoxication of the injured employee.~~

~~(3)(4)~~ That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

Section 8. Subsection (1) of section 440.29, Florida Statutes, is amended to read:

440.29 Procedure before the commission or judges of industrial claims.—

(1)(a) In making an investigation or inquiry or conducting a hearing the judge of industrial claims shall not be bound by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry, or conduct such hearing in such manner as to best ascertain the rights of the parties. Declaration of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

(b) An appellant may be relieved in part or in whole for the costs for the preparation of the record on appeal, if within 15 days after the date of notice of the estimated costs for the preparation is served, he files with the judge of industrial claims a verified petition to be relieved of costs. The verified petition shall contain a detailed and sworn statement of all his assets, liabilities, and income. Appellant's attorney or the appellant, if not represented by an attorney, shall include as a part of the verified petition an affidavit or affirmation that in his opinion the application for review was filed in good faith and that the assignment of error contained therein constitutes a probable basis for the commission to find reversible error. A copy of the verified petition shall be served upon the division in Tallahassee, and all other interested parties. The judge of industrial claims shall promptly conduct a hearing on the verified petition giving at least 15 days' notice to the appellant, the division, and all other interested parties, which shall all be parties to the proceeding. The judge may enter an order without such hearing if no objection is filed by the division or an interested party within 12 days from the date the verified petition is filed. Said proceedings shall be conducted in accordance with s. 440.25 and the workmen's compensation rules of procedure to the extent applicable.

Section 9. Section 440.34, Florida Statutes, is amended to read:

440.34 Attorney's fees; costs; penalty for violations.—

(1) If the employer or carrier shall file notice of controversy as provided in s. 440.20, or shall decline to pay a claim on or before the 21st day after they have notice of same, or shall otherwise resist unsuccessfully the payment of compensation, and the claimant injured person shall have employed an attorney at law in the successful prosecution of the claim, there shall, in addition to the award for compensation, be awarded a reasonable attorney's fee of 25 percent of the first \$5,000 of the amount of the benefits secured, 20 percent of the next \$5,000 of the amount of the benefits secured, and 15 percent of the remaining amount of the benefits secured, to be approved by the judge of industrial claims, which fee may be paid direct to the attorney for the claimant in a lump sum. However, the judge of industrial claims shall consider the following factors in each case and may increase or decrease the attorney's fee if in his judgment the circumstances of the particular case warrant such action:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(b) The likelihood, if apparent to the claimant, that the acceptance of the particular employment will preclude employment of the lawyer by others or cause antagonisms with other clients.

(c) *The fee customarily charged in the locality for similar legal services.*

(d) *The amount involved in the controversy and the benefits resulting to the claimant.*

(e) *The time limitation imposed by the claimant or the circumstances.*

(f) *The nature and length of the professional relationship with the claimant.*

(g) *The experience, reputation, and ability of the lawyer or lawyers performing the services.*

(h) *The contingency or certainty of a fee.*

(2) *In awarding a reasonable attorney's fee, the judge of industrial claims shall consider only that portion of the award to the claimant that the attorney is responsible for securing.*

(3) *If any proceedings are had for review of any claim, award or compensation order before any court, the court may allow or increase the attorney's fees, in its discretion, which fees shall be in addition to the compensation paid the claimant, and shall be paid as the court may direct.*

(4)(2) *There shall be further assessed against such employer or carrier, as costs in said claim, such fees and mileage for witnesses attending the hearing at the instance of claimant, as would be allowed such witnesses in cases at law.*

(5)(3) *Any person:*

(a) *Who receives any fees, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the judge of industrial claims, the commission, or such court; or*

(b) *Who makes it a business to solicit employment for a lawyer or for himself or herself in respect of any claim or award for compensation,*

shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 10. Section 440.37, Florida Statutes, is amended to read:

440.37 *Misrepresentation; penalty.—Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining or denying any benefit or payment under this chapter shall be guilty of a misdemeanor of the first second degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.*

Section 11. Paragraph (a) of subsection (3) of section 440.39, Florida Statutes, is amended to read:

440.39 *Compensation for injuries where third persons are liable.—*

(3)(a) *In all claims or actions at law against a third party tort-feasor, the employee, or his dependents, or those entitled by law to sue in the event he is deceased, shall sue for the employee individually, and for the use and benefit of the employer if a self-insurer, or employer's insurance carrier, in the event compensation benefits are claimed or paid, and such suit may be brought in the name of the employee or his dependents or those entitled by law to sue in the event he is deceased, as plaintiff or, at the option of such plaintiff may be brought in the name of such plaintiff and for the use and benefit of the employer or insurance carrier, as the case may be. Upon suit being filed the employer or the insurance carrier, as the case may be, may file in the suit a notice of payment of compensation and medical benefits to the employee or his dependents, which said notice shall be recorded and the same shall constitute a lien upon any judgment recovered to the extent that the court may determine to be their pro rata share for compensation benefits paid or to be paid under the provisions of this law. The employer or carrier shall recover from the judgment, after attorney's fees and costs incurred by the employee or dependent in that suit have been deducted, 100 50 percent of what it has paid and future benefits to be paid unless the employee or dependent can demonstrate to the court that he did not recover the full value of damages sustained because of comparative negligence or because of limits of insurance cover-*

age and collectibility. The burden of proof will be upon the employee. Such proration shall be made by the judge of the trial court upon application therefor and notice to the adverse party. Notice of suit being filed and notice of payment of compensation benefits shall be served upon the compensation carrier and upon all parties to the suit or their attorneys of record.

Section 12. Paragraph (d) is added to subsection (1) of section 120.52, Florida Statutes, 1976 Supplement, to read:

120.52 *Definitions.—As used in this act:*

(1) *"Agency" means:*

(d) *Neither the Industrial Relations Commission nor judges of industrial claims shall, in the adjudication of workmen's compensation claims, be considered an agency or part of an agency for the purposes of this act.*

Section 13. Subsection (15) of section 120.54, Florida Statutes, 1976 Supplement, is amended to read:

120.54 *Rulemaking; adoption procedures.—*

(15) *The rulemaking provisions of this chapter shall not apply to the judges of industrial claims or compensation appeals referees.*

Section 14. Paragraph (a) 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 part 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.—*

(a) *A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:*

1. *Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional and Occupational Regulation;*

2. *Hearings before the Industrial Relations Commission in unemployment compensation appeals, judges of industrial claims, unemployment compensation appeals referees, and the Public Service Commission or its examiners;*

3. *Hearings regarding drivers' licensing pursuant to chapter 322;*

4. *Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;*

5. *Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;*

6. *Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units; and*

7. *Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307.*

Section 15. Section 440.021, Florida Statutes, is created to read:

440.021 *Exemption of workmen's compensation from chapter 120.—Workmen's compensation adjudication by judges of industrial claims and the Industrial Relations Commission is exempt from chapter 120, and neither the judges of industrial claims nor the Industrial Relations Commission shall be considered an agency or a part thereof.*

Section 16. Subsection (4) is added to s. 627.311, Florida Statutes, to read:

(4) *The department may, after consultation with insurers licensed to write workers' compensation and employers' liability insurance in this state, approve a joint underwriting plan for the purpose of equitable apportionment or sharing among in-*

urers of workers' compensation and employers' liability insurance. The plan may provide for one (1) or more designated insurers able and willing to provide policy and claims service to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates. Such alternate plan shall provide the designated insurers shall issue policies of insurance and provide policyholder and claim service on behalf of all insurers for the joint underwriting association. The plan shall provide for the equitable apportionment among insurers of losses and expenses incurred. If the plan is adopted, all insurers authorized to write workers' compensation and employers' liability insurance in this state shall subscribe thereto and participate therein.

Section 17. This act shall take effect July 1, 1977.

House Amendment 2—On page 1, in title, lines 1-8, strike all of said lines and insert:

A bill to be entitled

An act relating to workmen's compensation; amending s. 440.02(2)(d), Florida Statutes, redefining the term "employee" for the purposes of the Workmen's Compensation Law to exclude real estate salesmen or agents who perform services for remuneration solely by way of commission; adding subsections (20) and (21) to s. 440.02, Florida Statutes; providing definitions; amending s. 440.09(3), Florida Statutes; providing conditions under which a presumption exists that an injury was occasioned primarily by the intoxication of the employee; amending s. 440.13(1), Florida Statutes, and adding subsection (4); requiring the filing of certain medical reports with the Bureau of Workmen's Compensation; providing for furnishing certain reports to opposing parties and to the injured employee or his attorney; providing for transportation costs for injured employee; amending s. 440.15(10)(c), Florida Statutes, and adding paragraphs (1)(f) and (g) and subsection (11) thereto; providing for reporting of earnings and income by the injured employee; providing for release of social security disability information; providing that certain benefits not be paid for any period during which the employee refuses to report or authorize release of information; providing for a reduction in certain benefits for an employee who is also receiving unemployment compensation; amending s. 440.20(5) and (10), Florida Statutes, and adding new subsections (11) and (13); providing conditions under which penalties for nonpayment of compensation are deemed to be waived; providing for investigations with regard to stipulation that a proposed final settlement not be subject to modification or review; specifying use of certain tables; providing for approval of discharge of employer's liability for future payments of compensation by advance payments; providing for reimbursement of employer after certain payments by carrier; amending s. 440.25(3)(c) and (4)(b), Florida Statutes, and adding new paragraph (4)(c) thereto; providing for delivery of copies of compensation orders; requiring the appellant to prepare a record on appeal rather than a transcript of the proceedings in an appeal from a compensation order; requiring the appellant to deposit the amount of the estimated cost of preparing such record with the judge of industrial claims; providing for dismissal for failure to comply; providing exceptions; amending s. 440.26, Florida Statutes; removing the presumption that the injury was not occasioned primarily by the intoxication of the injured employee; amending s. 440.29(1), Florida Statutes; providing a procedure whereby an injured worker may be relieved of the cost of preparing a record on appeal; amending s. 440.34, Florida Statutes; providing for attorney's fee based on a percentage of the amount of benefits secured; providing factors to be considered by a judge of industrial claims in modifying such fee; amending s. 440.37, Florida Statutes; providing a penalty for obtaining or denying benefits by a false statement; amending s. 440.39(3)(a), Florida Statutes, relating to actions against third party tort-feasors; providing that the employer or carrier shall recover from the judgment 100 percent of what it has paid, after deduction of costs; adding paragraph (d) to s. 120.52(1), Florida Statutes, 1976 Supplement, and creating s. 440.021, Florida Statutes; providing that in the adjudication of workmen's compensation claims the Industrial Relations Commission and judges of industrial claims are exempt from the Administrative Procedure Act; amending ss. 120.54(15) and 120.57(1)(a), Florida Statutes, 1976 Supplement, relating to certain exemptions under said act for said commission and judges; adding subsection (4) to section 627.311, Florida Statutes; providing an effective date.

On motions by Senator Williamson, the Senate concurred in the House amendments.

SB 343 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gorman	Poston	Tobiassen
Barron	Hair	Renick	Trask
Castor	Henderson	Saylor	Vogt
Chamberlin	Holloway	Scarborough	Williamson
Childers, Don	Johnston	Skinner	Wilson
Childers, W. D.	MacKay	Spicola	Winn
Firestone	McClain	Thomas, Jon	Zinkil
Glisson	Myers	Thomas, Pat	

Nays—1

Scott

Votes after roll call:

Yeas—Dunn, Graham

Nay to Yea—Scott

The bill was ordered engrossed and then enrolled.

On motion by Senator Trask, by unanimous consent—

HB 1619—A bill to be entitled An act relating to agriculture; amending s. 581.101, Florida Statutes; providing that plants, plant products, and other things included in a quarantine, moved, introduced, or disposed of in violation of a quarantine and plants propagated from such plants, plant products and things, are contraband and are required to be confiscated and destroyed by the Department of Agriculture and Consumer Services without compensation; creating s. 581.183, Florida Statutes; making it unlawful to sell or propagate for sale any tree representing a new citrus variety brought into the state after July 1, 1977, which was propagated from a tree not indexed and certified as disease-free by the department; providing that such tree is contraband and is required to be confiscated and destroyed by the department without compensation; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Trask moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of line 26 and insert: Section 3. Subsection (17) of section 581.031, Florida Statutes, 1976 Supplement, is amended to read:

581.031 Department; powers and duties.—The department shall have the following powers and duties, subject to the procedural requirements of s. 581.051, pertaining to rules:

(17) To supervise or cause to be supervised, the treatment, cutting and destruction of plants, *plant parts, fruit, soil, containers, equipment, and other articles capable of harboring plant pests if they are infested, or located in an area which may be suspected of being infested or infected due to its proximity to a known infestation, or if they came from a situation where they were reasonably exposed to infestation*, when necessary to prevent or control the dissemination of plant pests or to eradicate same and to ~~make suggest rules and regulations therefor~~;

Section 4. This act shall take effect July 1, 1977.

Amendment 2—On page 1 in title, line 20, after the word "compensation;" insert: amending s. 581.031(17), Florida Statutes, 1976 Supplement, providing for the making of rules by the department for treatment and destruction of pest-infested plants and other articles, or plants and other articles suspected of being infested;

On motion by Senator Trask, by two-thirds vote HB 1619 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

On motion by Senator Trask the Senate reconsidered the vote by which—

HB 52—A bill to be entitled An act relating to Pascua Florida Day; adding a new paragraph (g) to s. 683.01(1), Florida Statutes, providing that Pascua Florida Day is a legal and public holiday; amending s. 683.06(2), Florida Statutes, providing for conformity with respect to the day upon which such holiday is to be observed when the regularly designated calendar day falls on a Sunday; providing an effective date.

—passed as amended this day.

On motion by Senator Trask the Senate reconsidered the vote by which HB 52 was placed on third reading. On motions by Senator Trask the Senate reconsidered the votes by which Amendments 1 and 2 were adopted. The question recurred on the amendments and the amendments failed.

On motion by Senator Trask, by two-thirds vote HB 52 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Graham	Peterson	Thomas, Pat
Castor	Hair	Poston	Tobiassen
Chamberlin	Henderson	Renick	Trask
Childers, Don	Holloway	Sayler	Vogt
Childers, W. D.	Johnston	Scarborough	Williamson
Firestone	MacKay	Scott	Wilson
Glisson	McClain	Skinner	Winn
Gorman	Myers	Thomas, Jon	Zinkil

Nays—None

Vote after roll call:

Yea—Spicola

The Senate resumed—

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 Henderson—

SB 731—A bill to be entitled An act relating to jury commissioners; amending s. 40.13, Florida Statutes, providing an annual salary for jury commissioners of at least \$100; providing that counties are not prohibited from paying jury commissioners more than the required annual salary; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 28, insert new Section 2 and renumber subsequent Section:

Section 2. Section 40.09, Florida Statutes, is amended to read:

40.09 Jury commissions, counties exceeding 120,000.—There shall be a jury commission, in each county having a population exceeding 120,000 by the last federal census, consisting of two members, appointed by the Governor for terms of 2 years,

each of whom shall be a resident of such county. This provision shall become effective in all counties hereafter attaining the above population on January 1 next following the publication of the census showing such population and as early as practicable after becoming effective in such counties, the Governor shall appoint a jury commission for such county, one for a term of 1 year from the effective date of this provision and one for a term of 2 years from said effective date. All successor commissioners shall be appointed by the Governor and shall hold their offices for terms of 2 years each. Counties having an approved computerized jury selection system may elect to abolish said commission and empower the court administrator to perform said duties, *the provisions of any special law or general law of local application to the contrary notwithstanding.*

House Amendment 2—On page 1, in title, line 7, insert after the word "salary;" : amending s. 40.09, Florida Statutes, authorizing certain counties to abolish their jury commission and empower the court administrator to perform the commission's duties without regard to any special law or general law of local application to the contrary;

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

SB 731 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Mr. President	Gorman	Myers	Tobiassen
Castor	Graham	Poston	Trask
Chamberlin	Hair	Renick	Vogt
Childers, Don	Henderson	Scarborough	Williamson
Childers, W. D.	Holloway	Skinner	Winn
Firestone	Johnston	Thomas, Jon	Zinkil
Glisson	MacKay	Thomas, Pat	

Nays—5

McClain	Scott	Spicola	Wilson
Peterson			

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 as amended—

By the Committees on Appropriations and Tourism & Economic Development and Representative Melvin—

CS for HB 1435—A bill to be entitled An act relating to governmental reorganization; creating s. 20.35, Florida Statutes, which creates a Department of Tourism and Economic Development to be headed by the Florida Tourism and Economic Development Commission; transferring the divisions of Tourism and Economic Development of the Department of Commerce to the new department; transferring the Division of Hotels and Restaurants of the Department of Business Regulation to the new department and renaming it the Division of Lodging and Food Services; providing for powers and duties of the new department and the commission; creating the Economic Development Advisory Council and the Motion Picture and Television Advisory Council within the Division of Economic Development and the Tourism Advisory Council within the Division of Tourism; amending s. 20.17(1)-(3), (5), (6), and (10), Florida Statutes, changing the name of the Department of Commerce to the Department of Labor; amending s. 20.16(2)(b), (11), Florida Statutes; repealing s. 20.16(6), Florida Statutes; renaming the Division of Hotels and Restaurants of the Department of Business Regulation as the Division of Hotels; amending ss. 509.013(1), (2), (3), (6), 509.032, 509.072, 509.091, 509.092, 509.101(1), 509.141(1), (2), (4), 509.142, 509.151, 509.161, 509.162, 509.2111, 509.212, 509.221(1), (2), (4), (6), (8), (9), 509.241(3), (4), 509.251(5), 509.261(1)(a), (3)(a), (b), (4), 509.281, 509.291(1), 509.301(1), (2), (3), 509.302(3), 215.22(26), and adding s. 215.22(27), Florida Statutes; amending s. 509.211(2)(a), (b), (4), (5)(a), (c), (d), Florida Statutes, 1976 Supplement; repealing ss. 509.013(5), 509.221(7), 509.241(2), 509.251(3), (4), 509.292, Florida Statutes; creating ss. 381.601-381.641, Florida Statutes; removing the statutory

provisions relating to the licensing and regulation of public food service establishments from chapter 509, Florida Statutes, and reenacting such provisions, with some modifications, in chapter 381, Florida Statutes, to be administered by the Department of Health and Rehabilitative Services; renaming the Hotel and Restaurant Trust Fund as the Hotel Trust Fund; establishing the Restaurant Trust Fund and providing for the deposit of funds collected by the Department of Health and Rehabilitative Services as a result of food service establishment regulation in such fund; providing for the appointment of a portion of the members of the Advisory Council for Industry Education by the Secretary of Health and Rehabilitative Services; removing the food service establishment representatives from the advisory council to the division; removing certain duties from such council and creating an advisory council on the food service industry in the Department of Health and Rehabilitative Services; directing the Division of Statutory Revision and Indexing to make certain changes in the Florida Statutes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

CS for HB 1435 was read the first time by title. On motions by Senator Myers, the rules were waived and the bill was placed on the calendar, and by unanimous consent was taken up out of order.

On motion by Senator Myers by two-thirds vote, CS for HB 1435 was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1—On page 64, strike all of lines 23 and 24 and insert: Section 51. This act shall take effect July 1, 1978.

Amendment 2—On pages 3-21, strike all of sections 1 through and including section 19 and on page 64, strike sections 47 through 50 inclusive and renumber all remaining sections accordingly

On motion by Senator Myers, by two-thirds vote CS for HB 1435 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gallen	Myers	Spicola
Barron	Glisson	Peterson	Thomas, Jon
Castor	Gorman	Poston	Tobiassen
Chamberlin	Hair	Renick	Vogt
Childers, Don	Henderson	Saylor	Williamson
Childers, W. D.	Holloway	Scarborough	Wilson
Dunn	Johnston	Scott	Winn
Firestone	McClain	Skinner	Zinkil

Nays—None

Vote after roll call:

Yea—Graham

The Honorable Lew Brantley, President

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

By Senator W. D. Childers—

SB 1491—A bill to be entitled An act relating to Escambia County, Florida; amending Chapter 76-370 Laws of Florida, providing for a system of personnel administration for classified employees of the County of Escambia including noninstructional employees of the District School Board; defining purpose of act, composition of Board; authorizing a staff; identifying classified and unclassified service; defining duties of the board, status of present and future employees; providing for a classification plan; authorizing unlimited number of positions; providing for various leaves and holidays; setting standards for personnel selection; ensuring employees the right to participate in activities of employee organizations; outlining the appointment process; permitting transfers; providing for suspensions and dismissals for cause, investigations and hearings; mandating certain prohibitions; authorizing a pay plan; providing a penalty for violations; requiring reports of personnel actions,

annual reports and inspection of public records of the board; requiring the Board of County Commissioners to fund system and provide facilities; defining certain terms; providing severance and savings clause; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 6, line 12, strike after the word home semi-colon: "county engineer;"

Amendment 2—On page 6, line 15, insert after District: ; the executive officer of the board of county commissioners; the department and division heads of the board of county commissioners.

Amendment 3—On page 6, line 20-25, strike all of said lines and insert: New Section 3.3. Additional Positions Eligible for Exemption. In addition to those positions described in items (a) through (i) in 3.2 above, the following positions may, by rule of the civil service board, also be exempt from the career civil service:

(a) The executive head and a deputy or deputies to the executive head and other positions of each county agency as warranted by the size and complexity of the organization, scope of programs and nature of the positions. Where more than one deputy is required in an exempt position by an agency, justification must be submitted to and be approved by the civil service board.

(b) Confidential assistant or secretary to an exempt official.

On motions by Senator W. D. Childers, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

On motions by Senator Firestone, the rules were waived and by two-thirds vote HB 1728 was withdrawn from the Committees on Judiciary-Civil and Judiciary-Criminal and placed on the calendar. On motion by Senator Firestone by unanimous consent—

HB 1728—A bill to be entitled An act relating to liens; amending s. 713.76, Florida Statutes, permitting a lienee to release his property from a lien by filing either a cash or surety bond; reducing the amount of the bond; providing that a lienee who brings an action for the release of such property shall, upon recovery, be entitled to damages, court costs, and attorney's fees; providing a penalty; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Firestone by two-thirds vote HB 1728 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gallen	Myers	Tobiassen
Barron	Glisson	Peterson	Trask
Castor	Gorman	Plante	Vogt
Chamberlin	Graham	Poston	Williamson
Childers, Don	Hair	Scarborough	Wilson
Childers, W. D.	Johnston	Scott	Winn
Dunn	MacKay	Skinner	Zinkil
Firestone	McClain	Spicola	

Nays—None

SB 1060, companion to HB 1728, was laid on the table.

On motion by Senator Vogt the Senate reconsidered the vote by which—

SB 1012—A bill to be entitled An act relating to the Public Service Commission; repealing ss. 347.08, 347.09, 347.10, 347.11, 347.12, 347.13, 347.14, 347.15, 347.16, 347.17, and 347.18, Florida Statutes, relating to regulation of certain bridges, causeways, tunnels, toll highways, and ferries; amending s. 350.11, Florida Statutes, redefining common carrier as related to vessels; cre-

ating s. 350.125, Florida Statutes, requiring a certificate of public convenience and necessity to operate as a common carrier any vessel of 10 tons net or over; specifying contents of applications for certificates and filing fees therefor; specifying notice, hearing and disposition requirements for applications for certificates; providing that the Public Service Commission may consider and act upon an application without a hearing in the absence of any protest against said applications; providing that such certificates be subject to the provisions of ss. 323.041, 323.06, 323.07 and 323.08, Florida Statutes; providing an exemption; providing that the provisions of s. 350.125, Florida Statutes, shall also apply to applications for the operation of ferry facilities; providing for the transfer to chapter 338 of bridge franchises under the Public Service Commission for regulation by the Florida Department of Transportation; providing an effective date.

—passed this day. On motion by Senator Vogt the Senate reconsidered the vote by which the Senate concurred in House Amendment 1.

Senator Saylor presiding

Senator Spicola moved the following amendment to House Amendment 1:

Amendment 2—Strike the House Amendment and insert: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

Section 1. Section 350.001, Florida Statutes, is created to read:

350.001 Legislative intent.—The Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government. It is the desire of the Legislature that the Governor and Cabinet participate in the appointment process of commissioners to the Public Service Commission. The Legislature accordingly delegates to the Governor and Cabinet a limited authority with respect to the Public Service Commission by authorizing them to participate in the selection of members only from the list provided by the Florida Public Service Commission Nominating Council in the manner prescribed by s. 350.031.

Section 2. Section 350.01, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 350.01, F.S., for present text.)

350.01 Florida Public Service Commission.—

(1) The Florida Public Service Commission shall consist of five commissioners appointed pursuant to s. 350.031.

(2)(a) Each commissioner serving on the effective date of this act shall be permitted to remain in office until the completion of his current term. Upon the expiration of the term, a successor shall be appointed in the manner prescribed by s. 350.031(3) and (4) for a 4-year term, except that the terms of the initial members appointed under this act shall be as follows:

1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter; and

2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.

(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031(3) and (4) for 2-year terms beginning the first Tuesday after the first Monday in January, 1978, and successors shall be appointed for 4-year terms thereafter.

(c) Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as original appointments to the commission.

(d) In the event that the electorate shall approve an amendment to the State Constitution at the general election to be held in November, 1978, authorizing commissioners to serve terms in excess of 4 years, the following shall apply:

(a) Each commissioner serving on the effective date of the constitutional amendment or appointed for a term beginning in January, 1979, shall be permitted to remain in office until the completion of his current term or the term beginning in January,

1979. Upon the expiration of such terms, all subsequent appointments shall be made in the manner prescribed by s. 350.031(3) and (4) for 6-year terms.

(b) A vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(4) Any person serving on the commission who desires to be appointed or reappointed shall file with the nominating council at least 180 days before the expiration of his term a declaration of intention to seek an additional term.

(5) One member of the commission shall be elected by majority vote to serve as chairman for a term of 2 years, beginning with the first Tuesday after the first Monday in January, 1978. A member may not serve two consecutive terms as chairman.

(6) The primary duty of the chairman shall be to serve as chief administrative officer of the commission; however, the chairman may participate in any proceedings pending before the commission when administrative duties and term permit. In order to distribute the work load and expedite the commission's calendar, the chairman, in addition to other administrative duties, shall have authority to assign the various proceedings pending before the commission requiring hearings to two or more commissioners or to the commission's office of hearing examiners under the supervision of the office of the general counsel. Only those commissioners assigned to a proceeding requiring hearings shall be entitled to participate in the final decision of the commission as to that proceeding; provided if only two commissioners are assigned to a proceeding requiring hearings and cannot agree on a final decision, the chairman shall cast the deciding vote for final disposition of the proceeding in accordance with s. 120.58(1)(e). If more than two commissioners are assigned to any proceeding, a majority of the members assigned shall constitute a quorum and a majority vote of the members assigned shall be essential to final commission disposition of those proceedings requiring actual participation by the commissioners. If a commissioner becomes unavailable after assignment to a particular proceeding, the chairman shall assign a substitute commissioner. In those proceedings assigned to a hearing examiner, following the conclusion of the hearings, the designated hearing examiner is responsible for preparing recommendations for final disposition by a majority vote of the commission. A petition for reconsideration shall be voted upon by those commissioners participating in the final disposition of the proceeding.

(7) The chairman shall determine, whether requested or not, which proceeding shall be assigned to and heard by the full commission or whether it should be assigned to a fewer number of commissioners. In reaching such determination, the chairman shall consider the overall general public interest impact of the pending proceedings, including but not limited to the following criteria: the magnitude of a rate filing, the services rendered to the affected public, the urgency of the requested action, the needs of the consuming public and the utility, consumer relations, regulatory policies affected, conservation, the economy of the area, competition and value of service aspects and the effect on the public health and safety of the area involved.

(8) This section shall not prohibit a commissioner, designated by the chairman, from conducting a hearing as provided under s. 120.57(1), s. 323.07, or s. 350.631, and the rules of the commission adopted pursuant thereto.

Section 3. Section 350.031, Florida Statutes, is created to read:

350.031 Florida Public Service Commission Nominating council.—

(1) There is created a Florida Public Service Commission nominating council consisting of nine members. Three members, including one member of the House of Representatives, shall be appointed by the Speaker of the House; three members, including one member of the Senate, shall be appointed by the President of the Senate; and three members shall be selected and appointed by a majority vote of the other six members of the council. For the initial term of appointment, each member appointed by the Speaker of the House and the President of the Senate shall serve for three years, except those members of the House and Senate, who shall serve for 1 year, and each member selected by a majority vote of the six members shall serve for 2 years. Thereafter, all terms shall be for 4 years,

except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. Initial appointments shall be made by the Speaker of the House and the President of the Senate on or before July 10, 1977. The six appointees shall then meet and select the remaining three members on or before July 31, 1977. Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council.

(2) No member or spouse shall be an agent, officer, employee or be any type of partner in any industry regulated by the commission, nor shall a member or spouse have any ownership in, including any ownership or shares in, or be in a position to substantially influence or affect, or be in a position to be substantially influenced or affected by the management or managerial policies of any industry regulated by the commission. A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated any provision of this subsection or for other good cause.

(3) It shall be the responsibility of the council to recommend to the Governor and Cabinet no fewer than three persons for each vacancy occurring on the Public Service Commission. Each person recommended by the council shall be approved by a majority vote of the members of the council. The Governor and Cabinet shall consider the persons recommended by the council and fill by appointment vacancies occurring on the Public Service Commission. The Governor and Cabinet shall make appointments by a majority vote, only from the names recommended by the council.

(4) The council shall submit the recommendations to the Governor and Cabinet by October 1 of those years in which the terms are to begin the following January, or within 60 days after a vacancy occurs for any reason other than the expiration of the term. If the Governor and Cabinet has not made an appointment by December 1, to fill a vacancy for a term to begin the following January, then the council, by majority vote, shall appoint by December 31, one person from the names previously recommended to the Governor and Cabinet to fill the vacancy. If the Governor and Cabinet has not made the appointment to fill a vacancy occurring for any reason other than the expiration of the term by the sixtieth day following receipt of the recommendations of the council, the council by majority vote shall appoint within 30 days thereafter one person from the names previously recommended to the Governor and Cabinet to fill the vacancy.

(5) The council shall establish procedures for applications for membership on the commission. No person shall be recommended to the Governor and Cabinet by the council unless the council is satisfied that the person is competent and knowledgeable in one or more fields which include, but are not limited to, public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission shall fairly represent the above-stated fields.

Recommendations of the council shall be on a nonpartisan basis.

Section 4. Section 350.03, Florida Statutes, is hereby repealed.

Section 5. This act shall take effect July 1, 1977.

Further consideration of SB 1012 was deferred.

The President presiding

Senator Barron moved that the Senate reconsider the vote by which HB 1435 passed this day. The motion was adopted by the following vote:

Yeas—21

Barron	Gorman	Scarborough	Ware
Childers, Don	Hair	Scott	Williamson
Childers, W. D.	Johnston	Skinner	Wilson
Dunn	McClain	Tobiassen	
Gallen	Plante	Trask	
Glisson	Saylor	Vogt	

Nays—13

Castor	Henderson	Peterson	Zinkil
Chamberlin	Holloway	Poston	
Firestone	MacKay	Spicola	
Graham	Myers	Winn	

HB 1435 was placed on the calendar pending roll call.

The Senate resumed—

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 W. D. Childers—

SB 84—A bill to be entitled An act relating to the Teachers' Retirement System of Florida; amending s. 238.181(2), Florida Statutes; increasing the number of hours of part-time employment per calendar year allowed a person retired under such system without reducing or affecting his retirement or pension status; repealing s. 238.07(1), Florida Statutes, to remove the requirement that a member be retired at age 70; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, lines 15-27, strike everything after the enacting clause and insert: Section 1. Subsection (9) of section 121.091, Florida Statutes, is amended to read:

(Substantial rewording of subsection. See s. 121.091(9), F.S., for present text.)

121.091 Benefits payable under the system.—

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state administered retirement system and receive compensation from such employment without limiting or restricting in any way the retirement benefits payable to such person. Any person retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that participates in a state administered retirement system and receive compensation from such employment and retirement benefits at the same time, subject to the following limitations:

1. Such person may receive retirement benefits at the same time that compensation is received, so long as the employment does not exceed 600 hours each calendar year, or the compensation does not exceed \$5,000 each calendar year, whichever limitation permits the longest employment.

2. Any person to whom the limitation in subparagraph 1 applies, who will exceed the limitation, shall give timely notice in writing to his employer and to the division of this fact and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefit for the remainder of the calendar year during which he continues employment in excess of the limitation in subparagraph 1. Should such person fail to provide timely notice to the division of his employment in excess of the limitation, and should he receive and retain both benefits and compensation in excess of the limitation of subparagraph 1., the division shall suspend his retirement benefit until he has repaid to the retirement trust fund all benefits received after the limitation was reached, plus interest at 10 percent compounded annually from date of receipt to date of repayment.

3. The employment by an employer of any retiree of any state administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree, nor shall any deductions or contributions for retirement be made for the compensation received by such retiree with respect to such employment.

4. Notwithstanding the provisions of subparagraph 1., no retired person may be employed by an employer under the system within 1 calendar month of retirement, without having his retirement benefits suspended for the duration of such employment.

5. The limitations of this subsection on employment after retirement shall also apply to any retired person holding an elective public office, either by election or appointment, effective with the first term of office that commences on or after July 1, 1977.

(b) The limitations of paragraph (a) on employment after retirement shall apply to any employment, regardless of the category of funds from which compensation is paid. Any contract or agreement between an employer under the system and a retired person in which the retired person agrees to provide his personal services for a fee or payment shall be deemed to be employment for the purposes of paragraph (a), and shall be subject to the limitations thereof, even though for all other purposes the retired person would be considered a private or independent contractor and such contract would not constitute employment.

Section 2. Subsection (4) of section 121.046, Florida Statutes, is amended to read:

121.046 Merger of the Judicial Retirement System into the Florida Retirement System Act.—

(4) Any member of the Judicial Retirement System who elects to transfer to the Florida Retirement System, and every Supreme Court Justice, District Court of Appeal Judge, or Circuit Judge who is elected or appointed to judicial office on or after July 1, 1972 who is not already a member of the Judicial Retirement System when elected or appointed to such office, shall be subject to the provisions of chapter 121 and of this act which are not in conflict or inconsistent with the provisions of Art. V of the State Constitution, and any retired member on temporary judicial assignment shall continue to receive his retirement benefits *in accordance with the provisions of s. 121.091 and such other compensation as may be authorized by s. 25.072, and Art. V, of the State Constitution.*

Section 3. Section 122.16, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 122.16, F.S., for present text.)

122.16 Employment after retirement.—

(1) Any person who is retired under this chapter, except under the disability retirement provisions of ss. 121.091 and 122.34 may be employed by an employer that does not participate in a state administered retirement system and receive compensation from such employment without limiting or restricting in any way the retirement benefits payable to such person. Any person retired under this chapter, except under the disability retirement provisions of ss. 121.091 and 122.34 may be employed by an employer that participates in a state administered retirement system and receive compensation from such employment and retirement benefits at the same time, subject to the following limitations:

(a) Such person may receive retirement benefits at the same time that compensation is received, so long as the employment does not exceed 600 hours each calendar year, or the compensation does not exceed \$5,000 each calendar year, whichever limitation permits the longest employment.

(b) Any person to whom the limitation in paragraph (a) applies who will exceed the limitation shall give timely notice in writing to his employer and to the division of this fact and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefit for the remainder of the calendar year during which he continues employment in excess of the limitation in paragraph (a). Should such person fail to provide timely notice to the division of his employment in excess of the limitation, and should he receive and retain both benefits and compensation in excess of the limitation of paragraph (a) the division shall suspend his retirement benefit until he has repaid to the retirement trust fund all benefits received after the limitation was reached, plus interest at 10 percent compounded annually from date of receipt to date of repayment.

(c) The employment by an employer of any retiree of any state administered retirement system shall have no effect on

the average final compensation or years of creditable service of such retiree, nor shall any deductions or contributions for retirement be made for the compensation received by such retiree with respect to such employment.

(d) Notwithstanding the provisions of paragraph (a), no retired person may be employed by an employer under the system within 1 calendar month of retirement, without having his retirement benefits suspended for the duration of such employment.

(e) The limitations of this subsection on employment after retirement shall also apply to any retired person holding an elective public office, either by election or appointment, effective with the first term of office that commences on or after July 1, 1977.

(2) The limitations of subsection (1) on employment after retirement shall apply to any employment, regardless of the category of funds from which compensation is paid. Any contract or agreement between an employer under the system and a retired person in which the retired person agrees to provide his personal services for a fee or payment shall be deemed to be employment for the purposes of subsection (1), and shall be subject to the limitations thereof, even though for all other purposes the retired person would be considered a private or independent contractor and such contract would not constitute employment.

Section 4. Section 238.181, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 238.181, F.S., for present text.)

238.181 Retired member may be substitute teacher; conditions.—

(1) Any person who is retired under this chapter, except under the disability provisions of s. 238.07, may be employed by an employer that does not participate in a state administered retirement system and receive compensation from such employment without limiting or restricting in any way the retirement benefits payable to such person. Any person retired under this chapter, except under the disability retirement provisions of s. 238.07, may be employed as a substitute teacher in any public school system participating in a state administered retirement system and receive compensation from such employment and retirement benefits at the same time, without limiting or restricting his retirement benefits in any way. However, should such retired person enter a contract with a school system to provide substitute teaching services, he shall be subject to the limitations of paragraph (a). Such person may be employed in any other type of employment with an employer that participates in a state administered retirement system, subject to the following limitations:

(a) Such person may receive retirement benefits at the same time that compensation is received, so long as the employment does not exceed 600 hours each calendar year, or the compensation does not exceed \$5,000 each calendar year, whichever limitation permits the longest employment.

(b) Any person to whom the limitation in paragraph (a) applies who will exceed the limitation shall give timely notice in writing to his employer and to the division of this fact and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefit for the remainder of the calendar year during which he continues employment in excess of the limitation in paragraph (a). Should such person fail to provide timely notice to the division of his employment in excess of the limitation, and should he receive and retain both benefits and compensation in excess of the limitation of paragraph (a), the division shall suspend his retirement benefit until he has repaid to the retirement trust fund all benefits received after the limitation was reached, plus interest at 10 percent compounded annually from date of receipt to date of repayment.

(c) The employment by an employer of any retiree of any state administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree, nor shall any deductions or contributions for retirement be made for the compensation received by such retiree with respect to such employment.

(d) Notwithstanding the provisions of paragraph (a), no retired person may be employed by an employer under the system within 1 calendar month of retirement, without having his retirement benefits suspended for the duration of such employment.

(e) The limitations of this subsection on employment after retirement shall also apply to any retired person holding an elective public office, either by election or appointment, effective with the first term of office that commences on or after July 1, 1977.

(2) The limitations of subsection (1) on employment after retirement shall apply to any employment, regardless of the category of funds from which compensation is paid. Any contract or agreement between an employer under the system and a retired person in which the retired person agrees to provide his personal services for a fee or payment shall be deemed to be employment for the purposes of subsection (1), and shall be subject to the limitations thereof, even though for all other purposes the retired person would be considered a private or independent contractor and such contract would not constitute employment.

Section 5. Subsection (11) is added to section 121.091, Florida Statutes, to read:

121.091 Benefits payable under the system.—

(11) *REINSTATEMENT AFTER RETIREMENT.*—Any person who has retired and subsequently receives a benefit under any state supported retirement system and elects to return to employment with a covered agency within 1 year after retirement, may have his membership in that state supported retirement system reinstated upon his repayment of the said benefits plus 6.5 percent interest compounded annually thereafter until date of payment into the Retirement Trust Fund.

Section 6. Subsections (5), (6), and (7) are added to section 112.362, Florida Statutes, 1976 Supplement, to read:

112.362 Recomputation of retirement benefits.—

(5) *Effective January 1, 1978 a member of any state-supported retirement system which provided social security coverage who has already retired, who is over 65 years of age, or the surviving spouse or beneficiary of such member who, if living, would be over 65 years of age, if such spouse or beneficiary is receiving a retirement benefit, upon proper application to the administrator, shall have his monthly retirement benefit recomputed and may receive a monthly retirement allowance equal to \$10 multiplied by the total number of years of creditable service, the product of which is multiplied by the actuarial reduction factor relating to the appropriate retirement option and, if the member is deceased, multiplied by the percentage of the benefit payable to the surviving spouse or beneficiary. No present retirement benefits shall be reduced under the computation.*

(6) *Effective January 1, 1978, a member of any state-supported retirement system which did not provide social security coverage who has already retired, who is over 65 years of age, or the surviving spouse or beneficiary of such member who, if living, would be over 65 years of age, if such spouse or beneficiary is receiving a retirement benefit, upon proper application to the administrator, shall have his monthly retirement benefit recomputed and may receive a monthly retirement allowance equal to \$12 multiplied by the total number of years of creditable service, the product of which is multiplied by the actuarial reduction factor relating to the appropriate retirement option and, if the member is deceased, multiplied by the percentage of the benefit payable to the surviving spouse or beneficiary. No present retirement benefits shall be reduced under this computation.*

(7) *Funds to pay all additional cost which results from granting minimum benefit increases provided for in subsections (5) and (6) for any member of any system are hereby annually appropriated from the General Revenue Fund.*

(8) *Retirees receiving additional benefits under the provisions of subsections (5) and (6) shall also receive the cost-of-living adjustments provided by the appropriate state-supported retirement system for the fiscal year beginning July 1, 1977, and for each fiscal year thereafter.*

Section 7. This act shall take effect July 1, 1977.

House Amendment 2—On page 1, lines 1-11, strike the entire title and insert: A bill to be entitled An act relating to retirement; amending s. 121.091(9), Florida Statutes, eliminating certain restrictions on the employment of a person who has retired under the Florida Retirement System; authorizing such reemployment for 600 hours per year with a monetary earnings limit per year, without suspension of benefits; prohibiting reemployment after retirement within 1 month with any employer within the system; providing that a retired person holding public office is subject to the same reemployment limitations as any other member of the system and also applying these limitations to retired persons who are independent contractors; amending s. 121.046(4), Florida Statutes, to provide these same reemployment restrictions to members of the Judicial Retirement System; amending s. 122.16, Florida Statutes, to apply these same reemployment limitations to members of the State and County Retirement System; amending s. 238.181, Florida Statutes, to apply these same reemployment limitations to the retirement system for school teachers; adding subsection (11) to s. 121.091, Florida Statutes, relating to reinstatement of membership in the Florida Retirement System after retirement; adding subsections (5), (6), and (7) to s. 112.362, Florida Statutes, 1976 Supplement; providing a recomputation of retirement benefits with respect to certain retired members of state-supported retirement systems; providing for an annual appropriation; providing that retirees who receive such recomputed benefits shall also receive certain cost-of-living adjustments; providing an effective date.

Senator W. D. Childers moved the following amendment to House Amendment 1 which was adopted:

Amendment 1—On page 1, strike all of lines 2-31, and strike all of pages 2, 3, 4, 5, 6, 7, and 8, and on page 9, lines 1-27, strike lines 1-27 and insert: Section 1. Subsection (2) of section 238.181, Florida Statutes, is amended to read:

238.181 Retired member may be employed on a part-time basis substitute teacher; conditions.—

(2) A retired teacher may be employed on a part-time basis and receive compensation for services rendered without reducing or in any way affecting his retirement or pension status but in no case shall the part-time employment exceed 600 590 hours in any single calendar year.

Section 2. Subsection (1) of section 238.07, Florida Statutes, is hereby repealed.

(Renumber Subsequent Sections.)

Senators Saylor, Johnston, Lewis, Scarborough and W. D. Childers offered the following amendment to House Amendment 1 which was moved by Senator Childers and adopted:

Amendment 2—On page 9, strike all of line 28 and insert: Section 3. (1) Any person who is a retiree or a pensioner under s. 112.05, Florida Statutes, or chapter 121, 122, 123, 238, 291, or 321, Florida Statutes, and who is 65 years of age shall have the monthly benefit to which he is otherwise entitled increased by \$1 for each year of creditable service from 10 years up to and including 30 years beginning on July 1, 1977 or on the first day of the month following his 65th birthday, whichever last occurs.

(2) Any person who retires or is pensioned under s. 112.05, Florida Statutes, or chapter 121, 122, 123, 238, 291, or 321, Florida Statutes, and who is 65 years of age shall have the monthly benefit to which he is otherwise entitled increased by \$1 for each year of creditable service from 10 years up to and including 30 years beginning with the date of retirement or on the first day of the month following his 65th birthday, whichever last occurs.

(3) Any person who is a retiree, or who retires under the total and permanent disability provisions of chapter 121, 122, 123, 238, or 321, Florida Statutes, shall have the monthly benefit to which he is otherwise entitled increased by \$1 for each year of creditable service from 10 years up to and including 30 years beginning on July 1, 1977 or the date of retirement, whichever last occurs.

(4) The surviving spouse or beneficiary of any person who would have been entitled to receive the increase in benefits provided by this act had such person not died, or of any person who, at the time of his death, is receiving the increase in benefits provided by this act, if such spouse or beneficiary is

otherwise entitled to receive benefits under s. 112.05, Florida Statutes, or chapter 121, 122, 123, 238, or 321, Florida Statutes, shall have the monthly benefit to which such spouse or beneficiary is entitled increased in the same amount as the monthly benefit of the deceased person would have been or was increased by this act beginning with the date the deceased person would have qualified to receive such increase in benefits or the date on which the deceased person died, whichever last occurs.

(5) The benefit increases provided in subsection (1), (2), (3) or (4) shall not apply to any retired member who established eligibility for social security benefits through his employment with a public employer who participates in a state-administered retirement system, nor shall these increases apply to the beneficiary of any such retired member. No person shall be entitled to receive this benefit increase until he has filed with the Division of Retirement a certification to the effect that the preceding restriction pertaining to social security benefits does not apply to him.

Section 4. An increase in retirement and pension benefits provided in this act shall be in addition to any increase in such benefits provided under s. 112.05, s. 112.362, s. 121.101, s. 238.-171, or s. 291.325, Florida Statutes.

Section 5. Provided however that the benefits established in section 1 shall not apply to any member or beneficiary whose current retirement benefit, including post retirement adjustments, exceeds \$8,000 annually or would have exceeded \$10,000 annually had the member chosen Option 1.

Section 6. This act shall take effect July 1, 1977.

Senator W. D. Childers moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—On page 1, in title, strike all of lines 2-31, and on page 2, strike all of lines 1-5 and insert: amending s. 238.181(2), Florida Statutes; increasing the number of hours of part-time employment per calendar year allowed a person retired under such system without reducing or affecting his retirement or pension status; repealing s. 238.07(1), Florida Statutes, to remove the requirement that a member be retired at age 70;

Senator Saylor moved the following amendment to House Amendment 2 which was adopted:

Amendment 2—On page 2 in title, strike all of line 6 and insert: increasing monthly benefits for certain persons entitled to benefits under specified state retirement and pension plans; providing an effective date.

On motion by Senator Saylor, the Senate concurred in House Amendments 1 and 2 as amended and the House was requested to concur.

SB 84 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Graham	Poston	Trask
Castor	Hair	Saylor	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, Don	Johnston	Skinner	Williamson
Childers, W. D.	MacKay	Spicola	Wilson
Firestone	McClain	Thomas, Jon	Winn
Gallen	Myers	Thomas, Pat	Zinkil
Gorman	Peterson	Tobiassen	

Nays—None

Vote after roll call:

Yea—Holloway

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Holloway, by two-thirds vote HJR 177 was withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Plante, by two-thirds vote House Bills 619 and 620 were withdrawn from the Committee on Finance, Taxation and Claims.

ENROLLING REPORTS

SCR 466 and SCR 937 have been enrolled, signed by the required Constitutional Officers and filed with the Secretary of State on June 2, 1977.

Joe Brown, Secretary

SB 158	SB 26	CS for SB 53
SB 206	SB 55	SB 210
SB 269	SB 56	SB 221
SB 308	SB 83	SB 342
SB 337	CS for SB 218	SB 389
CS for SB 486	CS for SB 321	SB 408
SB 495	SB 634	SB 414
CS for SB 592	SB 682	SB 489
SB 1493	SB 687	SB 500
SB 13	SB 843	SB 508
SB 108	SB 931	SB 541
SB 309	SB 1035	SB 596
SB 363	CS for SB 1193	SB 849
CS for SB 411	SB 1467	SB 906

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on June 2, 1977.

Joe Brown, Secretary

CO-INTRODUCER

Senator Wilson—SB 1236

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 1 was corrected and approved as follows:

Page 682, column 2, line 24, strike "\$65000" and insert: \$6500

Page 682, column 2, line 39, strike "Henry B. Saylor"

The Journal of May 30 was further corrected and approved as follows: Page 600, column 2, strike lines 17 through 23 and insert: (1) Any interested party may request an inspection of the records and related financial affairs of a provider providing care in accordance with the provisions of this chapter by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statute or by rule, specifying to a reasonable extent the details of the alleged violation, which shall be signed by the complainant.

Pursuant to the motion by Senator Trask, the Senate adjourned at 6:00 p.m. to convene at 9:00 a.m., June 3.