



Journal of the Senate

Number 21

Thursday, March 4, 1982

BILL ACTION SUMMARY

Thursday, March 4, 1982

H 0052	Substituted for C/S SB 201, Passed
H 0571	Substituted for SB 498, Passed
S 0078	C/S passed as amended, Immediately certified
S 0166	C/S passed as amended, Immediately certified
S 0187	Passed as amended, Immediately certified
S 0189	Concurred, Passed as amended
S 0201	Reconsidered, Iden./Sim. House Bill substituted, passed; refer to HB 52
S 0246	Passed as amended
S 0340	Passed as amended
S 0447	Passed
S 0479	Passed as amended
S 0486	Passed as amended
S 0493	Iden./Sim. House Bill substituted, passed; refer to HB 571
S 0679	Failed to pass
S 0684	C/S passed as amended, Immediately certified
S 0813	Amendments adopted

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

Mr. President	Hair	Margolis	Skinner
Anderson	Henderson	Maxwell	Steinberg
Beard	Hill	McClain	Stevens
Carlucci	Jenkins	McKnight	Stuart
Childers, D.	Jenne	Neal	Thomas
Dunn	Jennings	Peterson	Tobiassen
Frank	Johnston	Poole	Trask
Gersten	Kirkpatrick	Rehm	Vogt
Gordon	Langley	Renick	Ware
Grizzle	Lewis	Scott	

Prayer by the Rev. Gordon Elliott, Pastor, Grace Bible Church, Jacksonville:

Dear Heavenly Father, we thank you for America and the freedoms and blessings we enjoy. We praise you for the godly heritage of our founding fathers and for all who have helped to preserve this country as one nation under God.

We confess our sins of disobedience to thy word and its laws which you gave for our good and blessing. We know that "righteousness exalteth a nation, but sin is a reproach to any people." You have said, "If my people who are called by my name, shall humble themselves, and pray and seek my face, and turn from their wicked ways, then will I hear from heaven and will forgive their sin, and will heal their land."

We come asking for your guidance and clear direction to each in this governing body for the State of Florida. Give these Senators a desire for truth, a courage to stand for the right, an unselfish and humble spirit for the good of the people of this state and for the glory of God.

Lord, may I be faithful and fervent to fulfill your command to pray for all those in authority that we may lead a quiet and peaceable life in all godliness and honesty.

We pray that we may realize that each of us must have a personal relationship to God through Jesus Christ. Jesus said, "I am the way, the truth and the life, no man cometh unto the Father but by me."

I pray that you will strengthen individually each Senator and meet his personal, physical, emotional and spiritual needs.

May they realize their utter dependence upon thee. I pray that much might be accomplished this day as they work together for the good of this State. In Jesus' name. Amen.

Senator Stuart presiding

REPORTS OF COMMITTEES

The Committee on Education recommends that the Senate confirm the following appointments made by the Governor to the Board of Regents:

James Hyatt Brown, Daytona Beach, Member, for term ending January 1, 1983.

Cecilia Bryant, Jacksonville, Member, for term ending January 1, 1989.

William F. Leonard, Ft. Lauderdale, Member, for term ending January 1, 1987.

The Committee on Transportation recommends that the Senate confirm the appointment made by the Governor of Paul N. Pappas, Tallahassee, as Secretary of Transportation to serve at the Pleasure of the Governor.

The appointments contained in the foregoing reports were referred to the Committee on Executive Business under the original reference.

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, March 4, 1982: SB 187, SB 340, SB 479, CS for SB 78, CS for SB 166, SB 246, SB 447, SB 498, SB 813, SB 486, SB 679, SB 282, SB 939, CS for SB 860, CS for SB 548, CS for SB 106, SB 29, SB 319, SB 271, SB 412, SB 454, SB 706, CS for SB 51, SB 381, CS for SB 541, CS for SB 490, CS for SB 684, CS for SB 746, SB 802, SB 16, CS for SB 336, CS for SB 909, SB 674, SB 729, SB 828, SB 661, SB 742

Respectfully submitted,
Edgar M. Dunn, Jr., Chairman

The Committee on Governmental Operations recommends the following pass: SB 523, SB 727 with 3 amendments, CS for SB 849, SB 897 with 2 amendments

The Committee on Health and Rehabilitative Services recommends the following pass: SB 900 with 1 amendment, SB 985

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

The Committee on Governmental Operations recommends the following pass: SB 812

The bill was referred to the Committee on Commerce under the original reference.

The Committee on Governmental Operations recommends the following pass: SB 838

The Committee on Health and Rehabilitative Services recommends the following pass: SB 789, CS for HB 14 with 1 amendment, HB 631

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

The Committee on Health and Rehabilitative Services recommends the following not pass: SB 790

The bill was laid on the table.

The Committee on Commerce recommends a committee substitute for the following: SB 446

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 971

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Corrections, Probation and Parole recommends a committee substitute for the following: SB 725

The bill with committee substitute attached was referred to Appropriations Subcommittee C under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 834

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

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 784

The bill with committee substitute attached was referred to the Committee on Governmental Operations under the original reference.

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 988

The bill with committee substitute attached was referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Commerce recommends a committee substitute for the following: SB 831

The bill with committee substitute attached was placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

March 4, 1982

The Committee on Transportation requests an extension of 15 days for consideration of the following: SB 231, SB 301, SB 306, SB 435, SB 448, SB 575, SB 692, SB 815, SB 846, SB 859, SB 912, SB 918, SB 923, HB 288, HB 405, HB 406

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following: SB 48, SB 72, SB 212, CS for SB 933, SR 308, CS for SB 705

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Johnston, the rules were waived and by two-thirds vote SB 922 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Dunn, the rules were waived and by two-thirds vote SB 848 was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Gordon, the rules were waived and by two-thirds vote CS for SB's 108, 421 and 519, CS for SB 294, CS for SB 932, CS for SB 963; Senate Bills 216, 368, 583, and 853 were withdrawn from the Committee on Appropriations.

On motions by Senator Hill, by two-thirds vote SB 443 was withdrawn from the committee of reference and indefinitely postponed.

On motion by Senator Johnston, the rules were waived and the Committee on Judiciary-Civil was granted permission to consider SB 410 this day.

On motion by Senator Beard, the rules were waived and the Committee on Transportation was granted permission to consider SB 575 this day.

On motion by Senator Dunn, CS for SB 981 was placed on the special order calendar following CS for SB 860.

On motion by Senator McKnight, the rules were waived and the Committee on Health and Rehabilitative Services was granted permission to meet March 8 from 5:00 p.m. until 7:00 p.m.

On motion by Senator Gordon, the rules were waived and the Committee on Appropriations was granted permission to file the agenda for the meeting March 8 no later than 5:00 p.m. this day.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 1017 which he had approved March 3.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed HB 930, CS for HB 431 and CS for CS for HB 239, as amended.

Allen Morris, Clerk

The Honorable W. D. Childers, President

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

SB 189—A bill to be entitled An act relating to the Ringling Museum of Art; adding s. 265.26(9), Florida Statutes; providing that the board of trustees may enter certain contracts with or without competitive bidding; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike all of lines 10-12 and insert:

Section 1. Subsection (4) of section 265.26, Florida Statutes, is amended and subsection (9) is added to said section to read:

(4) (a) The board of trustees shall have complete jurisdiction over the management of the museum and is invested with full power and authority to appoint a director, who shall be exempt from the Career Service System, and to appoint other employees, in accordance with Florida Statutes and rules; to remove the same in accordance with Florida Statutes and rules; to provide for the proper keeping of accounts and records and budgeting of funds; to enter into contracts for professional programs of the museum and for the support and maintenance of the museum; to secure public liability insurance; and to do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the John and Mable Ringling Museum of Art at the highest efficiency economically possible while taking into consideration the purposes of the establishment.

(b)1. *The board of trustees may contract or agree with one direct support organization to delegate the responsibility for the operation and maintenance of the John and Mable Ringling Museum of Art. The organization shall not be responsible for salaries or operating capital outlay expenditures, but shall be responsible for expenses or other personal services.*

2. *The contract or agreement shall provide for:*

a. *Approval of the articles of incorporation of the direct support organization by the board of trustees and for the*

governance of the direct support organization by a board of directors appointed by the board of trustees.

b. Submission of an annual budget for the approval of the board of trustees. The budget shall be submitted according to rules established by the board of trustees.

c. A trust agreement transferring the funds in the Incidental Trust Fund from the board of trustees to the direct support organization. The trust agreement shall also provide for reversion of the funds held in trust by the direct support organization in the event of the termination of the contract or agreement.

3. Funds received from all admissions, rentals, and other income from the museum and its programs shall be held in trust by the direct support organization, subject to the reversion clauses in the trust agreement, and may be used in accordance with the contract or agreement with the board of trustees.

4. When the board of trustees has entered into a contract or agreement with the direct support organization for operation and maintenance of the John and Mable Ringling Museum of Art, all funds in the Incidental Trust Fund shall be transferred in trust to the direct support organization.

Amendment 2—In title on page 1, strike all of line 3 and insert: amending s. 265.26(4), Florida Statutes, and adding a subsection thereto, to authorize the museum board of trustees to enter into contracts for the operation and maintenance of the museum; providing for the transfer of trust funds;

Amendment 3—On page 1, strike all of lines 12-16 and insert: 265.26 Trustees of Ringling Museum of Art.—

(9) The provisions of s. 287.062 to the contrary notwithstanding, the board of trustees may enter into contracts or agreements with or without competitive bidding, in its discretion, for the restoration of objects of art in the collection or for the purchase of objects of art which are to be added to the collection.

Amendment 4—On page 1, line 16, after the period insert: *(10)(a) Notwithstanding the provisions of s. 273.055, the board of trustees may sell any art object in the museum collection acquired after 1936 if the director and the board of trustees determine it is no longer appropriate for the collection. The proceeds of the sale shall be deposited in the Ringling Museum Art Acquisition, Restoration, and Conservation Trust Fund. The board of trustees also may exchange any art object in the collection acquired after 1936 for an art object or objects which the director and the board of trustees judge are of equivalent or greater value to the museum.*

(b) No employee or member of the board of trustees shall receive a commission, fee, or financial benefit in connection with the sale or exchange of works of art or be a business associate of any individual, firm, or organization involved in the sale or exchange.

(c) The board of trustees shall establish policies and adopt rules for the sale or exchange of works of art.

Amendment 5—In title on page 1, strike all of line 3 and insert: adding subsections (9) and (10) to s. 265.26, Florida Statutes, authorizing the board of trustees to sell or exchange certain art objects; providing for deposit of sale proceeds; prohibiting employees or board members from receiving a financial benefit on a sale or exchange;

On motions by Senator Henderson, the Senate concurred in the House amendments.

SB 189 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Anderson	Gersten	Jenne	Margolis
Beard	Gordon	Jennings	Maxwell
Carlucci	Grizzle	Johnston	McClain
Childers, D.	Henderson	Kirkpatrick	McKnight
Dunn	Hill	Langley	Neal
Frank	Jenkins	Lewis	Peterson

Poole	Scott	Stevens	Trask
Rehm	Skinner	Stuart	Vogt
Renick	Steinberg	Tobiassen	Ware

Nays—None

Vote after roll call:

Yea—W. D. Childers, Hair

The bill was ordered engrossed and then enrolled.

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 328 and requests the Senate to recede.

Allen Morris, Clerk

By Representative Wetherell and others—

HB 328—A bill to be entitled An act relating to cruelty to animals; amending s. 828.12, Florida Statutes, providing for a fine; amending s. 828.122(4), Florida Statutes, increasing the penalty and providing fines for attending, or betting or wagering on, the fighting or baiting of animals; amending s. 828.13(2), Florida Statutes; prohibiting the causing of pain or suffering to an animal, or the causing of the death of an animal, in a certain manner; increasing the penalty for certain specified activities deemed cruelty to animals from a second degree misdemeanor to a first degree misdemeanor; providing an effective date.

On motions by Senator Dunn, the Senate refused to recede from Senate Amendments 1 and 2 to HB 328 and again requested the House to concur. The action of the Senate was certified to the House.

On motion by Senator Dunn, the rules were waived and the Senate immediately reconsidered the vote by which—

CS for SB 201—A bill to be entitled An act relating to water conservation; creating the Water Conservation Act; creating s. 381.2612, Florida Statutes; providing that, after a specified date, no new building or addition to or renovation of an existing building may be built if it contains certain plumbing equipment; providing exceptions; providing an effective date.

—as amended passed March 3.

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 52 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Carlton and others—

HB 52—A bill to be entitled An act relating to water conservation; creating the Water Conservation Act; creating s. 381.2612, Florida Statutes; providing that, after a specified date, no new building or addition to or renovation of an existing building may be built if it contains certain plumbing equipment; providing exceptions; providing a penalty; providing an effective date.

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

On motions by Senator Dunn, by two-thirds vote HB 52, a companion measure, was withdrawn from the Committee on Natural Resources and Conservation and substituted for CS for SB 201.

On motions by Senator Dunn, by two-thirds vote HB 52 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Anderson	Hair	Lewis	Renick
Beard	Henderson	Margolis	Scott
Carlucci	Hill	Maxwell	Skinner
Childers D.	Jenkins	McClain	Steinberg
Dunn	Jenne	McKnight	Stuart
Frank	Jennings	Neal	Tobiassen
Gersten	Johnston	Peterson	Trask
Gordon	Kirkpatrick	Poole	Ware
Grizzle	Langley	Rehm	

Nays—1

Stevens

Vote after roll call:

Yea—W. D. Childers, Vogt

CS for SB 201 was laid on the table.

SPECIAL ORDER

SB 187—A bill to be entitled An act relating to education; amending s. 232.26(1)(b), Florida Statutes; allowing a school principal to suspend a student without first employing parental assistance or other alternative measures in certain circumstances; providing an effective date.

—was taken up with pending Amendment 4.

Senator McKnight presiding

Senators Poole and Maxwell offered the following substitute amendment which was moved by Senator Poole:

Amendment 5—On page 2, between lines 2 and 3, insert:

Section 2. (1) The Legislature finds that the case law of this state provides that relaxed standards of search and seizure apply under the State Constitution to searches of students and students' effects by school officials, owing to the special relationship between students and school officials. Accordingly, it is the purpose of this section to provide procedures by which school officials may search students and their effects within the bounds of the case law established by the courts of this state.

(2) A principal of a public school or a school employee designated by the principal may search a student's locker or other storage area if he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within the locker or storage area.

(3) A principal of a public school or a school employee designated by the principal who has reasonable suspicion that a student has on his person a prohibited or illegally possessed substance or object or a concealed weapon may subject the student to a physical search.

(4) The school board shall cause to be posted in each public school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects, and that a student's person is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects or for concealed weapons.

(5) A principal of a public school who, on the basis of a search conducted pursuant to subsection (2) or subsection (3), has probable cause to believe that a student has committed an unlawful act upon premises under the supervision of the principal shall report such information to the appropriate law enforcement agency, and shall deliver to the appropriate law enforcement agency any prohibited or illegally possessed substance or object or any concealed weapon discovered as a result of such search.

(6) This section shall not be construed to prohibit the use of metal detectors or specially trained animals in the course of a search authorized by subsection (2) or subsection (3).

(Renumber subsequent section.)

Senators McClain and Jenne offered the following amendment to Amendment 5 which was moved by Senator Jenne and adopted:

Amendment 5A—On page 1, line 17, strike period “(.)” after “officials” and insert: and to a limited degree school officials stand *in loco parentis* to students.

Amendment 5 as amended was adopted.

Senators Poole and Maxwell offered the following amendment which was moved by Senator Poole and adopted:

Amendment 6—In title on page 1, line 6, after the semicolon (;) insert: providing procedures for search of students and students' lockers and storage areas by school officials; requiring notice; requiring reports to law enforcement agencies; requiring seized objects or substances to be delivered to a law enforcement agency;

On motion by Senator Maxwell, by two-thirds vote SB 187 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Anderson.	Hill	Maxwell	Skinner
Beard	Jenkins	McClain	Steinberg
Carlucci	Jenne	McKnight	Stevens
Childers, D.	Jennings	Neal	Stuart
Dunn	Johnston	Peterson	Thomas
Gersten	Kirkpatrick	Poole	Tobiassen
Grizzle	Langley	Rehm	Trask
Hair	Lewis	Renick	Vogt
Henderson	Margolis	Scott	Ware

Nays—1

Frank

Vote after roll call:

Yea—W. D. Childers

On motion by Senator Maxwell, the rules were waived and SB 187 after being engrossed was ordered immediately certified to the House.

SB 340—A bill to be entitled An act relating to financial matters; amending s. 218.37, Florida Statutes; providing definitions; providing duties of the Division of Bond Finance of the Department of General Services with respect to general obligation bonds and revenue bonds of units of local government and the state; providing for rules; providing duties of the advisory council to the division; amending s. 218.38, Florida Statutes; providing duties of units of local government with respect to information furnished the division regarding outstanding bonds and new bond issues; revising provisions relating to information filed with the division after delivery of bonds sold at public sale by competitive bid; exempting certain bonds from such provisions; requiring that certain information be filed with the division after delivery of certain bonds sold by negotiated bond sales; requiring the underwriter or financial consultant to file certain information with the unit of local government; requiring that information regarding both types of bond issues be maintained by the division and the unit of local government as a public record; providing for verification of information on bonded obligations by units of local government upon request of the division; providing procedures when the unit of local government fails to verify or provide required information; amending s. 218.385, Florida Statutes; deleting certain specific requirements with respect to a resolution authorizing a negotiated sale; requiring information regarding any finder to be furnished to the unit of local government by certain persons; specifying that failure to comply with said section or s. 218.38, Florida Statutes, shall not affect the validity of a bond issue; providing for application of certain sanctions; amending s. 218.386, Florida Statutes; redefining “finder”; prohibiting payment of finders' fees by financial advisers unless disclosure is made; specifying that violation of the section shall not affect the validity of a bond issue; amending s. 215.68(5)(c), Florida Statutes; allowing bonds issued pursuant to the State Bond Act to be awarded on the basis of either the lowest net interest cost or the lowest true interest cost, as determined by resolution of the division; amending s. 170.09, Florida Statutes; revising interest rate and number of yearly installments for payment of special assessments for municipal improvements;

amending s. 170.17, Florida Statutes; revising specified denomination and interest rate for improvement bonds; amending s. 153.05(9), Florida Statutes; providing a cap on interest rates charged on special assessments for water and sewer improvements; amending s. 153.73(11)(a), Florida Statutes, and adding subsection (14) thereto, to authorize changes in interest on, and duration of, installment payments on assessments under certain circumstances; providing for repeal and review of the advisory council in accordance with the Sundown Act; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community and Consumer Affairs recommended the following amendments which were moved by Senator Stuart and adopted:

Amendment 1—On page 6, strike all of lines 3-9 and insert:
(b)1. *Excluding for the purposes of this paragraph those governing board of each unit of local government authorized by general or special law to issue general obligation and revenue bonds issued pursuant to the provisions of part III of Chapter 154, parts II, III, and V of Chapter 159, and part II of Chapter 243, or revenue bonds, including special assessment bonds, each unit of local government shall, within 120 days after the*

Amendment 2—On page 7, strike all of lines 19-23 and insert:
(c)1. *Excluding for the purposes of this paragraph those general obligation and revenue bonds issued pursuant to the provisions of part III of chapter 154, parts II, III, and V of chapter 159, and part II of chapter 243, each unit of local government shall, within 120 days after the delivery of*

Amendment 3—On page 9, strike all of lines 8-11 and insert:
comply. Upon notification, and pending receipt by the division of the required information, the Department of Banking and Finance shall withhold any funds not pledged for bond debt service satisfaction which are payable to such the governmental entity until the required information is received by the division.

Amendment 4—On page 9, line 15, strike "may shall" and insert: shall

On motion by Senator Stuart, by two-thirds vote SB 340 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

Anderson	Hill	McClain	Steinberg
Beard	Jenkins	McKnight	Stevens
Carlucci	Jennings	Neal	Stuart
Childers, D.	Johnston	Peterson	Tobiassen
Dunn	Kirkpatrick	Poole	Trask
Frank	Langley	Rehm	Vogt
Gersten	Lewis	Renick	Ware
Hair	Margolis	Scott	
Henderson	Maxwell	Skinner	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Grizzle, Jenne

On motion by Senator Tobiassen, by unanimous consent—

By the Committee on Health and Rehabilitative Services and Senator Tobiassen—

CS for SB 684—A bill to be entitled An act relating to long-term care facilities; amending s. 400.062(3), Florida Statutes, authorizing the regulating agency to prorate nursing home license fees when a license is issued for less than 1 year; amending s. 400.111(1), Florida Statutes, authorizing the regulating agency to issue nursing home licenses for periods of less than 1 year; modifying time frames for submitting an application for a nursing home license under certain circumstances; providing a limit on the aggregate amount which a licensee may be fined for late renewal; exempting certain licensees from late fees; amending s. 400.162(5), Florida Stat-

utes, requiring nursing homes holding residents' personal funds to file surety bonds with the Department of Health and Rehabilitative Services; amending s. 400.427(2), Florida Statutes, modifying bonding requirements for adult congregate living facilities; providing that currently bonded nursing home and ACLF licensees need not transfer bonds; amending s. 400.402(8), (11), Florida Statutes, redefining the term "personal services"; redefining the term "supervision of self-administered medication"; amending s. 400.411, Florida Statutes; requiring notification of the Department of Health and Rehabilitative Services in certain circumstances; requiring specific information included in a license application for an adult congregate living facility; amending s. 400.418(1)(c), Florida Statutes; providing for the use of trust fund moneys; providing for review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

—was taken up out of order and read the first time by title and SB 684 was laid on the table.

On motion by Senator Tobiassen, by two-thirds vote CS for SB 684 was read the second time by title.

Senator Tobiassen moved the following amendments which were adopted:

Amendment 1—On page 11, line 14, after the period (.) insert:

Section 9. Subsection (1) of section 400.417, Florida Statutes, is amended to read:

400.417 Expiration of license; renewal; conditional license or permit.—

(1) Licenses issued for the operation of a facility, unless sooner suspended or revoked, shall expire automatically 1 year from the date of issuance. Ninety days prior to the expiration date, an application for renewal shall be submitted to the department, and licenses shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this part and all rules promulgated hereunder. The failure to file a timely application shall result in a late fee charged to the facility in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date. Late fees shall be deposited into the trust fund established by s. 400.418. The facility shall file with the application satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part. Applicants for renewal of license who have complied on the initial license application with the provisions of s. 400.411, with respect to proof of financial ability to operate, shall not be required to provide proof of financial ability on renewal applications unless a facility has demonstrated financial instability as evidenced by bad checks, delinquent accounts, nonpayment of withholding taxes, utility expenses, and other essential services. In addition, the department shall have access to books, records, and any other financial documents maintained by the facility to the extent necessary to carry out the purpose of this section.

Section 10. Section 400.434, Florida Statutes, is amended to read:

400.434 Right of entry and inspection.—Any duly designated officer or employee of the department or the state or local fire marshal shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe is being operated or maintained as a facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same. Any application for a facility license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application. The provisions of this section or of any other section in this part shall not be deemed to permit random sample auditing of persons licensed pursuant to this part unless the solvency of the facility

has been questioned or the Legislature requests cost-of-care data.

(Renumber subsequent sections.)

Amendment 2—In title on page 2, line 4, after the semicolon (;) insert: amending s. 400.417(1), Florida Statutes, providing that certain applicants for renewal licenses to operate adult congregate living facilities shall not be required to provide proof of financial ability; providing exceptions; amending s. 400.434, Florida Statutes, prohibiting random sample auditing; providing exceptions;

On motion by Senator Tobiassen, by two-thirds vote CS for SB 684 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Anderson	Hill	McClain	Stevens
Beard	Jenkins	McKnight	Stuart
Carlucci	Jenne	Neal	Thomas
Childers, D.	Jennings	Peterson	Tobiassen
Dunn	Johnston	Poole	Trask
Frank	Kirkpatrick	Rehm	Vogt
Gersten	Langley	Renick	Ware
Gordon	Lewis	Scott	
Grizzle	Margolis	Skinner	
Henderson	Maxwell	Steinberg	

Nays—None

Vote after roll call:

Yea—W. D. Childers

The President presiding

On motion by Senator Tobiassen, the rules were waived and CS for SB 684 after being engrossed was ordered immediately certified to the House.

SB 479—A bill to be entitled An act relating to unclaimed motor vehicles; amending s. 715.05, Florida Statutes; modifying procedures for reporting unclaimed motor vehicles; directing the Department of Highway Safety and Motor Vehicles to verify whether such vehicle has been reported stolen and to notify the appropriate law enforcement agency and the person reporting the vehicle; authorizing the department to charge a fee for furnishing notices; providing that the fee be added to storage charges; providing a penalty for failure to report; providing an effective date.

—was taken up with pending Amendment 1:

Amendment 1—On page 1, line 18, strike everything after the enacting clause and insert: Section 1. Section 715.05, Florida Statutes, is amended to read:

(Substantial rewording of section. See Section 715.05, Florida Statutes, for present text.)

715.05 Reporting of unclaimed motor vehicles.—

(1) Whenever any law enforcement agency authorizes the removal of an abandoned vehicle or whenever any garage, repair shop, automotive service, storage or parking place notifies the law enforcement agency of possession of an abandoned vehicle, the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles within 24 hours via electronic communications giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name and if any person has filed a lien upon the vehicle as provided by s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the garage or repair shop or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall, by certified mail, notify the owner and all lienholders of the location of the vehicle and of the fact that it is unclaimed.

(2) Nothing herein contained shall apply to any licensed public lodging establishment.

(3) Failure to comply with subsection (1) shall preclude the imposition of any storage charges against such vehicle after 14 days from the date of storage.

Section 2. This act shall take effect July 1, 1982.

—and pending Amendment 1C which was adopted:

Amendment 1C—On page 2, strike lines 9-11 of Amendment 1 and insert: (3) Failure to make good faith best efforts to comply with the notice requirement of this section or of s. 715.07(2)(a)2. as appropriate, shall preclude the imposition of any storage charges against such vehicle.

On motion by Senator Langley, the Senate reconsidered the vote by which Amendment 1B was adopted.

Senator Langley moved the following substitute amendment for Amendment 1B which was adopted:

Amendment 1D—On page 2, strike line 6 and insert: of the fact that it is unclaimed. Such notice shall be given within 5 days from the date of storage and shall be complete upon mailing; provided, however, that if the vehicle is registered outside of this state, the person in charge of the garage or repair shop or automotive service, storage, or parking place shall make a good faith best effort in so notifying the owner and any lienholders, and such notice shall be given within a reasonable period of time from the date of storage.

Amendment 1 as amended was adopted.

The Committee on Transportation recommended the following amendment which was moved by Senator Stevens and adopted:

Amendment 2—In title on page 1, strike lines 5-13 and insert: vehicles; directing law enforcement agencies under certain circumstances to report abandoned vehicles to the Department of Highway Safety and Motor Vehicles; directing the department to report information to the appropriate law enforcement agency; requiring persons in charge of storage facilities to obtain information and notify owners and lienholders; providing a penalty for failure to report; providing an effective date.

On motion by Senator Stevens, by two-thirds vote SB 479 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Hair	Margolis	Steinberg
Anderson	Henderson	McClain	Stevens
Beard	Hill	McKnight	Stuart
Carlucci	Jenkins	Neal	Thomas
Childers, D.	Jenne	Peterson	Tobiassen
Dunn	Jennings	Poole	Trask
Frank	Johnston	Rehm	Vogt
Gersten	Kirkpatrick	Renick	Ware
Gordon	Langley	Scott	
Grizzle	Lewis	Skinner	

Nays—None

By the Committee on Judiciary-Civil and Senator Vogt—

CS for SB 78—A bill to be entitled An act relating to estates; amending s. 732.802, Florida Statutes; providing that certain persons who unlawfully and intentionally kill, rather than murder, a person are not entitled to receive benefits by reason of the death of the person killed; including within the act any other acquisition of property or interest by the killer; providing that a final judgment of conviction of murder in any degree is conclusive for the purposes of this section and that without regard to any criminal proceedings the court may determine by preponderance of evidence whether the killing was unlawful and intentional; providing for the protection of rights of persons without notice acting before the rights under this section have been adjudicated; providing an effective date.

—was read the first time by title and SB 78 was laid on the table.

On motion by Senator Vogt, by two-thirds vote CS for SB 78 was read the second time by title.

Senator Hair moved the following amendments which were adopted:

Amendment 1—On page 2, line 28, strike “a preponderance of” and insert: the greater weight of the

Amendment 2—In title on page 1, line 14, strike “preponderance” and insert: the greater weight

On motion by Senator Vogt, by two-thirds vote CS for SB 78 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Hair	Margolis	Skinner
Anderson	Henderson	Maxwell	Steinberg
Beard	Hill	McClain	Stevens
Carlucci	Jenkins	McKnight	Stuart
Childers, D.	Jenne	Neal	Thomas
Dunn	Jennings	Peterson	Tobiassen
Frank	Johnston	Poole	Trask
Gersten	Kirkpatrick	Rehm	Vogt
Gordon	Langley	Renick	Ware
Grizzle	Lewis	Scott	

Nays—None

On motion by Senator Vogt, the rules were waived and CS for SB 78 after being engrossed was ordered immediately certified to the House.

By the Committee on Appropriations and Senators Skinner and Kirkpatrick—

CS for SB 166—A bill to be entitled An act relating to sexual battery; creating s. 794.07, Florida Statutes; requiring the Bureau of Crimes Compensation of the Division of Worker's Compensation of the Department of Labor and Employment Security to pay the medical expenses of initial physical examinations of victims of sexual battery under specified circumstances; limiting amount of payment; prescribing the powers and duties of the bureau with respect to claims; providing for confidentiality of records; providing an appropriation; providing an effective date.

—was read the first time by title and SB 166 was laid on the table.

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 166 was read the second time by title.

Senator Gordon moved the following amendment which was adopted:

Amendment 1—On page 1, line 23, after the word “examination”, insert: by a physician or other medically trained personnel qualified under Chapters 464, excluding section 464.003(5); 468; and 459; Florida Statutes,

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 166 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gordon	Jennings	McKnight
Anderson	Grizzle	Johnston	Neal
Carlucci	Hair	Langley	Peterson
Childers, D.	Henderson	Lewis	Poole
Dunn	Hill	Margolis	Renick
Frank	Jenkins	Maxwell	Scott
Gersten	Jenne	McClain	Skinner

Steinberg	Stuart	Tobiassen	Vogt
Stevens	Thomas	Trask	Ware

Nays—None

Vote after roll call:

Yea—Rehm

On motion by Senator Kirkpatrick, the rules were waived and CS for SB 166 after being engrossed was ordered immediately certified to the House.

Senator Thomas presiding

SB 246—A bill to be entitled An act relating to the Florida National Guard; amending s. 250.23, Florida Statutes; providing for paying certain military personnel under certain circumstances; amending s. 250.24, Florida Statutes; requiring the Adjutant General to estimate certain costs; requiring certain moneys to be deposited into a revolving fund; requiring the Executive Office of the Governor to approve such fund; requiring the Department of Military Affairs to administer such fund; repealing s. 250.11, Florida Statutes, relating to auditing accounts of the Florida National Guard; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Stuart and adopted:

Amendment 1—On page 2, line 31 and on page 3, lines 1-3, strike all of said lines and insert: *Comptroller audit documentation of such payments. The Department of Military Affairs shall maintain all employee records relating to payments made pursuant to this sub-section and shall furnish to the Comptroller the information necessary to update each employee's payroll master record.*

(4) *The fund balance remaining in this separate revolving fund after a final accounting of all expenditures for pay and allowances of the troops shall be returned for deposit to the State Treasury within 45 days after the termination of active duty of the troops, except that an operating balance in an amount mutually agreed upon by the Comptroller and the Department of Military Affairs shall be retained in the Fund.*

(5) *Vouchers for expenditures other than such pay and allowances shall be presented to the Comptroller for approval and payment as prescribed by law.*

On motion by Senator Stuart, by two-thirds vote SB 246 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Anderson	Henderson	Maxwell	Steinberg
Beard	Hill	McClain	Stevens
Carlucci	Jenkins	McKnight	Stuart
Childers, D.	Jenne	Neal	Thomas
Dunn	Jennings	Peterson	Tobiassen
Frank	Johnston	Poole	Trask
Gersten	Kirkpatrick	Rehm	Vogt
Gordon	Langley	Renick	Ware
Grizzle	Lewis	Scott	
Hair	Margolis	Skinner	

Nays—None

Vote after roll call:

Yea—W. D. Childers

SB 447—A bill to be entitled An act relating to fireworks; amending s. 791.01(2), Florida Statutes; excluding specified items from the definition of “fireworks” and permitting the sale of such excluded items; providing an effective date.

—was read the second time by title. On motion by Senator Steinberg, by two-thirds vote SB 447 was read the third time by

title, passed and certified to the House. The vote on passage was:

Yeas—38

Anderson	Henderson	Maxwell	Steinberg
Beard	Hill	McClain	Stevens
Carlucci	Jenkins	McKnight	Stuart
Childers, D.	Jenne	Neal	Thomas
Dunn	Jennings	Peterson	Tobiassen
Frank	Johnston	Poole	Trask
Gersten	Kirkpatrick	Rehm	Vogt
Gordon	Langley	Renick	Ware
Grizzle	Lewis	Scott	
Hair	Margolis	Skinner	

Hair	Langley	Poole	Thomas
Henderson	Lewis	Rehm	Tobiassen
Hill	Margolis	Renick	Trask
Jenkins	Maxwell	Scott	Vogt
Jenne	McClain	Skinner	Ware
Jennings	McKnight	Steinberg	
Johnston	Neal	Stevens	
Kirkpatrick	Peterson	Stuart	

Nays—None

Vote after roll call:

Yea—W. D. Childers

SB 498 was laid on the table.

Nays—None

Vote after roll call:

Yea—W. D. Childers

SB 498—A bill to be entitled An act relating to elections; amending s. 99.097(4) and (5), Florida Statutes; requiring that a person wishing to contest the results of the verification of signatures on petitions by the supervisor of elections by the random sample method file a complaint in the circuit court specifying the grounds on which he intends to require a complete check of names and signatures; clarifying provisions relating to retention of petitions; providing an effective date.

—was read the second time by title.

Senator Anderson moved the following amendment which was adopted:

Amendment 1—On page 3, line 13, after "court" insert: in the county in which the petition is certified or in Leon County if the petition covered more than one county.

Pending further consideration of SB 498 as amended, on motion by Senator Anderson, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable W. D. Childers, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 571 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative L. H. Plummer—

HB 571—A bill to be entitled An act relating to elections; amending s. 99.097(4) and (5), Florida Statutes; requiring that a person wishing to contest the results of the verification of signatures on petitions by the supervisor of elections by the random sample method file a complaint in the circuit court specifying the grounds on which he intends to require a complete check of names and signatures; clarifying provisions relating to retention of petitions; providing an effective date.

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

SPECIAL ORDER, continued

On motions by Senator Anderson, by two-thirds vote HB 571, a companion measure, was withdrawn from the Committee on Judiciary-Civil and substituted for SB 498.

On motions by Senator Anderson, by two-thirds vote HB 571 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Anderson	Carlucci	Dunn	Gersten
Beard	Childers, D.	Frank	Grizzle

SB 813—A bill to be entitled An act relating to state lands; amending s. 253.033(3), Florida Statutes; providing for the trade, sale or other disposition of certain lands in Dade County; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment which was adopted:

Amendment 1—On page 1, line 24, before the period(.) insert: , but before such land may be sold, it shall first be offered to all state agencies and transferred to such an agency for a public purpose if the offer is accepted

Senator Steinberg moved the following amendments which were adopted:

Amendment 2—On page 1, line 24, after the period (.) insert: If lands are sold pursuant to this subsection, the proceeds of such sale shall be allocated to the Oleta River State Recreation Area.

Amendment 3—On page 1, lines 19-24, strike "after public purposes;" and insert: , provided however that this reservation shall not apply to the transfer of lots 2, 3, 6, 7, 8, 9, 10 and 11 of Block 1 and lots 2 and 3 of Block 2 of Biscayne Boulevard Subdivision as recorded in Plat Book 40 at page 4 of the Public Records of Dade County.

Senator Gordon moved the following amendment which was adopted:

Amendment 4—In title on page 1, line 5, insert: providing that before such lands are sold they shall be offered to state agencies for public purposes;

Senator Steinberg moved the following amendment which was adopted:

Amendment 5—In title on page 1, line 5, after the semicolon (;) insert: providing for allocation of the proceeds from the sale of such lands;

On motion by Senator Jenne, further consideration of SB 813 was deferred.

SB 486—A bill to be entitled An act relating to taxation; amending s. 194.011(3)(d), Florida Statutes; specifying a time period within which to file a certain petition; amending s. 194.032(3), Florida Statutes; providing conditions for contesting an assessment by an aggrieved taxpayer; amending s. 200.065(5), Florida Statutes; authorizing certain taxing authorities to administratively adjust certain millage rates without a public hearing in certain circumstances; amending s. 200.069(6), (7), Florida Statutes; changing certain requirements relating to the notice of proposed property taxes; providing time limitations on holding certain public hearings; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Peterson and failed:

Amendment 1—On page 1, line 30, strike "17th" and insert:
20th

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Peterson:

Amendment 2—On page 2, line 3, through page 3, line 2, strike all of Section 2 and renumber subsequent sections.

Senator Margolis moved the following substitute amendment which was adopted:

Amendment 3—On page 1, lines 21-30, and on page 2, lines 1 and 2, strike all of said lines.

Renumber subsequent sections.

Senator Peterson moved the following amendments which were adopted:

Amendment 4—On page 3, between lines 2 and 3, insert:

Section 2. Subsection (2) of section 193.122, Florida Statutes, is amended to read:

193.122 Certificates of property appraisal adjustment board and property appraiser.—

(2) After certification of the tax rolls by the property appraisal adjustment board, the property appraiser shall make all required extensions on the rolls to show the tax attributable to all taxable property. Upon completion of these extensions, and upon satisfying himself that all property is properly taxed, the property appraiser shall certify the tax rolls, *and shall within one week thereafter publish notice of the date and fact of extension and certification in a periodical meeting the requirements of Section 50.011; and publicly display notice of the date of certification in the property appraiser's office. The property appraiser shall also supply the date of certification to any taxpayer who requests one in writing.* These certificates shall be made in the form required by the department and shall be attached to each roll as required by the department by regulation. An appeal of a property appraisal adjustment board decision pursuant to section 194.032(6)(a) 1. or 2. by the property appraiser shall be filed prior to certification of the tax roll under this subsection. The roll may be certified prior to an appeal being filed pursuant to subparagraph 194.032(6)(a) 3., but such appeal shall be filed within 20 days after receipt of the department's decision relative to further judicial proceedings.

(Renumber subsequent sections.)

Amendment 5—On page 5, line 19, insert new Section 6. after renumbering:

Section 6. Subsection (6) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

~~(6) Notwithstanding the provisions of subsections (4) and (5), an original application shall be refiled each year for not less than 10 percent of all parcels granted an exemption or agricultural classification. The property appraiser shall randomly select those parcels for which such refileing shall be required.~~

Senator Hill moved the following amendment which failed:

Amendment 6—On page 2, line 3, insert: Section 2. Subsection (4) is added to section 194.011, Florida Statutes, to read:

(4) Any petition filed pursuant to this section shall be accompanied by a filing fee and paid to the clerk of the property appraisal adjustment board in the amount of \$12 for each separate parcel of property covered by the petition and subject to appeal. Provided, however, that no filing fee is required with respect to appeals of homestead exemption disapprovals under s. 161.151. Only a single filing fee shall be charged under this section as to any particular parcel of property, despite the

existence of multiple issues and hearings pertaining to such parcel. All filing fees hereunder shall be paid to the clerk of the property appraisal adjustment board at the time of filing, failing which the petition shall be deemed invalid and shall be rejected. All such funds collected by the clerk shall be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the property appraisal adjustment board. Should the petitioner prevail at the property appraisal adjustment board hearing, resulting in a reduced assessment or increased exemption, the filing fee herein shall be refunded to the taxpayer no later than forty-five days after certification of the tax roll under s. 193.122(1). The refund shall be made by the clerk of the property appraisal adjustment board without any further authority from the Department of Revenue under s. 195.106.

(Renumber subsequent sections.)

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Peterson and failed:

Amendment 7—In title on page 1, strike lines 5-7 and insert: petition;

Senator Peterson moved the following amendments which were adopted:

Amendment 8—On page 1, line 8, insert: amending s. 193.122(2), Florida Statutes, providing for public display of notice of the date of certification of tax rolls;

Amendment 9—On page 1, line 16, after "hearings;" and before "providing" insert: repealing s. 196.011(6), Florida Statutes, requiring a 10 percent random refileing of application for exemption of agricultural classification;

Senator Margolis moved the following amendment which was adopted:

Amendment 10—In title on page 1, strike lines 2-5 and insert: An act relating to taxation; amending s. 194.032(3), Florida

On motion by Senator Peterson, by two-thirds vote SB 486 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Anderson	Henderson	Maxwell	Steinberg
Beard	Hill	McClain	Stuart
Carlucci	Jenkins	McKnight	Thomas
Childers, D.	Jenne	Neal	Tobiassen
Dunn	Jennings	Peterson	Trask
Frank	Johnston	Poole	Vogt
Gersten	Kirkpatrick	Rehm	Ware
Gordon	Langley	Renick	
Grizzle	Lewis	Scott	
Hair	Margolis	Skinner	

Nays—None

Vote after roll call:

Yea—W. D. Childers

The President presiding

SB 679—A bill to be entitled An act relating to marriage licenses; repealing ss. 741.051-741.0593, Florida Statutes, relating to a serological test for syphilis as a condition precedent to issuing a marriage license; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendment which was adopted:

Amendment 1—On page 1, line 11, strike the number "741.959" and insert: 741.059

On motion by Senator Vogt, by two-thirds vote SB 679 as amended was read the third time by title and failed to pass: The vote was:

Yeas—13

Dunn	Jenne	Rehm	Vogt
Frank	Johnston	Skinner	
Gersten	Margolis	Stuart	
Gordon	McKnight	Thomas	

Nays—26

Mr. President	Henderson	Maxwell	Steinberg
Anderson	Hill	McClain	Stevens
Barron	Jenkins	Neal	Tobiassen
Beard	Jennings	Peterson	Trask
Carlucci	Kirkpatrick	Poole	Ware
Grizzle	Langley	Renick	
Hair	Lewis	Scott	

Vote after roll call:

Yea to Nay—Thomas

On motion by Senator Dunn, the rules were waived and time of adjournment was extended until completion of announcements and motions.

On motion by Senator Dunn, the rules were waived and the Special Order Calendar Subcommittee was granted permission to meet Monday, March 8 at 1:30 p.m. for the purpose of setting the special order calendar for Tuesday, March 9.

On motion by Senator McKnight, the rules were waived and by two-thirds vote CS for SB 705 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Barron, all remarks relative to reapportionment were ordered printed in the Journal.

The following statements and questions and answers relating to reapportionment are printed in the Journal, verbatim, pursuant to the motion by Senator Barron:

Senator Barron: Mr. President and Senators, on the question of apportionment, many of you asked how we are doing and I am pleased to make some kind of report to you. On yesterday, the Committee on Apportionment met in the House and took up our bill and the attorney for the committee made a lot of remarks that in my judgment were inaccurate and I happened to be looking at the monitor so I went down to try to correct the record.

Now what he said essentially, and if you read the press this morning I guess you—or saw the news you pretty well know already, but what he said essentially was that the reapportionment plan that we had passed would disenfranchise over 800,000 people.

That simply is not true and I went down to tell them why it was not true. It is not true because those people who carry over on this side of the aisle will continue to represent exactly the same people who elected them if we carry over the terms. Those people who run on this side of the aisle, you can use a good example of Senator Thomas and myself—I will continue to represent the same people who elected me and Senator Thomas in a single-member district might come into part of the district that I would continue to represent thereby not disenfranchising anybody but rather giving more representation to them.

We can make the same example of Senator Gordon who now represents say, or Margolis or Hill, that now represents 300 percent of people under a multi-member district. They will continue to do that for two years and then after that term is over they will represent under a single-member district a third as many people in two years from now as they presently represent.

The Dade Senators on this side would represent 300 times as many people if that could be possible, more than a hundred, but in two years it will be reduced down so each of them will

represent a third of those people. On the other hand, if you do compel Senators to run you are going to then, on that day, disenfranchise 400 million people in Florida—4.5 million people in Florida—half of nine million whatever that is.

Now let me read you from the constitution, and the constitution says, Section 2 of Article III in the Legislative Article, "Each house shall be the sole judge of the qualifications, elections, and return of its members." Section 15 says, "Senators shall be elected for a term of four years."

Senator Thomas saw the news and was surprised to hear me say that 20 states have already apportioned and they had the same kind of constitution we have and they did not compel anybody to run again who had been elected for four years. I don't know why he was surprised, I had already said this, but I know sometime in the hustle and bustle everything is not heard.

But in Alaska, California, Colorado, Hawaii, Indiana, Iowa, Missouri, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Utah, Washington, and Wyoming, since the decennial census, all of those states have reapportioned. All of them have had carry over terms. No states have reapportioned to compel people to run.

That is what I told the House yesterday and when I got through I asked them if they had any questions, and, no, they had not one single question and I said, "I assume since there is no question that you understand it now and that you agree."

Of course they don't totally agree but we are in serious negotiations. We have our lawyer for the Senate flying in Sunday. I will be here. We will look at language that we are mutually discussing to try to get to a neutral position. And, Senator Johnston, all I want to do is not litigate in the bill, just leave it for the court to decide.

It is my great hope, Mr. President, that we will be able to reach a compromise agreement and apportion the legislature as is our solemn obligation under, I think, our oath of office.

That is about where we are. I'll respond to any questions if there are any. Being none, I guess all of you agree with me.

Senator Jenkins: Yes, I'd like to ask just one question. I was wondering, Senator Barron, about these other 20 states that you mentioned—what was the language in their bill in regards to having to run again? Did they have it in there or was it neutral—what was the status?

Senator Barron: I don't have the language that they had in the bill that passed. I'm sure that in many of the states they provided, as you would expect us to do in Florida, that you would carry over.

But it is my contention that the constitution settles that when it says Senators shall be elected for terms of four years, and if the court takes jurisdiction of that point, and I think that they will, that matter will be disposed of in the court. Regardless of what we put in the bill, the bill will be attacked in the court by somebody, I'm sure. It always is; and the court will make the ruling and I just think the fairest thing and the last thing and the best thing we can get out of this session is to have a totally neutral situation saying that the court will decide—interpret our bill, and it will. It's going to anyway. And I think that's close to what—all we can get. We can hold out. If we hold out and do nothing, you should know that then the measure will go to the Supreme Court of Florida, not at the end of this session, but at the end of an extended session or a special called session provided for in the constitution. The Supreme Court is not bound to do anything that we have done. They will be writing on a totally new slate. They can write any kind of plan that they want to. They can write a legislature that consists of no more than 30 Senators or 80 members of the House if they desire to do so.

I yield to Senator Gordon.

Senator Gordon: May I ask a question, Senator—there are a number of places in the State that enjoy multi-member districts and if we not only have a single-member district plan, but if everybody has to run, a large number of people will lose significant representation—in a three-member district, they are

going to lose two Senators, and the same way in the House—would that be subject to challenge on the basis of disenfranchisement?

Senator Barron: I think that if the . . . if we were compelled to run, if somehow you could pass a bill which would not, I'm sure, pass this Senate, and you were compelled to run, you could challenge the fact that you were elected for a four-year term in the court and also that those people who voted for you are disenfranchised for another two years. I think that is the case. I yield.

Senator McClain: One question, Senator. What concerns me I guess more than anything else is relegating our responsibility, and I hope it concerns the House, but as you know, in 1972—I guess it was 1967—when the decision came down—the lines were drawn by a professor I believe from Florida State and there is also a great deal of sentiment, and there was some movement a few years ago about a commission doing all this reapportionment. And what I fear is that if we are not able to do our own reapportionment, we are just taking one more step in putting this what I think is the ultimate legislative task, over into some non-legislative body. And that's the reason I hope that the House has the foresight to understand that we must do it.

Senator Barron: Senator, it is my judgment that one of the very real alternatives of the Supreme Court would be to appoint a commission, give the product of the legislature to the commission, let them look at whatever they wanted to, make a recommendation to the court and adopt it. That's a chance that you take in not writing an apportionment plan. It's one that I hope that we are not faced with, and it's one that I'm doing everything within my power—physically, emotionally, mentally and everything else—to avoid. And I believe that a good many of the House members are doing what they can to avoid it. I have been told, I'm sure as many of you have, that the vote that came over from the House originally did not really reflect the feeling of many, many members of the House; on interfering in the Senate's business and compelling us to run.

Senator Langley: Would you believe, Senator Barron, I made a little calendar here and if this house—

Senator Barron: "I believe it is a violation of the rules to say that in the Senate, Senator, but I would like to have your question."

Senator Langley: I did the calendar out through 2002 and if the theory of the House prevails, the even-numbered Senators would have to run in '90, '92, and '94. They would have to run for three consecutive two-year terms and I'm sure that's not the intent of the constitution.

Senator Barron: That's not the intent of the constitution. It's not the wording of the constitution, but your assumption is correct. Should the House prevail on that issue, we would get into two-year terms for a whole large—half of the Senate.

Senator Dunn: Mr. President, I basically have some pretty fundamental differences of opinion with Senator Barron, but there is really one thing I can certainly agree on and that is, if at all possible, the Legislature ought to be the ones that devise both the House and the Senate reapportionment plan and we ought to try our darndest to work out a compromise that would assure the Legislature as being the body doing the reapportionment. And if it means compromising the issue, I said on the floor that as far as I'm concerned, I think absolutely neutral language, that is, in fact, neutral, and that there is legislative intent to the effect that there is in no way a tilt of the scale of justice, if you will, in favor of running versus non-running. In other words, giving the court a completely unencouraged position. In other words the House doesn't do it, the Senate doesn't do it; we just tell the court that the court under the constitution makes the decision, we live with it. I can live with that. I think that's compromise. I would prefer, of course, to see us go the other way and take an affirmative position that we all have to run. Votes aren't in here for that. I recognize that, but as a fall-back, a compromise position, I think I certainly would vote for a neutral, absolutely neutral,

position that was not a legislative contemporaneous construction issue.

Senator Don Childers: Senator, would you yield for a question?

Senator Dunn: I yield.

Senator Don Childers: As a constitutional lawyer and what Senator Barron has just stated, it makes no difference to the twenty over here one way or the other, but aren't you going against the constitution? What it says the Senator shall be elected for four years? If you go to a neutral language in what you're doing, you're saying to the House, O.K. we're caving in on this issue.

Senator Dunn: Now, Senator, you know we are going to argue this thing again. The constitution says they shall be elected for four years, doesn't say they shall serve four years, number 1. Number 2, the entire constitutional history of this state has had four-year terms for senators. After every reapportionment every senator has run again, with the exception of one time; that was back in 1927 when three members of the Senate weren't required to run again. The Court threw that out. So, from a constitutional history point-of-view, Senator, there isn't any question about what reapportionment means to this state and that's why I perfectly am willing to let the court decide it. I think they've got substantial precedence. As a matter of fact, I can't believe that the people when they voted on the constitution weren't perceiving the same course of conduct that occurred over the history of this state.

Senator Thomas: If the constitution also writes out about the staggered terms, I can't think you are right. It seems to me that they envisioned keeping staggered terms. That's certainly important in the constitution. What you're saying is that the thing it says is it will be staggered terms some of the time.

Senator Dunn: Senator, I get the impression that we are probably going to get back to the point of arguing this thing and I think we have argued it enough. You know where I stand and I think I know where you are coming from. I'll be glad to sit down with you and show you what I think my legal position is.

Senator Jenkins: Mr. President, I don't want to argue anything. I just want to make a brief statement before we go to lunch. I've come a long ways with Senator Barron and, of course, I spilled coffee all over myself at breakfast this morning when I saw that he might support the neutral language. I personally feel that if we send our bill in there with neutral language, it will be much simpler for the justices to go along and do whatever they want to do, rather than coming in unified and strong and saying, this is the way we feel. That we feel that we shouldn't have to run again and so in talking to many Senators, I feel very strongly that we don't want to go in with neutral language.

Mr. President: I think what Senator Barron is saying . . . Senator do you have all of those states again?

Senator Barron: Yes. I don't want to read them again, but Senator Jenkins, I would be delighted to have a bill that said that we didn't have to run. That is not attainable and the other option is the court.

That's the problem we've got, but Mr. President let me disagree with Senator Dunn. Let me strongly disagree with the statement made by Senator Dunn, that after every apportionment that everybody has had to run again. Since 1845 the constitution has provided for four-year staggered terms. I've read all those cases many times to the Senate. It says . . . everywhere it's been tested in this nation the courts have held that if you are going to have staggered terms, you've got to have carry-over terms for continuity of government.

The only time that we had to run was when the Legislature was totally malapportioned in this State, back when we used to have one Senator in Dade County representing all those

people and one Senator in some small county. It was malapportioned. The Supreme Court of the United States, under the Fourteenth Amendment clause of the constitution—that guarantees protection of people under the law, equal protection under the law—ruled that the Legislature of Florida, and many legislatures in this country, was malapportioned and had no right to be there. The only reason they could sit at all was to write an apportionment plan; not to pass a budget, not to legislate, but to pass an apportionment plan.

I was here when it happened. Senator Henderson was here when it happened. In fact, he's sitting here now to give me moral support on these remarks that I'm making. And when it did happen, what happened was that we all had to run in 1948 and we all ran for four-year terms. And we did what the Constitution said to do, that if we ever get out of staggered terms, and that was the only time that we had, that we had to,—no, 1968—you and I have been here so long it's irrelevant. We've been at the time that we ran for four years we submitted a constitutional amendment to the people of Florida and it was adopted to reinstate staggered terms and when we did that we ran—half of us ran for two-year terms and half of us ran for four-year terms to reinstate staggered terms. That is where we are now legally.

Wig Barrow, that all of you know, is very colorful, sat where Senator Skinner is sitting. He said, "I'm going to run for a four-year term."

John Broxson, who was senior, said, "No, I'm going to run for it,"—when we had the options of two's and four's—"I want to run for a four-year term." And they all quarrelled about that. Some people qualified against each other and finally enough of us won to get 40 of us back up here.

But it's the law of Florida and it is written down in the constitution that Senators shall be elected for four-year, staggered terms. I have no fear of the Supreme Court. I think that they will rule with us. I cannot guarantee you that, Senator Skinner. Nobody can guarantee what the court will do. It's my judgment that they can read the constitution like we read it and that they will be with us. The only reason that... maybe the problems are with the House. I'll get into this tomorrow if you want to come. We'll have a little debate with Mr. Haben somewhere.

Is it that they spent \$200,000 writing a plan? Talking about the loss of money, Mr. President, or need of money—\$200,000 to write a plan and it took them four weeks to pass it. We spent \$8,000 and it took us three days to pass it. So there is a lot of differences between the House and Senate, but this requirement to try to make us run, I think is unjustified, but in order to get out of here, I think that we are going to have to compromise, and I am willing to seek that compromise.

Senator Vogt: Mr. President, I'd just like to amplify a little bit on what Senator Langley pointed out a minute ago, that in sitting down and coming up with a chart, it might be of interest to you that if the philosophy prevailed that Senators on this side of the aisle should run this year, you would have the situation where the odd-numbered senators ran for a two-year term in 1980, would be running for a two-year term in 1982, and would have to stand election again in 1984 for a four-year term because then they would be on their sequence of getting elected, the odd-number districts get elected in the even-number years divisible by four. And that side of the aisle would run into the same circumstance at the end of the decade. That in 1990 they would run for a two-year term, in '92 for a two-year term and in '94 for a four-year term and along with the argument I made previously about one of the main reasons we have a Senate and House is to have some deliberative body that is not subject to voter pressure, that in the interest of maintaining continuity in an elected government and can more deliberately deal with some of the issues of the day. I think it is inconceivable that we would want half the members of that body to stand election every two years for three successive elections in such a short period as at the end of every decade. So I submit to you that I don't see how the courts could possibly agree with the House plan; and holdover terms, I think, are clearly implied by the constitution and by all the predicates for why we have two bodies in the constitution.

On motion by Senator Hair, the rules were waived and by two-thirds vote CS for SB 974 was withdrawn from the Committee on Commerce.

ENROLLING REPORT

CS for SB 418 has been enrolled, signed by the required Constitutional Officers and presented to the Governor on March 4, 1982.

Joe Brown, Secretary

CO-INTRODUCERS

Senator Peterson—SB 845; Senators McClain and Poole—SB 187

CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 3 was corrected and approved.

On motion by Senator Dunn, the Senate recessed at 12:21 p.m. to convene at 9:00 a.m., Tuesday, March 9.