



Journal of the Senate

Special Session

Tuesday, December 13, 1977

At a Special Session of the Florida Legislature convened under Section 3(c), Article III, of the Constitution of the State, as revised in 1968, and Section 11.011, Florida Statutes, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

In pursuance of the Proclamation of Senator Lew Brantley, President of the Florida Senate, and Representative Donald L. Tucker, Speaker of the Florida House of Representatives, the Senate met in Special Session at 10:00 a.m. in the Senate Chamber, old Capitol, and was called to order by the President. A quorum present—37:

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

Excused: Senators Gallen, Poston and Vogt

Prayer by Senator Peterson:

Gracious God, as we approach your throne of grace, we do it unworthy of all the many blessings that you have so bountifully given us. But we do it humbly asking for your strength today, that your spirit may be in this room, that your grace may be upon us, as we deliberate. Dear Father, in a world of declining faith, we ask for you to send the strength of your word. In a world of declining citizenship, give us a consciousness of our role and our need to serve. In a world of declining morality, raise up the standards that you have given us, and help us to know that we need to accept each other as your Son Jesus accepted all of us. Help us to get closer one mind to another and to know that the greatest duty that we have here on earth is to you and to each other. We ask it in thy name. Amen.

The Senate pledged allegiance to the flag of the United States of America.

By direction of the President, the Proclamation was read:

PROCLAMATION

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE FLORIDA HOUSE OF REPRESENTATIVES:

We, Lew Brantley, President of the Florida Senate, and Donald L. Tucker, Speaker of the Florida House of Representatives, by virtue of the authority vested in us by Section 3, Article III, Florida Constitution, and Section 11.011, Florida Statutes, do hereby proclaim:

1. That the Legislature of the State of Florida is convened in Special Session pursuant to Section 3(c), Article III, Florida Constitution and Section 11.011, Florida Statutes, at the old Capitol facilities in Tallahassee, Florida, at 10 o'clock A.M., on Tuesday, the 13th day of December, 1977, for a period of one day.
2. That the Legislature is convened for the sole and exclusive purposes of consideration by the Florida Senate of a Report and Recommendation of the Senate Committee

on Judiciary-Civil relating to discipline of the Senator from the 38th senatorial district and consideration by the Florida Senate of resolutions relating to standards of conduct.

Lew Brantley
President
The Florida Senate

Donald L. Tucker
Speaker
The Florida House of
Representatives

November 29, 1977

November 29, 1977



Duly filed with and received by the Florida Department of State this 29th day of November, 1977.

Bruce A. Smathers

INTRODUCTION

On motion by Senator W. D. Childers, SR 1-C was admitted for introduction and consideration by the required constitutional two-thirds vote of the Senate.

By Senators Scarborough and W. D. Childers—

SR 1-C—A Senate resolution relating to the responsibility of members of the Florida Senate to file a full and public financial disclosure statement.

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

SR 2-C was withdrawn by Senator Dunn.

SR 3-C was withdrawn by Senator Sayler.

By Senator Hair—

SR 4-C—A Senate resolution relating to State Senator Ralph R. Poston, Sr., of the 38th District of the State of Florida.

—was determined by the President to be within the purview of the call, read the first time by title and referred to the Committee on Rules and Calendar.

On motion by Senator Spicola, SR 5-C was admitted for introduction and consideration by the required constitutional two-thirds vote of the Senate.

By Senator Spicola—

SR 5-C—A Senate Resolution proclaiming December 11 Tampa Bay Buccaneer Day.

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

On motion by Senator W. D. Childers, the rules were waived and Senate Resolutions 1-C and 4-C and the report by the Committee on Judiciary-Civil were withdrawn from the Committee on Rules and Calendar and placed on the calendar.

On motion by Senator Henderson, the rules were waived and the Joint Committee on Economic Policy was granted permission to meet December 15 at 9:00 a.m.

REPORTS OF COMMITTEES

Honorable Lew Brantley
President of the Senate

Dear Mr. President:

Your Committee on Rules and Calendar met at 2:00 P.M., December 12, 1977, and took the following actions:

1. Took up the report of the Senate Committee on Judiciary-Civil dated December 5, 1977, relating to the discipline of Senator Ralph R. Poston, Sr.; heard arguments from the prosecution and the defense pursuant to Senate Rule 1.42; received the waiver by Counsel for the Respondent of the Respondent's presence; received the consent of the Respondent's Counsel to the procedure being followed by the Committee and that used by the Committee on Judiciary-Civil in disposition of this matter; had discussion by the members and then on motion of Senator Scarborough recommended favorably Senate Resolution 4-C. By our vote we recommend that Senator Ralph R. Poston, Sr., be reprimanded and fined the sum of \$500 and not be allowed to retain his seat in the Senate until payment of the fine is tendered to the Comptroller of Florida.
2. Took up Senate Resolution 1-C by Senator Scarborough, entertained two amendments by Senator Dunn both of which failed; entertained two amendments by Senator Johnston both of which failed; had discussion and on the motion of Senator Scarborough recommended favorably Senate Resolution 1-C by a vote of 7-4 with two abstentions.

The meeting adjourned at 5:00 P.M.

Respectfully submitted,

W. D. Childers, Chairman
Committee on Rules and Calendar

Senator Hair, Chairman of the Committee on Judiciary-Civil presented the following report:

The Honorable Lew Brantley
President of the Senate

Re: Complaint #77-14, Ralph R. Poston

Dear Mr. President:

The Senate Committee on Judiciary-Civil received the Finding of Probable Cause against Senator Ralph Poston from you on September 28, 1977. Under section 112.324, F.S., the Committee had ninety (90) days from that date within which to submit its report of final action to the Ethics Commission.

On October 12, 1977, the Judiciary-Civil Committee adopted rules of procedure for consideration of this matter. The Committee chairman met with the representative of the Attorney General and the defendant's attorneys on November 1, 1977 for a pre-hearing conference. The full Committee held hearings on November 10, 11, 14, 15 and 16, 1977, at which time it received testimony from 23 witnesses, including Senator Poston, and 94 exhibits. A list of witnesses is attached to this report.

A final hearing was held by the Committee on November 22, 1977, at which time the Committee heard oral arguments from representatives of the Attorney General and defendant's attorneys. Based upon the testimony, evidence, arguments and briefs of counsel, the Committee by unanimous vote finds:

1. Senator Poston violated section 112.313(6), F.S., relating to misuse of public position;

2. Senator Poston violated section 112.313(9), F.S., relating to disclosure of specified interests;
3. Senator Poston violated Senate Rule 1.35, relating to legislative conduct;
4. Senator Poston violated Senate Rule 1.38, relating to undue influence.

The Committee by unanimous vote recommends that:

1. Senator Poston be reprimanded for committing a violation of sections 112.313(6) and 112.313(9), F.S., and Senate Rules 1.35 and 1.38;
2. Senator Poston be fined \$500, which shall be paid to the State of Florida; provided, however, Senator Poston shall not be permitted to retain his seat during the 1978 Legislative Session until said fine is paid;
3. No further action be taken by the Committee or the Senate against Senator Poston on section 112.3145(1)(b), F.S., (Supp. 1974) and Article 2, Section 8 of the Constitution of Florida which were contained in the Finding of Probable Cause.

The Committee finds that the present Senate Rules and Florida Statutes do not provide necessary procedures to be used in Senate Committee hearings relating to findings of probable cause forwarded to the Senate President by the Commission on Ethics, pursuant to section 112.324, F.S., and further recommends by unanimous vote that:

1. The rules and procedures adopted by the Judiciary-Civil Committee in this matter, including its request that the Attorney General or his representative present the prosecution on its behalf, shall not be considered as precedent for future hearings thereunder;
2. Appropriate Senate Rules and Florida Statutes be enacted to provide for future hearings brought pursuant to said section.

Respectfully submitted,

COMMITTEE ON JUDICIARY-CIVIL

Mattox Hair, Chairman
Lori Wilson, Vice Chairman
Don Chamberlin

Harry A. Johnston, II
David H. McClain
James A. Scott

List of Witnesses at Poston Hearing In Order of Appearance

1. Rolland T. Carpenter, Hearing Examiner, Florida Public Service Commission, Tallahassee, Florida
2. Paul S. Mears, Jr., Owner of City Cab and Yellow Cab of Orlando, Florida
3. Dick J. Batchelor, State Representative, 43rd District, Orlando, Florida
4. Idus E. Willis, Owner of Herndon Ambulance Service, Orlando, Florida
5. Lawson L. Lamar, Assistant State Attorney, Criminal Intake Division, Ninth Judicial Circuit, Orlando, Florida
6. James L. Harris, County Administrator, Orange County, Orlando, Florida
7. Jack Martin, Chairman, Board of County Commissioners, Orange County, Orlando, Florida
8. Dr. E. Charlton Prather, Staff Director, HRS, Health Program Office, Tallahassee, Florida
9. Gene Amyx, Vice President, Wayfarers, Inc., Orlando, Florida
10. Barbara J. Reo, District Client Support Services Supervisor, HRS, Orlando, Florida
11. Audrey R. Michel, Medical Services Coordinator, HRS, Orlando, Florida
12. Lawrence Dougher, Program Coordinator, Social and Economic Services, HRS, Orlando, Florida

13. Ralph R. Poston, Sr., State Senator, 38th District, Miami, Florida
14. William H. Hamlin, Jr., Administrator of EMS Program, Health Program Office, HRS, Tallahassee, Florida
15. William J. Page, Jr., Secretary, HRS, Tallahassee, Florida
16. Ronald M. Brown, Executive Staff Director for the Office of the Secretary, HRS, Tallahassee, Florida
17. Irene Burnett, District Administrator, HRS, Orlando, Florida
18. Douglas Whitney, HRS Attorney, Orlando, Florida
19. Dr. Charles C. Hall, Chairman, EMS Board, Orlando, Florida
20. Dr. David O. Westmark, Clinical Consultant to EMS Section, HRS, St. Petersburg, Florida
21. Zemma Flournoy, Analyst, Senate Transportation Committee, Tallahassee, Florida
22. Robert L. Floyd, President Pro tem, Florida Bar Association
23. Charles May, Program Supervisor of Vocational Rehabilitation, District 7, HRS, Orlando, Florida

SPECIAL ORDER

SR 4-C—A Senate resolution relating to State Senator Ralph R. Poston, Sr., of the 38th District of the State of Florida.

On motion by Senator Hair, SR 4-C was read the second time.

Senator W. D. Childers moved the following amendment which was adopted:

Amendment 1—On page 2, line 6, strike “unanimously”

Senator Dunn moved the following amendment which failed:

Amendment 2—On page 2, line 18, strike “reprimanded for said violation, and” and insert: expelled from the Florida Senate, Fifth Legislature under the 1968 Constitution of Florida, effective at the adjournment of this special session, and

SR 4-C as amended was read in full as follows:

A Senate resolution relating to State Senator Ralph R. Poston, Sr., of the 38th District of the State of Florida.

WHEREAS, based on a sworn complaint, the Florida Commission on Ethics, on September 28, 1977, found probable cause that State Senator Ralph R. Poston, Sr., had violated certain constitutional provisions, laws and Senate Rules relating to breach of the public trust, standards of conduct, and disclosure requirements pertaining to specified interests, and

WHEREAS, pursuant to section 112.324, Florida Statutes, the Senate President referred the finding of probable cause to the Senate Committee on Judiciary-Civil for a hearing on the merits, and

WHEREAS, the Judiciary-Civil Committee adopted Rules of Procedure and held a five-day adversary hearing on the merits of the charges with testimony from twenty-three witnesses and introduction and consideration of ninety-four exhibits, and

WHEREAS, the Committee unanimously found that Senator Ralph R. Poston, Sr., had violated subsections (6) and (9) of section 112.313, Florida Statutes, and Senate Rules 1.35 and 1.38 and recommended that he be fined \$500 and not be seated in the Florida Senate until the fine was paid, and further recommended that the Senate take no further action on the remainder of the charges contained in the Ethics Commission finding of probable cause, and

WHEREAS, pursuant to Senate Rule 1.42, penalties imposed by the Florida Senate for violation of the Senate Rule relating to legislative conduct and ethics must be upon recommendation of the Committee on Rules and Calendar, and

WHEREAS, the Senate Committee on Rules and Calendar after hearing, upon reasonable notice and an opportunity of the Respondent to be heard, did on December 12, 1977, recommend that the Senate impose the discipline recommended by the Committee on Judiciary-Civil, and

WHEREAS, the Senate has received the reports of the committees in this matter and after consideration of same in special session assembled for that purpose, NOW, THEREFORE,

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

That, Ralph R. Poston, Sr., Senator, District 38, did violate subsections (6) and (9) of section 112.313, Florida Statutes, and Senate Rule 1.35 and Senate Rule 1.38, and

That, Senator Ralph R. Poston, Sr., is hereby reprimanded for said violation, and

That, Senator Ralph R. Poston, Sr., is hereby fined the sum of \$500, and

That, Senator Ralph R. Poston, Sr., shall not be seated in the Florida Senate until the fine is tendered to the Comptroller of Florida.

SR 4-C as amended was adopted. The vote was:

Yeas—35

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

Nays—1

Firestone

Votes after roll call:

Yea—Dunn
Nay to yea—Firestone

Executive Communication

The following receipt was received from Gerald A. Lewis, Comptroller of Florida, with copy of check made payable to him in the amount of \$500.00, for fine imposed upon Senator Ralph Poston pursuant to SR 4-C:

Office of Comptroller
Department of Banking and Finance
State of Florida
Tallahassee

December 13, 1977

Received of attorney Joe Jacobs, check in the amount of five hundred and no/100 dollars (\$500.00) pursuant to resolution passed in regard to Senator Ralph R. Poston, Sr., Senator, District 38.

Gerald A. Lewis
Comptroller of Florida

Senator Poston was recorded present.

At the request of Senator Poston, the President obtained unanimous consent of the Senate for the following statement to be printed in the Journal:

My thanks to the Judiciary-Civil Committee for the inordinate amount of work required in the recent public hearings.

Based on what they heard and based on what they read, the alternative they selected was appropriate.

My gratitude must be expressed to the members of the Senate for their careful and prayerful consideration. My love for The Florida Senate and each of the members must be shown by my future conduct and attention to my duties.

Ralph R. Poston

Parliamentary Inquiry

Senator W. D. Childers, in an inquiry of the chair, asked the President to clarify the positions of the five senators who have not filed financial disclosure, with regard to their rights to vote on SR 1-C and whether or not the resolution is in the public interest or inures to the private gain of the five senators.

The President ruled as follows:

"The Chairman of the Rules Committee has raised a very pertinent question and I'm prepared to make a ruling based on a thorough examination of the rules, the statutes, and precedent that was available to us. It goes to Senate Rules 1.35, 1.42 and 2.15.

The question is based upon whether or not full and public financial disclosure in this instance is of a private matter relating to the five nondisclosed senators or if it is a public purpose for discussion and consideration.

It is the finding of the chair that full and public financial disclosure is of a public purpose, primarily due to the effect that it has on 16 to 18 hundred individuals in Florida directly. Indirectly, it reaches many other public officials. The outcome of the court suits of the five nondisclosed senators will have a direct effect not only on existing public officials but on future public officials.

Based on that research I would rule that this matter is of a public purpose, and the senators affected and enumerated in the resolution have the right under statutory law and under the rules of the Senate to debate, participate and vote.

If they elect not to vote, they may do so. That is an individual decision that has to be made independently by each of those senators, but it is their decision. That will be the ruling of the chair based on very sound and very solid research."

Senator Barron suggested that Rule 1.39 might also apply.

The President stated that Rule 1.39 does have an impact and it too was considered. He added, "For the record, all the Senate Rules were considered."

SR 1-C—A Senate resolution relating to the responsibility of members of the Florida Senate to file a full and public financial disclosure statement.

On motion by Senator Scarborough, SR 1-C was read the second time.

Senator Johnston moved the following amendment which was adopted:

Amendment 1—On page 3, line 24, strike "in good faith" and on page 4, line 4, strike "to act in good faith and continue" and on page 4, line 9, strike "in good faith"

Senator Scarborough moved the following amendment which was adopted:

Amendment 2—On page 2, line 13, strike "and withdrew from the suit," and on page 5, line 12, strike "two-thirds" and insert: a majority

Senator Glisson moved the following amendment:

Amendment 3—On page 2, between lines 25 and 26, insert: WHEREAS, the actions filed in the Federal Courts were consolidated for trial in the U.S. District Court for the Northern District of Florida, and on September 14, 1977, that court rendered a final order dismissing both civil actions upon the grounds of a want of a substantial federal question, and that the plaintiffs' contention of a fundamental right of privacy inherent in the personal financial affairs of public officers is an expansive view of the constitutional privacy right that is unsupported by recent U.S. Supreme Court decisions, and that the plaintiffs cannot prevail under any state of facts which could be proved in support of their claim.

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

Amendment 3A—On page 1, line 4, place a period after the word "actions" and strike the balance of the amendment.

Amendment 3 as amended was adopted.

Senators Dunn and MacKay offered the following amendment which was moved by Senator Dunn:

Amendment 4—On page 4, line 13, strike "in effect on the date of withdrawal" and on page 5, lines 5 and 6, strike "in effect on that date" and insert in both places: as they now exist

Senator Myers moved the following amendment to Amendment 4:

Amendment 4A—In addition to language stricken by line "a", on page 5, lines 4 and 5, strike "under the laws and constitution of the State of Florida" and in Amendment 4 strike "as they now exist" and insert: as required by law

Amendment 4A was adopted. The vote was:

Yeas—21

Mr. President	Holloway	Saylor	Trask
Chamberlin	Johnston	Scarborough	Ware
Childers, W. D.	McClain	Scott	Williamson
Gorman	Myers	Skinner	
Hair	Peterson	Thomas, Pat	
Henderson	Poston	Tobiassen	

Nays—12

Castor	Firestone	MacKay	Wilson
Childers, Don	Glisson	Renick	Winn
Dunn	Graham	Spicola	Zinkil

Amendment 4 as amended was adopted.

Senator Scarborough presiding

Senator W. D. Childers moved the following amendment which was adopted:

Amendment 5—On page 4, line 29, strike "court" and insert: federal court

Senator Wilson moved that SR 1-C be indefinitely postponed. The motion failed.

The President presiding

Senator Scarborough presiding

Senator Glisson moved the following amendment which failed:

Amendment 6—On page 3, line 15, strike everything after the resolving clause and insert: 1. That the members of the Senate who have not complied with Article II, Section 8(a) of the State Constitution are hereby expelled, effective 72 hours following adjournment sine die of this session.

The President presiding

SR 1-C as amended was read in full as follows:

A Senate resolution relating to the responsibility of members of the Florida Senate to file a full and public financial disclosure statement.

WHEREAS, Article III, section 2 of the Constitution of the State of Florida provides in part that, "Each house shall be the sole judge of the qualifications, elections, and returns of its members . . .", and

WHEREAS, Article III, section 4(d) of the Constitution of the State of Florida provides in part that, "Each house may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.", and

WHEREAS, the Senate of Florida has the sole, exclusive jurisdiction to judge the conduct of its members, and such members are not subject to impeachment or removal by other means, and

WHEREAS, Article II, section 8(a) of the Constitution of the State of Florida provides in part that, "All elected constitutional officers . . . shall file full and public disclosure of their financial interests.", and

WHEREAS, Article II, section 8(h)(1) of the State Constitution provides that such disclosure shall be filed with the Secretary of State by July 1 of each year, including the year 1977, and

WHEREAS, the Florida Commission on Ethics extended that filing date until August 1, 1977, and

WHEREAS, certain members of the Florida Senate, to wit:

- Senator Dempsey J. Barron, District 3;
- Senator Jack D. Gordon, District 35;
- Senator William D. Gorman, District 15;
- Senator Philip D. Lewis, District 27;
- Senator Kenneth A. Plante, District 14; and
- Senator Jon C. Thomas, District 30

failed or refused to file the financial disclosure required by Article II, section 8 of the Florida Constitution and promptly filed suit in federal court to test the constitutionality of the requirements of that provision under the United States Constitution, and

WHEREAS, thereafter, Senator William D. Gorman filed full and public financial disclosure on September 29, 1977, and

WHEREAS, the Florida Senate finds that for the Senators to comply at this time with the financial disclosure provision could jeopardize their standing in the courts and could render their appeal on the constitutional issues moot, and

WHEREAS, the Florida Commission on Ethics held a public hearing on October 21, 1977, on complaints filed against the said five Senators, and made a finding of probable cause of breach of public trust, and

WHEREAS, the said five Senators promptly, on the same day, challenged the authority of the Commission on Ethics to take such action or forward such finding to the Florida Senate in the First District Court of Appeal of Florida, and

WHEREAS, the actions filed in the Federal Courts were consolidated for trial in the U. S. District Court for the Northern District of Florida, and on September 14, 1977, that court rendered a final order dismissing both civil actions.

WHEREAS, the First District Court of Appeal of Florida issued on October 25, 1977, an order staying the proposed action of the Commission on Ethics, and

WHEREAS, the said five Senators have taken every action to expedite prompt hearing and resolution of both the federal suit and the state suit, and

WHEREAS, the First District Court of Appeal of Florida has granted their request to expedite and has scheduled oral argument on the state suit for December 13, 1977, in Tallahassee, Florida, and

WHEREAS, the United States Court of Appeals for the Fifth Circuit has granted their request to expedite and has scheduled oral argument on the federal suit for December 14, 1977, in New Orleans, Louisiana, and

WHEREAS, said five Senators have publicly declared that should their constitutional challenge to the financial disclosure provision fail, they will file full and public financial disclosure, or resign from the Florida Senate, or face expulsion from the Florida Senate, NOW, THEREFORE,

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

1. That the Florida Senate finds Senator William D. Gorman is in compliance with the constitution and laws of the State of Florida now in effect, and is in good standing in the Florida Senate.

2. That the Florida Senate further finds that the action taken by the said five Senators in failing to file a full and public disclosure of their financial interests was taken to protect their rights of financial privacy and the rights of financial privacy of officers, candidates, and potential candidates for elected constitutional offices, and for the express purpose of permitting the said five Senators to perfect an appropriate challenge in the

courts of the United States to the public disclosure requirements imposed upon them and other elected constitutional officers.

3. That the Florida Senate further finds that said five Senators have a constitutional right to have their cases heard by the courts to final adjudication as long as they continue to pursue actively and expeditiously a final resolution of their rights.

4. That the Florida Senate further finds that should any of the said five Senators withdraw from the suit, such act would constitute a showing that such Senator was no longer pursuing his judicial remedy, and that he shall then:

a. File within fifteen days full and public financial disclosure under the laws and constitution of the State of Florida as required by law, or

b. Resign from the Florida Senate as required by law, or

c. Face expulsion from the Florida Senate and be subject to removal from the Florida Senate as provided in Article III, section 4 of the Florida Constitution.

5. That the Florida Senate further recognizes that failure to file full and public financial disclosure as described in Article II, section 8 of the Florida Constitution, could constitute grounds for removal of said five Senators from the Florida Senate.

6. Therefore, it is the consensus of the Florida Senate that should the said five Senators prevail in their action, and should Article II, section 8 of the Florida Constitution be declared invalid as violative of the United States Constitution, this resolution shall become moot, null and void.

7. In the event the federal court of final jurisdiction finds Article II, section 8 of the Florida Constitution valid and enforceable, then the said five Senators, within fifteen days from the expiration of the time for filing a petition for rehearing or, if filed, from the rendition of a decision thereon, shall:

a. File full and public financial disclosure as required by law, or

b. Resign from the Florida Senate, or

c. Face expulsion from the Senate and be subject to removal from the Florida Senate as provided in Article III, section 4 of the Florida Constitution.

8. That this resolution shall take effect upon approval of a majority of the membership of the Florida Senate.

SR 1-C as amended was adopted. The vote was:

Yeas—21

Mr. President	Holloway	Renick	Tobiassen
Childers, Don	Johnston	Saylor	Trask
Childers, W. D.	McClain	Scarborough	Williamson
Firestone	Myers	Scott	
Hair	Peterson	Skinner	
Henderson	Poston	Thomas, Pat	

Nays—10

Castor	Glisson	Spicola	Winn
Chamberlin	Graham	Ware	Zinkil
Dunn	MacKay		

Abstentions from Voting on SR 1-C

I, the undersigned member of the Florida Senate, abstain from voting on Resolution 1-C before this Senate on December 13, 1977. I feel that the resolution concerns a matter in which I have a personal and private interest distinct from and in addition to any public interest involved.

Kenneth A. Plante

We, the undersigned members of the Florida Senate, abstain from voting on Resolution 1-C before this Senate on December 13, 1977. Our names are stated in the resolution, and we do not wish our voting to be construed in any way as pressure upon our colleagues.

*Dempsey J. Barron
Jack D. Gordon
Philip D. Lewis
Jon C. Thomas*

I abstain from voting on Senate Resolution 1-C. My reason for abstaining is that I am specifically named in the resolution in a manner which might be construed to inure to my advantage.

Bill Gorman

I abstained from voting on Senate Resolution 1-C because I felt the resolution was inappropriate as a subject before the Senate.

Each Senator swears to uphold the U. S. Constitution and the State Constitution. If there appears to be a conflict between the two, then there is obviously a court question. Therefore, I personally felt that the Senate should either let the U. S. Supreme court decide this question without bias; or hold our own Senate trial as to whether these Senators had in fact violated their oath of office in the opinion and conscious of the Senate under the Constitution of the State of Florida.

Any other question or statement of position by the Senate, such as SR 1-C, I felt was highly inappropriate at this time.

Lori Wilson

Explanation of Vote on Senate Resolution 1-C

My "no" vote on Senate Resolution 1-C reflects my feeling that it is inappropriate for the Senate to pass any resolution concerning the Senators mentioned until such time as the question before the courts is resolved or litigation is terminated.

John T. Ware

By direction of the President, with the concurrence of the Senate, the following statement was printed in the Journal:

There is no intent on the part of the Senate to assist or harm pending litigation in a court by members of the Florida Senate.

VETOED BILLS 1977 REGULAR SESSION

Honorable Lew Brantley
President of the Senate

December 13, 1977

Dear Mr. President:

In compliance with the provisions of Article III, Section 8(b), of the State Constitution, I am transmitting to you for consideration of the Senate the following vetoed bills, 1977 Regular Session, with the Governor's objections attached thereto:

- SB 84 Relating to retirement
- SB 353 Providing for the relief of William Menoher
- SB 551 Relating to the Department of Health and Rehabilitative Services
- SB 1012 Relating to the Public Service Commission
- SB 1091 Relating to the sales and use tax
- SB 1095 Relating to public officers and employees
- SB 1230 Prohibiting the merger of state universities without legislative approval, etc.
- SB 1277 Granting an easement in certain submerged lands beneath the St. Johns River to the City of Jacksonville
- SB 1454 Relating to the code of ethics for public officers and employees

Sincerely,
Bruce A. Smathers
Secretary of State

Honorable Bruce Smathers
Secretary of State
The Capitol

June 30, 1977

Dear Mr. Secretary:

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

of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 84, enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977 and entitled:

"An act relating to retirement; 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; increasing monthly benefits for certain persons entitled to benefits for certain persons entitled to benefits under specified state retirement and pension plans; providing an effective date."

Senate Bill 84 contains provisions relative to the Florida Retirement system and existing systems. This bill repeals the requirement that members of the Teachers' Retirement system retire at age 70 and increases the number of hours that retired teachers retired under the Teachers' Retirement System may work part-time without reducing or affecting retirement benefits from 500-600 hours.

This bill also provides for increasing the monthly retirement benefit of certain retirees retired under the Florida Retirement System and existing systems who are 65 years of age or older, and of beneficiaries of members who were receiving the increased benefit, or who would have been eligible had they lived, and of disability retirees regardless of age. This increased benefit is not applicable to those retirees and beneficiaries whose annual retirement benefit, including post retirement adjustments, exceeds \$8,000 or would have exceeded \$10,000 annually had the member chosen Option 1. In addition, the increased benefits are not applicable to those retirees, or beneficiaries of such members, who established eligibility for social security benefits by employment with a public employer who participates in a state administered retirement system. The monthly increase is in the amount of \$1 for each year of creditable service beginning with 10 years and up to 30 years inclusive.

The State Retirement Actuary has estimated that the annual cost of the increased benefits over the next several fiscal years will be:

Fiscal Year	Cost
1977-78	\$2.50 million
1978-79	\$2.66 million
1979-80	\$2.63 million
1980-81	\$2.60 million

It is further estimated that the annual cost of this bill will continue to gradually increase until about 1988, at which time the annual cost will begin decreasing significantly due to the increased rate of mortality among recipients.

Article X, Section 14 of the State Constitution, approved by the people in the November 2, 1976 general election, prohibits any governmental unit responsible for any retirement or pension system from providing any increase in the benefits to the members or beneficiaries of such system unless the governmental unit "has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis".

Although the Legislature did appropriate \$2.5 million to fund the estimated cost for the next fiscal year, there is a substantial legal question as to whether or not a single year appropriation approach meets the new Constitutional test. Actuarial soundness means that money must be deposited in the system in a lump sum or on a continuing basis sufficient in amount to assure payment of all promised benefits, present and future. At least the legislation should have also included a provision for an annual appropriation from the general revenue fund. This has been done in previous instances when the Legislature has provided additional retirement benefits to persons, as in the supplemental retirement act for retired members of state retirement systems, Section 112.362, Florida Statutes.

In addition to the Constitutional question, I am concerned that Senate Bill 84 specifically excludes approximately three-fourths of all retirees from the benefit increases to be granted thereunder. Certain large segments of retired persons are excluded because they earned federal social security

benefits during their public employment and nearly one-third of all disabled retired persons are excluded because they retired with less than 10 years of service. Many retired persons who did not earn social security benefits during their public employment are receiving substantially larger benefits than persons who did qualify for social security benefits. In addition, many retired persons who did not qualify for social security benefits through public employment, nevertheless, are receiving social security benefits earned through non-public employment or paid from their spouse's account.

The Legislature over the past several years has made a commendable effort to establish uniform and adequate benefits for all retiring public employees. As a result of this effort, the Legislature has enacted cost-of-living provisions and minimum benefit provisions to assist our retirees in coping with the constant increase in the cost of living. The Legislature has also made a concerted effort to place the state's retirement program on a sound funding basis. The approach the Legislature has taken with respect to Florida's public employee retirement program in the past has been sound, but the provisions of this bill are in conflict with these approaches.

I know that legislators and concerned citizens have spent many hours this past year working to help alleviate the serious problems that inflation has caused for retired public employees, particularly those on low fixed incomes. We need to continue efforts to strengthen and improve our retirement system. I have asked the Department of Administration to prepare recommendations designed to address the special needs of retired public employees living at or below the poverty level for my consideration in developing budget recommendations to the Legislature next year. I would welcome the cooperation and assistance of interested legislators and other concerned citizens in this effort.

For the above reasons, I am reluctantly withholding my approval of Senate Bill 84, Regular Session of the Legislature, commencing on April 5, 1977, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce A. Smathers
Secretary of State
The Capitol

June 25, 1977

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 353, enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and entitled:

"An act providing for the relief of William Menoher; providing an appropriation to compensate him for the disability retirement benefits he would have received under the Florida Retirement System if he had been advised to retire thereunder and he had done so rather than obtaining a refund of contributions; providing an effective date."

Mr. William Menoher is a former member of the Florida Retirement System who terminated his employment due to disability. Mr. Menoher claims that he was not aware of his right to apply for disability retirement and, therefore, waived his rights under the retirement system in exchange for a refund of his accumulated contributions.

Senate Bill 353 appropriates \$13,759.43 to be paid to Mr. Menoher in three equal installments as a lump sum disability retirement benefit. If he should die before receiving the total amount, the bill provides that the balance is to be paid to his wife or to his estate if she does not survive him. This amount is appropriated from the Florida Retirement System Trust Fund with the stipulation that, if the Division of Retirement brings suit to challenge the constitutionality of the act before all payments are made, then the funds are to be paid from the General Revenue Fund.

The Florida Retirement System Act establishes the procedures and criteria for obtaining disability retirement benefits. Mr. Menoher has failed to comply with any of these requirements. The proper approach for the Legislature in this case

would have been to authorize Mr. Menoher to reinstate his membership in the retirement system and make application for disability retirement. This approach was recommended by the House Special Master.

Furthermore, the bill precludes periodic physical examination of the individual to insure continued eligibility for disability benefits as required by law. Moreover, the provision authorizing payment of unreceived benefits to Mr. Menoher's wife or his estate is contrary to current law which provides that benefits under the Florida Retirement System are payable only during the lifetime of the member.

In view of the above, Senate Bill 353 clearly is in conflict with the general provisions of the Florida Retirement System. Section 121.191, Florida Statutes, provides:

" . . . there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene the provisions of any state-administered retirement system or any state-supported retirement system established by general law."

Section 121.191 became law by a three-fifths vote in both houses as prescribed by Section 11(a)(21), Article III, State Constitution.

Not only does this bill conflict with provisions of a State-administered retirement system, it extends by special act a future retirement benefit for which no funding has been provided. This is contrary to Article X, Section 14, State Constitution.

For the foregoing reasons, I am withholding my approval of Senate Bill 353, Regular Session of the Legislature, commencing on April 5, 1977, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce Smathers
Secretary of State
The Capitol

July 1, 1977

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 551 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and 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; authorizing the department to report any suspected violations of s. 409.325, Florida Statutes, to the Auditor General for the performance of his duties pursuant to s. 11.50, Florida Statutes, 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; providing an effective date."

Senate Bill 551 addresses three issues relating to Aid to Families with Dependent Children (AFDC) and Medicaid. Current law relating to the AFDC program requires that a child must be deprived of parental support or care to be eligible. This requirement is necessary for federal reimbursement. But this bill removes that requirement, essentially providing for the State to furnish financial assistance to all persons 18 years and under who meet the financial eligibility standards. Thus, a possible effect of this bill, although clearly not intended by the Legislature, would be that eligibility for bene-

fits would be substantially expanded as a matter of state law without adequate provision for federal reimbursement.

The section of the bill concerning Health Maintenance Organizations became law when Senate Bill 1145, containing an identical provision, was signed on June 23, 1977. Provisions of the bill relating to fraud are covered by existing statutes, except for the requirement of disciplinary hearings on violations reported to professional licensing boards. While such a change would be desirable, its benefits are far outweighed.

Originally drafted at the request of the Administrative Procedures Committee, this bill was intended to solve a simple technical inconsistency. During the amendatory process, however, essential language was inadvertently deleted from the statutes. In addition, this deletion was not reflected in the title, leaving the constitutionality of the bill in question. While it is true that the problem of removal of the deprivation factor from Section 409.235, Florida Statutes, might be remedied by federal or state rule, it is not necessary or wise to risk the possible adverse consequences of this legislation.

For the above reasons, I am withholding my approval of Senate Bill 551, Regular Session of the Legislature, commencing on April 5, 1977, and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce A. Smathers
Secretary of State
The Capitol

June 30, 1977

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1012 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and 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 hearing procedures, s. 350.01(2), Florida Statutes; 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; amending section 350.53, 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 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."

The primary subject of Senate Bill 1012 is the regulation of intrastate water transportation by common carriers. A floor amendment to the bill, however, was added in the House which provides for a method of selecting a chairman of the Public Service Commission and the creation of certain powers of the office of the chairman. The amendment, which is Section 3 of the bill, appears to have been extracted from House Bill 920 or a similar bill. The corresponding section of House Bill 920 was carefully drafted and received the concurrence from all sectors which would have been affected by the bill. The abbreviated amendment, however, was quickly drafted and would introduce confusion and uncertainty into the

present Public Service Commission procedure for hearing cases. This bill, therefore, could be disruptive to the functioning of the Commission rather than serving as a vehicle to modernize the administration of the Commission.

There is no agreement among the sectors affected by the bill, both in industry and government, as to the exact meaning of the language in question which is:

"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."

Several interpretations of this language have been suggested. They range from the view that this assignment of fewer than all three commissioners to the proceeding is simply for the purpose of hearing and not for final decision. Another view is that a final decision could be made by fewer than a majority of the three member commission, possibly even by a single member. If this latter interpretation is valid, the bill is violative of the notice requirement of Article III, Section 6, of the Florida Constitution as the title of the bill does not indicate the substantial change in the power of the chairman. It appears that this section would require detailed interpretation by the courts. Because of these problems with the bill, all three Public Service Commissioners have requested that the bill be vetoed.

In view of the high potential for disruption and because there is every indication that the topic of the Public Service Commission will be revisited by the Legislature next year, it would be more productive for the Legislature, with the cooperation of the Public Service Commission, to develop some clear and specific language to modernize the administration of the Commission. In this effort, full consideration should be given to standards and criteria for delegation of hearing responsibilities, the procedures of the hearing, and the legal status of the results of the hearing.

For the reasons stated, I am withholding my approval of Senate Bill 1012 and do hereby veto same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce A. Smathers
Secretary of State
The Capitol

June 28, 1977

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1091 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and 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."

This bill would substantially increase the tax exemption presently allowed to vessels engaged in interstate or foreign commerce. The bill would provide that all items purchased for use or consumption on board a vessel would be deemed to be part of such vessel and subject to sales or use tax based only on the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous year. This ratio generally produces an effective tax rate of zero.

Historically, the Department of Revenue has not considered supply items as part of a vessel. Although the exemption has been suggested as a means to expand the tourism and cruise ship industries in Florida, the effect of the bill goes far beyond these industries. No justification has been offered to expand the exemption that this bill contemplates. In fact, the bill did not

receive consideration by the Committees on Finance and Taxation of either house.

It would eliminate the annual tax revenues estimated to be about \$500,000. This revenue is needed for public purposes. The estimated revenue loss may be quite conservative in that this bill would expand the potential for tax evasion which would be difficult to control through usual audit methods. Many itinerant vessels which touch Florida's ports and purchase supplies from ship chandlers cannot be audited for verification of purchases. Past audit experience by the Department of Revenue, with the limited repairs and parts exemption, has demonstrated that tax evasion has occurred. This expanded exemption provided in the bill would reduce substantially even the present ability to control tax evasion.

The bill also speaks to the existing tax on vessels and parts. This section of the bill is poorly drafted. Both the Legislature and the Executive Branch have been concerned with the confusion in the statute about the exemption on vessels, repairs, and fuels. This problem has been corrected by another bill passed in the 1977 session, House Bill 2217, which equalizes the benefit of the fuel and repair exemption among private vessels, common carriers and contract carriers. This bill is now law. Thus, the equity and clarity of the tax structure intended by Senate Bill 1091 have been achieved through another bill.

For the reasons stated, I am withholding my approval of Senate Bill 1091 and do hereby veto same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce Smathers
Secretary of State
The Capitol

June 24, 1977

Dear Secretary Smathers:

By authority vested in me as Governor of Florida, under provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1095 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and entitled:

An act relating to public officers and employees; amending s. 111.07, Florida Statutes; broadening current authorization for the defense of public officers and employees in tort actions arising out of such persons' negligence in the scope of employment to include any action arising out of such negligence; authorizing the Department of Legal Affairs to provide defense for actions brought in federal court; providing an effective date.

Current law, Section 111.07, Florida Statutes, authorizes any agency of the state or political subdivision of the state to defend any of its officers or employees against charges of alleged negligence which arise out of or in the scope of their employment.

Senate Bill 1095 authorizes any state agency or political subdivision of the state to defend *any action* against any of its officers or employees arising out of the scope of their employment, unless the officer or employee acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

When filed by its sponsor, Senator Vogt, Senate Bill 1095 authorized defense of any action brought "as a result of any alleged negligence of its officers or employees." This provision was stricken through an amendment. Therefore, as currently written, the bill would significantly expand current law to authorize defense of *criminal* actions filed against public officers or employees.

Defense of a criminal action is, of course, quite different from defense of civil actions which the sponsor of Senate Bill 1095 contemplated. A criminal charge can only be initiated by a state attorney or a grand jury. In my view, it would be an unwise policy for the state to undertake representation of its officers or employees in a criminal action. We should not authorize the payment of public money for what is quite possibly a private purpose prohibited by the Florida Constitution.

During the special session, my office worked with Senator Vogt and the Attorney General's office in seeking enactment of legislation which would clarify the authority of government to represent its officers or employees in civil actions. Unfortunately, the Legislature adjourned before it could be considered. I will renew this effort next year.

Sincerely,
Reubin Askew
Governor

Honorable Bruce Smathers
Secretary of State
The Capitol

June 29, 1977

Dear Secretary Smathers:

By authority vested in me as Governor of Florida, under provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1230 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and entitled:

An act relating to the State University System; creating s. 240.145, Florida Statutes, prohibiting the merger of state universities without legislative approval; creating s. 240.146, Florida Statutes, providing for a curriculum screening committee; providing an effective date.

In its original form, Senate Bill 1230 prohibited the merger of Florida Agricultural and Mechanical University with another university without legislative approval. I see no problem with such a provision, although it appears the Legislature has already spoken on this subject in Section 239.01, Florida Statutes, which lists Florida Agricultural and Mechanical University as a separate, independent university and states that any change in status of universities in the system must be approved by the Legislature. The Board of Regents, the Governor and Cabinet, and the Legislature have each adopted resolutions favoring the continuation of Florida Agricultural and Mechanical University as an independent institution.

However, Senate Bill 1230 was amended to require creation of a curriculum screening committee in each university and community college to review films and course material to determine compliance with community standards on pornography. The amendment was inspired by the showing of a segment of "Deep Throat" in a mass media class at the University of West Florida. Even though attendance was optional, I believe this showing was a serious mistake. The people of Florida who financially support higher education through their tax dollars have a right to expect better in our university system.

I am persuaded, however, that this was an exception to the prevailing practice in our state universities. I am also persuaded that the University reacted appropriately.

The Chairman of the Florida Board of Regents has reprimanded the faculty member involved. Members of the Faculty Council at the University have established a Professional Standards Committee as a standing committee of the University faculty to monitor the professional conduct of faculty members and to recommend disciplinary action where conduct is not appropriate or acceptable. The State University System Faculty Senate Council has proposed the establishment of an Ethical and Professional Standards Committee for each campus to serve a similar purpose. I strongly support the establishment of these committees. I am convinced that such incidents can be prevented in the future through these procedures and through enforcement of existing rules.

The Board of Regents' rule on Academic Freedom and Responsibility, 6C-5.10, Florida Administrative Code, enjoins each faculty member to select teaching materials "that are among the best available, germane, and in good taste within the context of the educational and scientific purpose." Chancellor E. T. York has advised that he and the members of the Board of Regents are committed to enforcing this rule and insuring a wholesome climate in our universities.

The university community is a vital element in a democracy, applying close and necessary scrutiny to our institutions. The university must be free to cultivate a spirit of inquiry and scholarly criticism—to examine ideas in an atmosphere of freedom and confidence. However, it must also seek to maintain the confidence of the community and state it serves.

Government must act with great restraint in considering measures which touch upon the academic atmosphere of a university. Since the existing and recommended procedures in the State University System will deal adequately with the problems this bill was intended to address, I believe Senate Bill 1230 to be unnecessary.

For these reasons, I am withholding my approval of Senate Bill 1230, Regular Session of the Legislature, commencing on April 5, 1977 and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce Smathers
Secretary of State
The Capitol

June 24, 1977

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1277, enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and entitled:

"An act relating to granting an easement in certain submerged lands beneath the Saint Johns River to the City of Jacksonville; conveying to the city a perpetual easement in a parcel of land in Section 38, Township 2 South, Range 26 East, City of Jacksonville, Duval County, Florida; providing conditions for granting the easement; providing an effective date."

Senate Bill 1277 would grant a perpetual easement of State submerged lands in the Saint Johns River for the use and convenience of the City of Jacksonville, its agencies or assignees. The bill is ambiguous as to whether this would be a grant of power to make any use of the State land or whether such use is restricted to what is convenient for the City of Jacksonville.

The submerged area described in Senate Bill 1277 is along the north shore of the Saint Johns River and covers the downtown facility of Jacksonville Shipyards. The legal description contained in this bill is identical to a lease proposal made to the Bureau of State Lands by Jacksonville Shipyards, a commercial corporation.

On March 7, 1972 the Trustees of the Internal Improvement Trust Fund granted a license to Jacksonville Shipyards for exclusive use of 226,773 square feet of submerged State land for a period from March 1972 to March 1976 for \$4,535.46 per year. Later, the Trustees staff calculated that the area occupied by Jacksonville Shipyards was 486,165 square feet of State land. On February 25, 1972 Jacksonville Shipyards agreed under protest to a rental of \$9,592.80 per year, but the Shipyards have paid only \$4,535.46 yearly for the 226,773 square feet. The State has not received payment for any of the area occupied for 1976-77 and 1977-78 which was due March 4, 1977.

Senate Bill 1277 expands the area involved to 21 acres or 914,760 square feet for possible exclusive use. Therefore, this bill could result in subsidy of a commercial operation amounting to \$18,295.20 per year (914,760 square feet times 2¢ per square foot). Even without the expansion of the area to 21 acres, this bill could deprive the State of income in the amount of \$8,571.90 annually for exclusive use of 486,165 square feet of State submerged land.

Senate Bill 1277 in its preamble refers to Chapter 6416, Laws of Florida, Acts of the Special Session, 1912, which granted for a period of 1,000 years certain submerged lands in the Saint Johns River to the City of Jacksonville for purposes of commerce, navigation, and municipal docks and terminals, together with the right to widen extend, or deepen the channel of the river and to fill in, build up, have, possess, use, and own shoals, shallows, and middle grounds and flats therein subject to such control and regulation by the State of Florida as is now or may be hereafter prescribed by law. The 1912 act also protected navigation rights of riparian owners.

Article XI, Section 11, Constitution of Florida, states: "Sovereignty lands—The title of lands under navigable waters, within the boundaries of the State, which have not been alienated, including beaches below mean high water lines, is held

by the State, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law but only when in the public interest. Private use of portions of such lands may be authorized by law but only when not contrary to the public interest."

Chapter 6416 does not appear to be an alienation of the submerged lands as contemplated by the Constitution, but Senate Bill 1277 would remove management and control of these State lands from the Trustees of the Internal Improvement Trust Fund.

The power to determine the public interest may be delegated by the Legislature to appropriate State officers, departments, or other agencies under the principles applicable to the delegation of legislative power. I doubt, however, that the Legislature can delegate such power to a municipality or municipal officers or agencies. This power certainly cannot be delegated to private individuals even if they are engaged in public or quasi-public endeavors.

Senate Bill 1277 could set a precedent involving use of sovereignty lands which would be contrary to the public interest in the absence of a specific determination otherwise by the Legislature.

In my judgment, the best interest of the people of Florida in the management and control of their sovereignty lands is not served by Senate Bill 1277.

For the above reasons, I am withholding my approval of Senate Bill 1277, Regular Session of the Legislature, commencing April 5, 1977 and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

Honorable Bruce Smathers
Secretary of State
The Capitol

June 29, 1977

Dear Secretary Smathers:

By authority vested in me as Governor of Florida, under provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 1454 enacted by the Fifth Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1977, and entitled:

An act relating to the code of ethics for public officers and employees; amending s. 112.312(1), (4), and (8), Florida Statutes, 1976 Supplement, and adding subsections (18) - (26); providing definitions; amending s. 112.313(1), Florida Statutes, and adding subsections (12) and (13); providing exemptions from restrictions on doing business with one's agency and on conflicting employment or contractual relationships; prohibiting representation of clients before certain government agencies by certain state and local officers during tenure in office; providing exemptions; creating s. 112.314, Florida Statutes; prohibiting representation of clients by elected constitutional, state and local officers, appointed secretaries or executive directors of state departments, and Supreme Court justices before the agency or body of which such person was a member or officer for 2 years following vacation of office; amending s. 112.3145, Florida Statutes, 1976 Supplement, relating to disclosure of financial interests and clients represented before agencies; including constitutional officers; providing requirements for full public disclosure of financial interests and specifying who shall file such disclosure; providing requirements for limited public disclosure of financial interests and specifying who shall file such disclosure; providing that local governing bodies may require full disclosure by certain persons; amending s. 112.3147(2) and (3), Florida Statutes, 1976 Supplement, and adding subsections (4) and (5); providing requirements with regard to disclosure forms; amending s. 112.321(1), Florida Statutes; providing for appointment of a member of the Commission on Ethics by the Chief Justice of the Supreme Court; adding subsection (8) to s. 112.322, Florida Statutes, 1976 Supplement; requiring the adoption and publication of certain rules by the commission; creating s. 112.327, Florida Statutes, providing that public officers or employees benefiting financially from malfeasance shall be liable for certain damages; providing that persons participating with public officers or employees in acts of

malfeasance and benefiting financially therefrom shall be liable for certain damages; providing that public officers or employees, and persons participating with public officers or employees, benefiting financially from nonfeasance or misfeasance shall be liable for actual damages plus interest; extending the filing deadline for the year 1977; providing an effective date.

There is much merit to Senate Bill 1454. It is the final product of much hard work by many members of the Legislature. It contains strong conflict-of-interest provisions. In many ways, it is consistent with the people's mandate in the Sunshine Amendment. It allows needed flexibility in financial disclosure in such areas as household goods and personal effects. There are good reasons to applaud this bill and commend its supporters. Unfortunately, there are other, more compelling reasons to veto it.

The people of Florida have demanded full and public financial disclosure through adoption of the Sunshine Amendment. However, the people have left to us the imposing task of deciding precisely how much disclosure should be required of precisely which public officials. I have always felt that we should proceed with caution in determining who should be covered by the strictest form of disclosure. As I pointed out when I recommended a two-tier form of disclosure earlier this year, including generally a local option for local governments, financial disclosure can be a double-edged sword. Disclosure is of significant value in demonstrating that public officials are working for the public interest, rather than for their own private gain. However, disclosure can hinder efforts to attract outstanding people to public office if the disclosure requirements are more stringent than they need to be for the office involved, particularly where a person serves for little or no pay.

Such is the case with Senate Bill 1454. It simply goes too far in requiring the strictest form of disclosure. It requires the most revealing form of disclosure from public officials who have little power and even less control over the public purse. It requires disclosure from public officials who are not paid at all for their public service and whose service, while certainly needed, is not such that the strictest form of disclosure should be required.

The Sunshine Amendment, which is now Article II, Section 8 of the Florida Constitution, covers all elected constitutional officers. These include the Governor and Cabinet, members of the Legislature, judges, and most elected county officials. The Public Service Commission, though not a constitutional body, is also included. Altogether, about 1800 officials must file under the requirements for full and public financial disclosure contained in the schedule of the Sunshine Amendment. These officials will disclose regardless of what action the Legislature takes. Only the content of their disclosure can be altered.

Senate Bill 1454 was intended to implement the Sunshine Amendment. However, it is my belief that allowing this bill to become law would only thwart the intent of the people in adopting the Sunshine Amendment. My principal concern is that it extends the strictest requirements of disclosure to hundreds of part-time local officials without the benefit of full consideration by the Legislature.

This bill covers public officers never contemplated for disclosure by most members of the Legislature. The bill, for example, includes all elected officials in the state. This includes not only all elected city officials, paid and unpaid, but also elected officials of certain fire control districts, mosquito control districts, lighting districts, road and bridge districts, library districts, hospital districts, port authorities, drainage districts, development authorities, water and sewer districts, erosion prevention districts, park and recreation districts, airport authorities, and soil and water conservation districts.

Also, the bill covers a tremendous number of appointive officials. Near the end of the conference committee deliberations, language was added to the bill which included not only appointed authorities in Jacksonville and charter counties, but also any board or authority having taxing powers. I am advised that there are about 500 such boards in the state. In addition, all professional and occupational licensing boards at the state and local level are included. An estimated 10,000 public officials would be covered by the strictest disclosure requirements of this bill.

While I believe every elected official in Florida should disclose, I can see little reason for an elected member of a local

fire protection and rescue service district to make the same degree of disclosure as the Governor of Florida. I can see little reason for members of a county library board to make the same kind of disclosure as the members of the State Board of Business Regulation. Yet, these people, and many more in similar capacities are included in the strictest category of disclosure mandated by this bill.

The people of Florida want financial disclosure to work. Certainly, I want it to work, and I am convinced that a substantial number of the members of the Legislature share this conviction. The simple truth is that disclosure will not work if we apply it to unnecessary extremes and in ways that will frustrate the complex task of governing without improving the quality of government. To be sure, many of the local officials and appointed board members who are covered by the bill should indeed be required to make the strictest form of disclosure. However, with many others the need for the fullest form of disclosure simply is not there.

My decision to veto this bill has not been prompted by the knowledge that some public officials would rather resign than disclose. I have known all along that this would happen. But I have believed—and I still believe—that those who resign will be greatly outnumbered in the long run by those who are willing to disclose. I regret the decisions of those who would choose to resign. I respect their right to do so.

I must share some of the responsibility for the confusion which faced members of the Legislature in trying to resolve the issue of coverage. It is a difficult issue, to say the least. The types of offices and governmental bodies in Florida government are many and diverse. It is for this reason that we should not attempt to implement the Sunshine Amendment without a complete understanding of the choices and the complexities we face. Those members of the Legislature with whom I work responded in good faith in an effort to implement the constitutional amendment. The work of the Legislature will not be lost. Rather, we will employ it and profit from it as we proceed from here toward implementation.

We must approach disclosure on a rational basis toward the end of making it an integral and lasting part of government of this state. Toward this end, I will ask the Commission on Ethics to conduct a detailed analysis in the months ahead and develop implementing legislation which I will recommend to the next session of the Legislature. I invite the help and the advice of the Legislature in this effort, not only on what degree of disclosure should be required by local boards, but also on whether many of these local boards should continue to exist. In addition, I urge local governments to begin reviewing this matter as well.

Initially, this bill seemed acceptable, so I can appreciate why many members of the Legislature thought that it was acceptable to me. However, upon closer scrutiny, I concluded that it could not be acceptable if we wished disclosure to be what the people of Florida hoped it would be when they approved the Sunshine Amendment—a useful tool for securing and sustaining the public trust against abuse.

The veto of this bill does not mean that there will be no disclosure this year. On the contrary, we will have a two-tier system of disclosure. The provisions of the Sunshine Amendment will still apply so that all elected constitutional officers will make full and public financial disclosure. Under existing state law, elected city officials and many administrators, specified employees and appointed members of boards and commissions at the state and local level are still required to file limited disclosure. Also, I intend to require the members of the State Board of Business Regulation, the Secretary and Executive Directors of the agencies which are responsible to me and the administrative members of my personal staff to comply with the stringent requirements of the Sunshine Amendment.

For the reasons stated, I am withholding my approval of Senate Bill 1454, Regular Session of the Legislature, commencing on April 5, 1977 and do hereby veto the same.

Sincerely,
Reubin Askew
Governor

The bills with the Governor's objections thereto were referred to the Committee on Rules and Calendar.

On motion by Senator W. D. Childers, the Senate in Special Session adjourned sine die at 1:04 p.m.