



Journal of the Senate

Number 25

Friday, May 27, 1983

BILL ACTION SUMMARY

Friday, May 27, 1983

- H 423 Passed, immediately certified
- H 470 Passed, immediately certified
- H 493 Passed as amended, immediately certified
- H 497 Passed, immediately certified
- H 1080 Passed
- H 1129 Conference Committee appointed Senator Neal, Chairman; Senators Kirkpatrick, Mann, Grizzle and Langley
- H 1182 Passed as amended
- S 44 Concurred, passed as amended
- S 46 Passed as amended
- S 127 Passed
- S 256 Passed as amended, immediately certified
- S 296 C/S passed as amended
- S 314 C/S passed as amended
- S 395 Concurred, passed as amended
- S 464 C/S passed as amended
- S 561 C/S passed
- S 619 Concurred, passed as amended
- S 645 Passed as amended
- S 1017 C/S passed as amended
- S 1065 C/S passed as amended
- S 1183 Passed as amended, immediately certified
- S 1195 Conference Committee appointed: Senator Johnston, Chairman; Senators Thomas, Neal, Scott, Maxwell, Kirkpatrick, Vogt and Margolis; Senators Gordon, Grant, Beard and Crawford, Alternates
- S 1198 Passed, immediately certified
- S 1202 Passed, immediately certified

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

Mr. President	Frank	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Dunn	Hill	McPherson	Weinstein
Fox	Jenne	Meek	

Excused: Senator Neal from 9:00 until 10:30 a.m. and at 12:10 p.m.; Senator Plummer

Prayer by Joe Brown, Secretary of the Senate:

Bless, O Lord, these decision-makers and the decisions they make. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, May 27, 1983: HB 423, HB 470, SB 1183, SB 1196, SB 1198, HB 493, HB 497, SB 1202

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Special and Continuing Order Calendar for Friday, May 27, 1983: CS for SB 1017, CS for SB 562, CS for SB 314, CS for SB 296,

CS for SB 161, CS for SB 561, HB 1182, SB 645, SB 127, CS for SB 464, SB 256, SB 782, SB 463, CS for SB 639, SB 308, SB 575, CS for SB 1016, CS for SB 1065, SB 1104, HB 673, SB 344, SB 490, CS for SB 362, CS for SB 365, CS for SB 367, SB 123, SB 159, SB 198, CS for SB 444, CS for SB 539, CS for SB 309, SB 642, SB 1014, CS for SB 460, CS for SB 478, CS for SB's 609 and 769, SB 631, CS for SB 1150, SB 213, SB 650, CS for SB 466, SB 514, CS for SB 803, SB 283, SB 288, SB 449, SB 450, SB 290, CS for SB 137, CS for SB 56, CS for SB 374, SB 497, SB 857, SB 516, CS for SB 431, SB 471, CS for SB 156, SB 234

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Appropriations recommends the following pass: SB 233 with 2 amendments

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

The Committee on Appropriations recommends the following pass: CS for House Bills 32 and 49 with 1 amendment, SB 98 with 1 amendment, CS for SB 145, SB 401 with 1 amendment, CS for SB 435, CS for SB 476 with 4 amendments, SB 960 with 2 amendments

The bills were placed on the calendar.

The Committee on Appropriations recommends the following not pass: SB 833

The bill was laid on the table.

The Committee on Appropriations recommends committee substitutes for the following: SB 28, CS for SB 110, SB 378, CS for SB 517, SB 599, CS for SB 636, SB 1108

The bills with committee substitutes attached were placed on the calendar.

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senator Beard—

SR 1205—A resolution commending Florida artist Lynn Hannon.

—was referred to the Committee on Rules and Calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Appropriations and Senator Henderson—

CS for SB 28—A bill to be entitled An act relating to the use of state motor vehicles and aircraft; adding s. 14.071(5)-(9), Florida Statutes; relating to the Department of Law Enforcement; requiring security and transportation for certain persons; providing criteria for such services; providing for coordination of such services; requiring a semiannual report; amending s. 106.15(2), Florida Statutes; providing for reimbursement of certain aircraft expenses; amending s. 287.16(8), Florida Statutes, relating to powers and duties of the Division of Motor Pool of the Department of General Services; providing for the development of a reporting system with respect to certain law enforcement vehicles; amending s. 287.161(2), (3), Florida Statutes; providing that fees for persons receiving transportation from the executive aircraft pool be based on the mileage allowance which is provided by law for privately-owned vehicles; providing for the use of fees collected; amending s. 287.17, Florida Statutes; establishing criteria for determining the appropriate use of motor vehicles and aircraft; creating s. 287.175, Florida Statutes; establishing penalties for violation of statutes and rules relating to motor vehicle and aircraft use; amending s. 287.20, Florida Statutes; providing for applicability of motor pool provisions to certain state agencies; providing an effective date.

By the Committees on Appropriations and Education and Senator Margolis—

CS for CS for SB 110—A bill to be entitled An act relating to educational facilities; amending ss. 235.06, 235.212(1)(b), Florida Statutes, 1982 Supplement; requiring annual firesafety inspections to be conducted by the Division of State Fire Marshal of the Department of Insurance or by certain certified officials; authorizing the Commissioner of Education to waive certain design requirements; adding s. 235.435(1)(i), Florida Statutes, 1982 Supplement; requiring the expenditure of certain allocations; providing an appropriation; providing for future review and repeal; providing an effective date.

By the Committee on Appropriations and Senator Vogt—

CS for SB 378—A bill to be entitled An act relating to inspection of state buildings and premises; amending s. 633.085, Florida Statutes; requiring the State Fire Marshal to inspect state-owned or state-leased buildings on a recurring basis established by rule ensuring that high hazard occupancies are inspected at least annually; requiring all construction, renovation, alteration, or change of occupancy of any new or existing state-owned or state-leased buildings to comply with the uniform firesafety standards of the State Fire Marshal; authorizing the State Fire Marshal to inspect such buildings as necessary to determine compliance; authorizes the issuance of orders to force compliance; amending s. 255.25(2), (5), Florida Statutes, 1982 Supplement; providing for certain agency assurance of compliance with firesafety standards prior to leasing certain privately owned space; repealing provisions requiring the Division of Building Construction and Property Management of the Department of General Services to ascertain certain compliance with firesafety standards; providing an effective date.

By the Committee on Appropriations and Senator Margolis—

CS for CS for SB 517—A bill to be entitled An act relating to taxation; amending ss. 206.05(1) and 206.90(1), Florida Statutes, as amended by chapter 83-3, Laws of Florida; amending s. 341.051(3) and (4), Florida Statutes, as amended by chapter 83-3, Laws of Florida; providing restrictions on the Department of Transportation's ability to enter into contracts for public transit projects; removing the minimum bond requirement; providing that the surety bond for certain fuel dealers be conditioned on compliance with the provisions of chapter 212, Florida Statutes; amending s. 212.08(4), Florida Statutes, 1982 Supplement, as amended by chapter 83-3, Laws of Florida; providing clarification for the prorated sales tax exemption; amending s. 212.92, Florida Statutes, as created by chapter 83-3, Laws of Florida; providing clarifying language; providing for quarterly payment for certain refunds; amending s. 212.90, Florida Statutes, as created by chapter 83-3, Laws of Florida; providing an exemption for certain fuel purchases made by the United States Government; amending s. 336.025, Florida Statutes, as created by chapter 83-3, Laws of Florida; providing technical changes; repealing s. 23 of chapter 83-3, Laws of Florida, and paragraph (c) of subsection (1) of s. 64 of such chapter, relating to refunds of municipal taxes and deposit of certain fuel taxes; amending s. 56 of chapter 83-3, Laws of Florida; requiring the retention of records of certain taxes for a certain period; amending s. 341.051(5), Florida Statutes; providing new limits on funding participation in public transit projects; amending s. 206.43(1) and s. 206.91(1), Florida Statutes, as amended by chapter 83-3, Laws of Florida; increasing certain collection allowances; providing for retroactivity of act; amending s. 207.005(3), Florida Statutes, as amended by chapter 83-3, Laws of Florida; providing for a credit against the fuel use tax for taxes paid under part II of chapter 212; amending s. 212.94, Florida Statutes, as created by chapter 83-3, Laws of Florida; reducing the amount of the exemption provided to gasoline; providing an effective date.

By the Committee on Appropriations and Senator Girardeau—

CS for SB 599—A bill to be entitled An act relating to motor vehicle license plates; amending s. 320.08(12), Florida Statutes, 1982 Supplement; providing a fee for career service foreign consul license tags; amending s. 320.0805(9), Florida Statutes, 1982 Supplement; providing for the issuance of personalized prestige license plates to honorary foreign consuls; creating s. 320.115, Florida Statutes; authorizing the issuance of license plates to career service and honorary foreign consuls; providing for a license tax; providing an effective date.

By the Committees on Appropriations; and Economic, Community and Consumer Affairs—

CS for CS for SB 636—A bill to be entitled An act relating to acupuncture; amending s. 468.322(1), Florida Statutes; clarifying a definition; adding s. 468.322(5), Florida Statutes; providing a definition; creating s. 468.3225, Florida Statutes; providing a board; providing duties and membership, appointment, and terms; creating s. 468.3226, Florida Statutes; authorizing board rules; amending s. 468.323, Florida Statutes, 1982 Supplement; establishing an additional certification requirement, deleting a requirement, and removing the cap on certification and reexamination fees and authorizing application and examination fees; providing exceptions to certification requirements; amending s. 468.324, Florida Statutes; removing the cap on renewal fees and penalties and providing for establishment by the board; providing for continuing education requirements; amending s. 468.325(2), (3), Florida Statutes; establishing the board's authority over disciplinary actions; providing that certain persons may retake certain portions of the examination a limited number of times; repealing s. 468.327, Florida Statutes, as amended, relating to department rule-making authority; repealing s. 468.3245, Florida Statutes, as amended, relating to apprenticeship programs; providing an effective date.

By the Committee on Appropriations and Senator Jennings—

CS for SB 1108—A bill to be entitled An act relating to governmental reorganization, amending ss. 20.171(2), 222.15(2), 232.17(2)(f), (g), 443.131(5)(a), 443.141(3)(f), 443.161(1), 443.221(3), 446.021(1), (5)-(7), (12)-(15), 446.041, 446.052(3), 446.061, 446.071, 446.075, 446.081(3), 446.091, 447.02(3), 447.04(2)(a), 447.06(1), 447.12, 447.16, 447.305(4), 450.012(5), 450.061(2), 450.121(1), 450.132(2), 450.161, 450.28(2), and 450.41, Florida Statutes; amending ss. 20.18(5)(a), 230.66(2)(a), 440.15(9)(c), 443.036(13), 443.151(5)(a), 443.171(5), 446.011(2), (3), 446.032, 446.045(2)(a), (b), Florida Statutes, 1982 Supplement; amending s. 443.181(1), Florida Statutes, and adding subsection (3) to said section; amending s. 443.211(2), Florida Statutes, and adding subsection (5) to said section; adding s. 110.205(2)(s), Florida Statutes, 1982 Supplement; merging the Division of Labor, the Division of Employment and Training, and the Florida State Employment Service of the Department of Labor and Employment Security into the newly created Division of Labor, Employment, and Training; requiring establishment of a Bureau of Apprenticeship; renaming the Division of Employment Security as the Division of Unemployment Compensation; conforming language; providing financial authority and responsibility of the Division of Labor, Employment, and Training with regard to trust funds; creating s. 450.57, Florida Statutes; providing for administration of the State Job Training Partnership Act by the Department of Labor and Employment Security; creating the State Job Training Coordinating Council; providing signature authority for the division director; authorizing promulgation of rules by the division director; authorizing application for federal funds; providing responsibility of the Secretary of Labor and Employment Security; repealing ss. 450.50-450.56, Florida Statutes, the State Employment and Training Act; providing for future repeal and Sunset review; amending s. 450.271, Florida Statutes, to authorize the Department of Labor and Employment Security to contract with the United States Department of Labor to authorize the department to administer within the state the provisions of the Migrant and Seasonal Agricultural Worker Protection Act; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Johnston, the rules were waived and by two-thirds vote Senate Bills 607, 1021, 1090, 1049, 920, 304, 383 and CS for SB 887 were withdrawn from the Committee on Appropriations.

On motion by Senator Margolis, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to consider Senate Bills 735, 745 and CS for SB's 594 and 389 May 30.

On motions by Senator Maxwell, by two-thirds vote Senate Bills 146, 217, 465, 744 and 1133 were withdrawn from the committees of reference and indefinitely postponed.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State Senate Bills 21, 74, 210, 297, 347 and 670 which he approved May 26; and CS for SB 1155 which became law without his signature May 26, 1983.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments 1 and 2 to SB 395; has further amended and passed as further amended —

SB 395—A bill to be entitled An act relating to bail bond forfeiture; amending s. 903.27(1), Florida Statutes, 1982 Supplement; extending the time for payment of forfeiture prior to entry of judgment; clarifying that discharge of forfeiture shall be by order of court; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 3—On page 1 in title, line 2, before the semicolon (;) add: and bail on appeal

On motions by Senator Rehm, the Senate concurred in House Amendments 1, 2 and 3.

SB 395 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Grant	Kirkpatrick	Scott
Castor	Grizzle	Langley	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Henderson	Margolis	Vogt
Crawford	Hill	Maxwell	Weinstein

Nays—None

Vote after roll call:

Yea— Girardeau, Stuart

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

CS for SB 44—A bill to be entitled An act relating to marine animals; amending s. 370.12(2)(f)-(h), Florida Statutes, 1982 Supplement; designating a manatee protection area in Manatee County; designating a manatee protection area in Dade County; directing the Department of Natural Resources to adopt rules for motorboat operation in areas where manatees congregate; describing said areas; redesignating s. 370.12(2)(j), (k), Florida Statutes, 1982 Supplement, and adding new paragraphs (j) and (m) to said subsection; directing the Department of Natural Resources to adopt rules for motorboat operation in a specified area within Brevard County; excluding parts of the Port Everglades Inlet for safety purposes; authorizing the department to designate additional manatee protection areas by rule and to regulate motorboat operation within such areas; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 19, strike the word “west” and insert: “east”

On motion by Senator Maxwell, the Senate concurred in the House amendment.

CS for SB 44 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Castor	Dunn	Grant
Barron	Childers, D.	Frank	Grizzle
Beard	Childers, W. D.	Gersten	Hair
Carlucci	Crawford	Girardeau	Henderson

Hill	Kirkpatrick	Maxwell	Thomas
Jenne	Langley	McPherson	Thurman
Jennings	Malchon	Myers	Vogt
Johnston	Margolis	Scott	Weinstein

Nays—None

Vote after roll call:

Yea—Stuart

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed House Bills 925, 932, 496, 185 and 89, as amended.

Allen Morris, Clerk

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 1140 and 124.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

FIRST READING

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1147, CS for CS for HB's 194, 224, 244, 285 and 442, CS for HB 1255, HB 985, HB 1221, and CS for HB 1217 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Natural Resources—

HB 1147—A bill to be entitled An act relating to saltwater fisheries; establishing the Tampa Bay Habitat Study Commission; providing for membership; providing duties; requiring a report; providing for repeal; adding s. 370.153(3)(f), (10), Florida Statutes, and amending paragraph (b) of subsection (4) and paragraph (c) of subsection (5) of said section; limiting commercial trawling for certain shrimp production to a certain area in St. Johns River; prohibiting the Department of Natural Resources from adopting certain rules; adding subsection (13) to s. 253.03, Florida Statutes, 1982 Supplement, directing the Board of Trustees of the Internal Improvement Trust Fund to provide, by rule, for the leasing of submerged lands for sponge culture; amending s. 370.01(5), Florida Statutes, removing the Division of Marine Resources from the definition of the term “salt water”; amending s. 370.03(2), Florida Statutes, eliminating language prohibiting the Division of Marine Resources of the Department of Natural Resources from leasing sponge beds; amending s. 370.08(11), Florida Statutes, and adding a subsection; prohibiting the netting of king mackerel; establishing possession and landing prohibitions and recreational limits for king mackerel; providing a penalty and providing for confiscation and disposal of equipment; prohibiting the netting of red drum and spotted seatrout in fresh water; adding a paragraph to s. 370.11(2), Florida Statutes, and amending subsections (5) and (6); providing bag and size limits for cobia; providing a penalty; regulating the taking and prohibiting the sale, purchase, exchange, and transport for sale of certain billfish; creating s. 370.0815, Florida Statutes, limiting number of hooks per line which may be used to take saltwater fish; amending s. 370.1105, Florida Statutes; prohibiting the use of certain traps and specifying territorial application; providing a penalty and providing for the forfeiture of equipment; amending s. 370.111(3)(b), Florida Statutes, relating to the size of snook which may be lawfully taken during the closed season for snook fishing; amending s. 370.113(1), Florida Statutes, providing that it is unlawful to possess any queen conch of a certain size; creating s. 370.1133, Florida Statutes; specifying unlawful methods of taking snapper, grouper, grunts, porgies, hogfish, amberjack, and cobia; providing conditions of landing and sale of certain fish; providing bag limits; providing shrimp trawling and divers not affected; providing a penalty and providing for confiscation and destruction of catches and equipment; amending s. 370.13(1)(b), Florida Statutes, providing that 1 percent of the total number of stone crab claws possessed, sold, or offered for sale may be undersized; amending s. 370.14(2)(b), (3)(i), (4)(a), (6)(a) and (b), and (7), Florida Statutes; prohibiting the issuance of special per-

mits for the taking of crawfish during closed season; eliminating language relating to searches of boats or crawfish catch without a warrant; requiring export declarations with respect to certain crawfish catches; providing for the sports fishermen's crawfish season; providing that each possession of 25 undersized crawfish, or portion thereof, constitutes a separate offense; amending s. 370.153(3)(b) and (5), Florida Statutes; providing qualifications for a license as a live bait producer; providing for annual renewal and nontransferability of licenses; prohibiting noncommercial trawling for shrimp in certain rivers and tributaries; providing penalties; amending s. 372.001(11), Florida Statutes, redefining the term "fresh water"; prohibiting the use of lines to which more than 30 hooks are attached; providing exceptions; providing a penalty; providing a closed season for the taking of bay scallops; providing limits on the taking of bay scallops during open season; providing a closed season for taking scallops by mechanical means from certain waters in Gulf County; providing a penalty; repealing s. 370.15(2), Florida Statutes, section 1 of chapter 67-1063, Laws of Florida, and subsection (3) of section 4 of chapter 65-905, Laws of Florida, relating to present shrimp regulations; repealing s. 370.08(12), Florida Statutes, relating to the size of mesh used in king mackerel nets; repealing s. 370.17(9), Florida Statutes, relating to restrictions on sponges cultivated by the state; repealing s. 370.171, Florida Statutes, relating to sponge diving; creating s. 370.0825, Florida Statutes, relating to gill netting in certain counties; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By the Committees on Finance & Taxation and Natural Resources and Representative Thompson and others—

CS for CS for HB's 194, 224, 244, 285 and 442—A bill to be entitled An act relating to marine fisheries; creating the Marine Fisheries Commission within the Department of Natural Resources; providing for membership, and compensation of the commissioners; providing rule-making authority and procedures; providing for enforcement by the department; providing penalties; providing for staff personnel of the commission; repealing certain local laws and providing for such laws to become rules of the department; providing for certain general laws to be superseded by certain rules adopted by the commission; requiring the commission to prepare a budget; creating s. 370.025, Florida Statutes; providing certain standards for rules adopted by the commission; providing for review pursuant to the Sundown Act; conditionally repeals specified portions of chapter 370, Florida Statutes, which are within the authority of the commission; providing for public hearings; amending s. 370.06(2), Florida Statutes; providing for a saltwater products license; setting fees for said license; providing for the use of said license; providing for a credit for the payment of said license; providing for the preservation of saltwater products taken; providing for contract with private persons or entities to implement aspects of the licensing program; providing for a marine fisheries data information system; adding s. 327.28(3), Florida Statutes; providing for the deposit and distribution of saltwater products license fees; amending s. 370.07(1) and (2), Florida Statutes, authorizing the Department of Natural Resources to issue all seafood dealer licenses; increasing certain license taxes; creating the Marine Fisheries Commission Trust Fund to carry out the duties of the commission; providing appropriations; providing effective dates.

—was referred to the Committees on Natural Resources and Conservation, and Appropriations.

By the Committees on Appropriations and Governmental Operations—

CS for HB 1255—A bill to be entitled An act relating to the use of state motor vehicles and aircraft; adding subsections (5) - (9) to s. 14.071, Florida Statutes, relating to the Department of Law Enforcement; requiring security and transportation for certain persons; providing criteria for such services; providing for coordination of such services; requiring a semiannual report; amending s. 106.15(2), Florida Statutes; providing for reimbursement of certain aircraft expenses; amending s. 287.16(8), Florida Statutes, relating to powers and duties of the Division of Motor Pool of the Department of General Services; providing for the development of a reporting system with respect to certain law enforcement vehicles; amending s. 287.161(2) and (3), Florida Statutes; providing that fees for persons receiving transportation from the executive aircraft pool be based on the mileage allowance which is provided by law for privately owned vehicles; providing for the use of fees collected; amending s. 287.17, Florida Statutes; establishing criteria for determining the appropriate use of motor vehicles and aircraft; creating s. 287.175, Florida Stat-

utes; establishing penalties for violation of statutes and rules relating to motor vehicle and aircraft use; amending s. 287.20, Florida Statutes, providing for applicability of motor pool provisions to certain state agencies; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By Representative Bronson—

HB 985—A bill to be entitled An act relating to judicial circuits; amending s. 26.021(9), Florida Statutes, 1982 Supplement, providing that at least one judge in the ninth judicial circuit shall reside in Osceola County; amending s. 26.021(10), Florida Statutes, 1982 Supplement, providing that at least one judge in the tenth judicial circuit shall reside in Highlands County; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Finance & Taxation—

HB 1221—A bill to be entitled An act relating to industrial development financing; amending s. 125.01(1)(z), Florida Statutes, as created by chapter 83-1, Laws of Florida, authorizing the governing body of a county to approve or disapprove the issuance of industrial development bonds; amending s. 159.26, Florida Statutes, 1982 Supplement, providing legislative findings; amending s. 159.27(5), (7), (9), (11), and (12), Florida Statutes, 1982 Supplement, and adding subsections (20) and (21) thereto; redefining the terms "project," "research and development park," "warehousing or distribution facility," "tourism facility," and "public lodging or restaurant facility" for the purposes of the "Florida Industrial Development Financing Act"; defining the terms "motion picture production facility" and "preservation or rehabilitation of a certified historic structure"; creating s. 159.287, Florida Statutes, providing that bonds issued by special act economic development agencies are subject to the approval or disapproval of the county commission or governing body of a municipality; creating s. 159.345, Florida Statutes, requiring certain local agencies issuing revenue bonds to furnish the Division of Bond Finance of the Department of General Services with a copy of the report required in s. 103 of the Internal Revenue Code of 1954, as amended; prescribing uses of said reports; creating s. 159.415, Florida Statutes, providing for the composite issuance of bonds, provided that the debt service payments on projects financed are sufficient to pay debt service on such bonds, that each business financed is financially responsible, and that each financed business can maintain its obligations under the financing agreements for the projects; amending s. 159.47(1)(f) and (i), Florida Statutes, providing that issuance of bonds by industrial development authorities shall be subject to the approval or disapproval of the county commission; creating s. 159.475, Florida Statutes, providing required industrial development authority reports; amending s. 159.705(6), Florida Statutes, and adding subsection (11) thereto, providing that research and development authorities may be granted leases by the Board of Trustees of the Internal Improvement Trust Fund for up to 99 years; providing that research and development authorities may grant subleases for land owned by the Board of Trustees of the Internal Improvement Trust Fund if the board has approved the master lease agreement, concept of operation of the research and development park, and master sublease provisions in such master leases; creating s. 159.7055, Florida Statutes, providing required research and development authority reports; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By the Committees on Appropriations and Finance & Taxation—

CS for HB 1217—A bill to be entitled An act relating to taxation; revising provisions relating to tax on motor fuel and special fuel; amending s. 206.60(2)(b), Florida Statutes; revising the method of calculating distribution of proceeds of the county tax on motor fuel by the Department of Revenue; amending ss. 206.05(1) and 206.90(1), Florida Statutes, as amended; exempting state and federal agencies from bonding requirements applicable to distributors and dealers; amending s. 206.13, Florida Statutes; authorizing the department to grant credit or refund for interest erroneously paid or illegally collected; amending s. 206.14(2), Florida Statutes, and adding subsections (6) and (7); authorizing the department to conduct audits of taxpayers and issue credits and assessments pursuant to audits; requiring distributors and dealers to obtain affidavits or resale certificates from purchasers who do not pay the tax at the time of purchase; providing requirements with respect thereto; providing penalties for issuing a fraudulent resale or exemption certificate or failing to

inform a licensed distributor of change from exempt to nonexempt status; amending s. 206.42, Florida Statutes, as amended; providing conditions for exemption of aviation motor fuel; amending s. 206.44, Florida Statutes; providing penalties for failure to make required reports or pay taxes due; providing for collection of delinquent taxes; amending s. 206.94, Florida Statutes, and s. 206.97, Florida Statutes, as amended; providing applicability of penalties and interest under s. 206.44 to part II of chapter 206; amending s. 206.87(2)(c) and (6), Florida Statutes, as amended; providing penalties for persons or dealers issuing a fraudulent resale or exemption certificate or failing to inform a licensed dealer of change from exempt to nonexempt status; adding subsection (7) to s. 206.89, Florida Statutes; requiring all persons, including state and federal agencies, municipalities, counties, and special districts, who act as dealers to be licensed or pay the tax; amending s. 206.91(1), Florida Statutes, as amended; providing that dealers' monthly reports show such information in specified areas as required by the department; adding subsection (4) to s. 336.021, Florida Statutes, 1982 Supplement, as amended; requiring counties levying the discretionary voted gas tax for transportation purposes to notify the department of such levy; amending s. 211.06(1), Florida Statutes; conforming the distribution of oil and gas severance tax revenues therein to the statutory distribution mandated in s. 211.02(1); creating s. 212.084, Florida Statutes; providing that all existing exemption certificates with respect to the tax on sales, use and other transactions be reviewed by the Department of Revenue over a 10-year period; providing that all certificates hereafter issued shall expire and be reviewed after 10 years; requiring that entities possessing such certificates cooperate with the department; amending s. 203.01, Florida Statutes, relating to tax on gross receipts for utility services; clarifying legislative intent regarding treatment of station connection charges; providing effective dates.

—was referred to the Committee on Finance, Taxation and Claims.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed House Bills 216, 1264 and 1309 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Pajcic and others—

HB 216—A bill to be entitled An act relating to firefighters; creating s. 112.182, Florida Statutes, providing that a firefighter while performing his duties is an invitee, rather than a licensee; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Commerce.

By the Committee on Appropriations—

HB 1264—A bill to be entitled An act relating to financial matters; amending s. 215.195(4) and (5), Florida Statutes; providing that moneys deposited in the State-Federal Relations Trust Fund shall be deposited quarterly to the General Revenue Fund, unallocated; eliminating reference to the deposit of certain excess funds; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By the Committee on Finance & Taxation—

HB 1309—A bill to be entitled An act relating to excise tax on documents; adding subsection (4) to s. 201.08, Florida Statutes, 1982 Supplement, relating to tax on supplements or amendments to mortgages, deeds of trust, indentures or security agreements filed or recorded in the state securing debt issues; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

On motion by Senator Margolis, the Committee on Finance, Taxation and Claims was granted permission to consider HB 1217 May 30.

LOCAL CALENDAR

HB 423—A bill to be entitled An act relating to Duval County; relating to the Florida Theater Performing Arts Center, owned and operated by the Arts Assembly of Jacksonville, Inc., located in Duval County, Jacksonville, Florida; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation of the State of Florida to issue a special beverage license to the Arts Assembly of Jacksonville, Inc., or its designee, for the operation of the Florida Theater; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 423 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

HB 470—A bill to be entitled An act relating to St. Johns and Flagler Counties; relating to the Sixteen Mile Creek Water Control District, a water control district, created under chapter 298, Florida Statutes, being an act relating to the creation and organization of water control districts; providing for a quorum at landowners' meetings; providing notification for such meetings; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 470 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

SB 1183—A bill to be entitled An act relating to Brevard County; establishing a regional water authority; providing legislative intent; providing definitions; establishing the boundaries of the district; providing for the membership, nomination, and appointment of a governing board of the district; setting out the compensation and expense allowance for members; establishing the powers and duties of the authority; providing for the power to tax and to levy special assessments; providing for enforcement of such assessments; authorizing award of costs and attorneys' fees; authorizing water supply agreements; providing for the authority to furnish water system supply and transmissions; providing for the issuance of revenue bonds and general obligation bonds; setting out the power of eminent domain for the authority; providing for uniform rates, fees, and charges; establishing initial operation and maintenance costs of the authority and the method of payment; providing that this act shall supersede the power and authority of any regional water supply authority; prescribing exemptions; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Maxwell and adopted:

Amendment 1—On page 1, line 30, strike everything after the enacting clause and insert:

Section 1. It is hereby declared and determined by the Legislature that a regional water authority is the most responsive, efficient, and effective local government entity to secure, operate, and maintain an adequate, dependable, and safe water supply for South Brevard County. It is the intent of the Legislature that such regional water authority possess the full power and authority to implement, finance, and operate a single coordinated program of water supply transmission and distribution to meet the future quantity and quality needs of South Brevard County.

Section 2. As used in this act:

(1) "Authority" means the South Brevard Water Authority created by this act.

(2) "Water system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources and treatment or purification of water for domestic or industrial use and including, but not limited to, dams, wells, wellfields, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to water distribution systems connected with such system or of distributing water to customers, and includes all real and personal property and any interests therein, rights, easements, and franchises relating to any such system and necessary or convenient for the operation thereof.

(3) "Cost," as applied to the acquisition and construction of a water system or extensions, additions, or improvements thereto, includes the cost of construction, reconstruction, acquisition, or purchase; the cost of all labor, materials, machinery, and equipment; the cost of all lands and interest therein, property, rights, easements, and franchises; financing charges; interest prior to and during construction; the creation of initial reserve or debt service funds; bond discount; cost of plans, specifications, surveys, and estimates of costs and revenues; cost of engineering, financial, and legal services, and all other expenses necessary or incidental in determining the feasibility or practicability of such construction, reconstruction, or acquisition; administrative expenses; such other expenses as may be necessary or incidental to financing authorized by this act; and reimbursement of Brevard County or any municipality or any other person, firm, or corporation for any moneys advanced to the authority for any expenses incurred by the authority in connection with any of the foregoing items of cost or the creation of the authority.

(4) "Revenue bonds" means bonds or other obligations secured by and payable from the revenues derived from rates, fees, and charges collected by the authority from water distribution customers and from water supply agreements of any water distribution system, and which may be additionally secured by a pledge of the proceeds of special assessments levied against benefited property.

(5) "General obligation bonds" means bonds or other obligations secured by the full faith and credit and taxing power of the authority and payable from ad valorem taxes levied and collected on all taxable property in the district, without limitation of rate or amount, and may be additionally secured by the pledge of either or both the proceeds of special assessments levied against benefited property, or revenues derived from said water system.

(6) "Water distribution system" means any existing or future water distribution system owned, operated, or maintained, or proposed to be operated or maintained, by any person, municipality, private corporation, or governmental authority within the boundaries of the district that distributes water for sale, resale, or use by any other person, municipality, private corporation, or governmental authority.

(7) "Publicly owned water distribution system" means any water distribution system owned or operated by a municipality, county, or special district. For the purposes of this act, however, the City of Cocoa water system which operates under the authority of chapters 57-1232 and 59-1186, Laws of Florida, and the general laws of Florida is exempt from the provisions of this act.

(8) "Brevard County Legislative Delegation" means those members of the Legislature whose district includes any part of Brevard County.

(9) "Off-site water distribution system" is that part of a publicly owned distribution system which is used to furnish water for sale, and is located off the site of the water treatment facilities used to treat such water, but excludes any lines or mains used to transport water from the treatment facilities to a distribution system.

(10) "County" means Brevard County.

Section 3. There is hereby created and incorporated the South Brevard Water Authority, a dependent special district, for the purpose of developing regional water supplies and transmission of water to water distribution systems. The boundaries of the district are:

All lands in Brevard County, Florida, located within the following description: Begin at the point where the north line of Section 23, Township 26 South, Range 37 East meets the mean high water line of the Atlantic Ocean; then proceed southeasterly along the mean high water line of the Atlantic Ocean to the intersection of the centerline of the

Sebastian Inlet produced eastwardly, said inlet being in Section 20 of Township 30 South, Range 39 East; thence westerly on said centerline and continuing southwesterly along the centerline of the approach channel to said inlet from the Indian River to a point due east of the mouth of the St. Sebastian River; thence due west to the mouth of the St. Sebastian River; thence south along the thread of the St. Sebastian River and the thread of the south fork of the St. Sebastian River to a point where the line dividing Townships 30 and 31 South intersects the thread of said south fork; thence west on said township line to the line dividing Ranges 34 and 35 East; thence north on said range line to the northwest corner of Section 19, Township 26 South, Range 35 East; thence easterly along the north line of Sections 19, 20, 21, 22, 23 and 24 of Township 26 South, Range 35 East and proceed easterly along the north line of Sections 19, 20, 21, 22, 23 and 24 of Township 26 South, Range 36 East and thence easterly along the north line of Sections 19, 20, 21, 22 and 23 of Township 26 South, Range 37 East to the point of beginning.

The authority shall constitute a dependent special district under the laws of the state.

Section 4. The authority shall be governed by a seven-member board. The governing board shall be appointed by the Governor of the State of Florida, who shall select the members solely from a list of three nominees for each seat, submitted by the Brevard County Legislative Delegation sitting as the nominating commission for the authority. Each member of the governing board shall be a permanent resident within the boundaries of the district. For the purpose of establishing staggered terms, the initial appointments of members to the odd-numbered seats (one, three, five, and seven) shall be for 2-year terms and the even-numbered seats (two, four, and six) for 4-year terms. Thereafter, following the expiration of the initial 2-year appointments, members appointed to an odd-numbered seat shall also serve for 4-year terms. If the nomination or appointment process established under this section is held unconstitutional or invalid for any reason, the governing board shall be appointed by the Brevard County Legislative Delegation. If the appointment of the members by the Brevard County Legislative Delegation is held unconstitutional or invalid for any reason, the governing board shall be appointed by the Governor. In the event of such declaration or finding or invalidity, a subsequent act of the Legislature may alter the method of appointment of the governing board of the authority, and the terms of the governing board of the authority shall be, in such event, subject to alteration by the Legislature.

Section 5. Members of the governing board of the authority shall serve without compensation but shall be reimbursed for expenses as provided by law.

Section 6. The authority shall have the following powers and duties:

(1) To acquire, construct, operate, and maintain water supply and water transmission and distribution facilities. Such water supply facilities shall include all practical means of obtaining water, including, but not limited to, withdrawals of surface water and groundwater, recycling of waste water, and desalination.

(2) To adopt rules for its own government and proceedings and to adopt an official seal for the authority. Such rulemaking power includes, but is not limited to, the power to ration water which the authority supplies during periods of drought or water shortage and the power to establish regulations for water conservation and reuse.

(3) To employ engineers, attorneys, accountants, financial or other experts, and such other agents and employees as the governing board of the authority may require or deem necessary to effectuate the purposes of this act, or to contract for any such services.

(4) To construct, reconstruct, install, erect, acquire, operate, maintain, improve, extend, or enlarge a water system within the district and the environs thereof and to have the exclusive control and jurisdiction of such system; to issue its general obligation bonds, revenue bonds, or assessment bonds, or any combination of such bonds, to pay all or part of the cost of such construction, reconstruction, erection, acquisition, or installation of such water system.

(5) To levy and assess ad valorem taxes without limitation of rate or amount on all taxable property within the boundaries of the district for the purpose of paying principal of and interest on any general obligation bonds which may be issued for the purposes of this act.

(6) To acquire in the name of the authority by purchase, gift, or eminent domain, such lands and rights and interest therein, including ripar-

ian rights, within the boundaries of the district, and to acquire such personal property as it may deem necessary in connection with the construction, reconstruction, improvement, extension, installation, erection, operation, or maintenance of any water system within the boundaries of the district, and to hold and dispose of all real and personal property under its control. Property within the boundaries of the district already devoted to a public use may be acquired by the authority by eminent domain. The right of eminent domain conferred by this act shall be considered the superior right, and the doctrine of prior public use shall not be valid as a defense by any unit of government or water system owner whose property is condemned in an eminent domain proceeding under this act. However, eminent domain shall not be exercised to acquire any off-site water distribution system of a publicly owned water distribution system as prohibited in subsection (14).

(7) To enter into water supply agreements with water distribution systems and to set uniform rates which shall apportion to the parties to such agreements and to other users a uniform or equitable share of the capital cost, indebtedness, financing cost, renewal and replacement cost, and operation and maintenance costs of the water furnished, based upon a consideration of present and future water supply needs of such water distribution systems.

(8) To acquire, construct, operate, and maintain water distribution systems within those areas within the boundaries of the district not currently being served by a water distribution system or to acquire, by purchase, any water distribution system.

(9) To fix and collect rates, fees, and other charges to persons or property or both for the use of a water distribution system used and operated by the authority, and to fix and collect charges for making connections with any such water distribution system and to provide for reasonable penalties on any users or property for any such rates, fees, or charges that are delinquent. Such rates, fees, and charges shall be just and equitable and uniform for users of the same class and, where appropriate, may be based or computed either upon the quantity of water consumed or upon the average number of persons residing or working in or otherwise using or occupying such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors as may be determined by the authority on any other equitable basis. No rates, fees, or charges shall be fixed under this subsection until after a public hearing at which all the users of the proposed water distribution system or owners, tenants, or occupants served or to be served thereby, and all others interested, shall have an opportunity to be heard concerning the proposed rates, fees, and charges. Such public hearing may be adjourned from time to time. Notice of such public hearing, setting forth the proposed schedule or schedules of rates, fees, and charges, shall be given by one publication in a newspaper published in the county and circulating in the district at least 10 days before the date fixed in such notice for the hearing.

(10) To levy and impose special assessments against the real property within the boundaries of the district upon a determination that the water supply and transmission facilities and, where applicable, distribution facilities, provide a benefit to such real property. The benefits shall be assessed upon the property specially benefited by the improvements in proportion to the benefits to be derived therefrom, and the special benefits shall be determined and prorated by a method prescribed by the governing board.

(a) The governing board, if it elects to assess a special benefit, shall declare by a resolution the nature of the proposed improvement, designate the location of the improvement, and state the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made, when said assessments are to be paid, and what part, if any, shall be apportioned to be paid from the funds of the authority. The resolution shall also designate the lands upon which the special assessment shall be levied, and, in describing said lands, it shall be sufficient to describe them as "all lands and lots abutting and contiguous to or bounding and abutting upon such improvements or specifically benefited thereby and further designated by the assessment plat herein provided for." The resolution shall state the total estimated cost of the improvement. Such estimated cost may include the cost of construction or reconstruction; the cost of all labor and materials; the cost of all lands, property, rights, easements, and franchises acquired; financing charges; interest; cost of all engineering, legal, financial, and other services; all other expenses necessary or incidental to determine the feasibility or practicability of such construction or reconstruction; administrative expenses; and such other expenses as may be necessary or incidental to the financing herein authorized.

(b) Upon the adoption of the resolution, the governing board shall cause said resolution to be published one time in a newspaper of general circulation published in the county.

(c) Upon the adoption of the resolution, the governing board shall cause to be made an assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed and filed with the records of the governing board as promptly as possible. The lots and lands assessed, the amount for the benefit to and the assessment against each lot or parcel, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall be entered and shown on said assessment roll.

(d) On the completion of said assessment roll, the governing board shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein, may appear before said governing authority and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the amount of payment therefor, and as to the amount thereof to be assessed against each property so improved. Notice in writing of such time and place shall be given to such property owners. Such notice may be given by placing in the U.S. Postal Service, at least 10 days prior to such hearing, a copy of such notice to each property owner at his last known address, the names and addresses of such property owners to be obtained from the records of the county property appraiser or from such other sources the governing board deems reliable. The proof of such mailing shall be made by an affidavit of the secretary of the governing board, said proof to be filed with the minutes of the governing board. Failure to mail said notice or notices shall not invalidate any of the proceedings herein. Notice of the time and place of such hearing shall also be given by two publications, a week apart, in a newspaper of general circulation in the county. The last publication shall be at least 7 days prior to the date of the hearing. Said notice, which shall be published, shall contain a map showing the general area which will be specially benefited and shall contain the name and the amount to be assessed against each piece or parcel of property.

(e) At the time and place named in the notice provided for in paragraph (d), the governing board of the authority shall meet as an equalization board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on the basis of justice and right. After the special assessments are so equalized and approved by resolution, such assessments shall stand confirmed and, until paid, shall remain legal, valid, and binding first liens upon the property against which such assessments are made; however, upon completion of the improvement, the governing board shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed and the proportionate part of the actual cost of the improvement to be paid by special assessments as finally determined on the completion of the improvement, but in no event shall the final assessments exceed the amount of benefits originally assessed. Promptly after confirmation, the assessments shall be recorded in the public records of Brevard County and the record of the lien shall constitute prima facie evidence of its validity.

(f) The special assessments shall be payable at the time and in the manner stipulated in the resolution authorizing the improvement. Such assessments shall remain liens, coequal with the lien of all state, county, district, and municipal taxes and superior in dignity to all other liens, titles, and claims until paid. Such assessments shall bear interest at a rate prescribed by the governing board in the resolution which it adopts.

(g) Each annual installment provided for shall be paid upon the date specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and, on the failure of any property owner to pay any annual installment due or any part thereof, or any annual interest on deferred payments, the governing board shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee, to be assessed as part of the costs, and, in the event of default in the payment of any installments of any assessment or any accrued interest on said installment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown or nonresident defendants may be had by publication as now provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages.

(h) If any special assessment made under the provisions of this section to defray the whole or any part of the expense of said improvement is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the governing board of the authority is satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the governing board omitted to make such assessment when it might have done so, the governing board shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as possible the provisions of this act, and, in case such second assessment shall be annulled, said governing board may obtain and make other assessments until a valid assessment is made.

(i) Any informality or any irregularity in the proceedings in connection with the levy of any special assessment under this act shall not affect the validity of the same where the assessment roll has been confirmed by the governing board, and the assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of said assessment roll were duly had, taken, and performed as required by this act; no variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby.

(11) To sue and be sued in the name of the authority and to restrain, enjoin, or otherwise prevent the violation of this act or of any resolution, rule, or regulation adopted pursuant to the powers granted by this act.

(12) To establish and define all service areas and the duty to serve for publicly owned water distribution systems within the boundaries of the district, reconcile differences between water distribution service areas of water distribution systems and the authority, and to develop and mandate water distribution service area rights and obligations of publicly owned water distribution systems within the boundaries of the district to insure a reasonable plan and method of water distribution within all areas of the district by the authority or the appropriate water distribution system. Included in such power to establish and define service areas is the power to set and declare amortization schedules for existing franchise areas and service areas of publicly owned water distribution systems to insure the reasonable availability of water in all areas of the district.

(13) To review and approve any proposed or existing condition of service imposed by any publicly owned distribution system within the boundaries of the district which imposes any restrictions or requirements which do not uniformly apply to all customers within the service area of the publicly owned distribution system. No such condition of service shall be effective until approved by the authority.

(14) The authority shall have the right to contract with any water distribution system to provide water distribution within any area of the district or to acquire by purchase or by the exercise of the power of eminent domain all or any part of any water system facilities owned and operated by any publicly owned water system within the boundaries of the district; except that the authority is prohibited from exercising the power of eminent domain to acquire any off-site water distribution system of a publicly owned water distribution system. The acquisition price or measure of full compensation value of any such publicly owned water system facilities, or any part thereof, which shall be set by a court if the power of eminent domain is exercised, shall be the amount of the outstanding indebtedness of the water system or an amount equal to the portion of the outstanding indebtedness attributable to the acquired or condemned facilities, if the indebtedness does not encumber or a covenant does not prohibit the sale or transfer of a portion of such system, whichever amount is less. If a publicly owned water system is acquired or condemned, the outstanding indebtedness attributable to such acquired or condemned facilities shall be refunded by the authority, the rights of any holders of obligations defeased or all rights and obligations of the holders of the obligations represented by such outstanding indebtedness shall be preserved and protected, and all expenses of the refund shall be paid by the authority. If there is a covenant which is impaired by such partial refund, a full indebtedness refund, including all the expenses of the refund, shall be made by the authority. It is not the intention of this act that the rights of the holders of any obligations shall be impaired.

Section 7. Upon the establishment of a district water supply plan by the authority, each publicly owned water distribution system within the boundaries of the district shall enter into water supply agreements with the authority and the authority shall have the exclusive right and power

to provide water system supply and transmission to such publicly owned water distribution systems. Such agreements shall not impair the rights of the holders of any outstanding indebtedness issued by a publicly owned water system.

Section 8. The authority is authorized to provide from time to time for the issuance of revenue bonds and general obligation bonds of the authority to pay all or any part of the cost of a water system or any additions, extensions, or improvements thereto. The principal of and interest on any such bonds shall be payable from revenue received under water supply agreements and the rates, fees, charges, or other revenues derived from the operation of any water distribution system, without limitation as to the rate or amount, except as provided by law, sufficient to pay the bond in the manner provided in the bond by the authority, and may be secured by the full faith and credit and taxing power of the authority and payable from ad valorem taxes levied and collected on all taxable property within the boundaries of the district in the manner provided in this act and the resolution authorizing such revenue bonds and all general obligation bonds. Such revenue bonds may also be additionally secured by the pledge of special assessments levied pursuant to this act. Any bonds which pledge the full faith and credit and ad valorem taxing power of the authority shall be submitted to the qualified voters within the boundaries of the district as required by the State Constitution. Said bonds may be authorized by resolution or resolutions of the authority, which may be adopted at the same meeting at which they are introduced by a majority of all the members thereof then in office and need not be published or posted. Said bonds shall bear interest at a rate or rates without limitation, except as provided by law, as determined by resolution of the authority, may be in one or more series, may bear such date or dates and may mature at any time or times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places within or without the state, may carry such registration privileges, may be subject to such terms of prior redemption, with or without premium, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form otherwise as such resolution or subsequent resolutions shall provide. Said bonds may be sold or exchanged for refunding bonds, or delivered to contractors in payment for any part of the work or improvements financed by such bonds, or delivered in exchange for any properties, either real, personal, or mixed, including franchises, to be acquired for such works or improvements, all at one time or in blocks from time to time, in such manner as the authority in its discretion shall determine. Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such provisions as the authority may determine may be issued to the purchaser or purchasers of the bonds issued hereunder. Said bonds and such interim certificates or receipts or temporary bonds shall be fully negotiable and shall be and constitute negotiable instruments within the meaning of and for all purposes of the law merchant and the uniform commercial code of the state or transferability may be subject to registration. The proceeds of the sale of any such bonds shall be used solely for the payment of the costs of the construction or acquisition of any water system or the reconstruction or construction or acquisition or extensions, improvements, and additions thereto, and shall be disbursed in such manner and under such restrictions, as the authority may provide in the authorizing resolution. The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost, upon proper indemnification. Revenue bonds and general obligation bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau, or agency of the state, and without any other proceeding or happening of any other condition or thing than those proceedings, conditions, or things which are specifically required by this act. A resolution providing for the issuance of revenue bonds or general obligation bonds may also contain such limitations upon the issuance of additional bonds secured on a parity with the bonds theretofore issued, as the authority may deem proper, and such additional bonds shall be issued under such authorizing resolution.

Section 9. The rates, fees, and charges imposed by any publicly owned water distribution system to its customers within the boundaries of the district shall be uniform within the service area of such water system, except to the extent a differential rate system is established based upon the cost of water distribution. Prior to the establishment of a differential rate system based upon the cost of water distribution, the publicly owned water distribution system shall certify its proposed differential rate system to the authority together with a detailed financial plan demonstrating the justification of such differential rate system based upon the cost of water distribution. The authority shall make such proposed differential rate system and financial plan available to interested

members of the public and any such proposed differential rate system shall not become effective until 60 days subsequent to the date of certification. Any person, individual or corporate, and any public body receiving water from the publicly owned water distribution system shall have standing to institute appropriate proceeding in a court of competent jurisdiction to determine whether the proposed differential rate system is justified based upon the cost of water distribution.

Section 10. The governing board shall establish a budget for the authority to provide the initial operating expenses until such time as the authority receives revenue under the water supply agreements provided for in subsection (7) of section 6. The term "operating expenses" means all contemplated capital and operating costs and expenses of the authority necessary to carry out any of the purposes of the authority provided under this act, except any costs or expenses for the purchase or condemnation of water system facilities. Initially, the authority shall establish an operating expense budget for the period beginning with the date of its organization and terminating on the last day of September of the same year. Thereafter, the governing board shall establish an annual operating expense budget for each fiscal year, which shall commence on the first day of October and terminate on the last day of September of the next year. The governing board of the authority shall adopt a tentative annual operating expense budget prior to July 1 of each year and deliver a copy of such tentative annual operating expense budget to the City of Melbourne and the Board of County Commissioners of Brevard County. The initial and final annual operating expense budget of the authority shall be approved and established by the Board of County Commissioners of Brevard County in the manner contemplated under s. 200.001(8)(d), Florida Statutes. Such budget shall be approved at the times and the manner in which the annual county budget is approved by the Board of County Commissioners of Brevard County. The City of Melbourne shall pay a percentage of the initial operating expense budget, and the annual operating expense budget approved thereafter by the Board of County Commissioners, from the revenues of the water system of the City of Melbourne in the proportion that the population within the service area of the publicly owned water distribution system operated by the City of Melbourne bears to the total population within the boundaries of the district, and the county shall pay the remainder. The contributions by the City of Melbourne and the county to the annual operating expense budget shall be paid by the county and the City of Melbourne in 12 equal installments during each fiscal year. The payment by the City of Melbourne and the county of the initial operating expense budget and of the 12 equal installments of an approved annual operating expense budget shall be considered a ministerial act and the authority shall apply to the circuit court for a writ of mandamus to compel payment if the City of Melbourne or the county fails to pay its respective portions of the initial operating expense budget and any of the 12 installments required by it under this section of the approved annual operating expense budget of the authority.

Section 11. Any publicly owned water distribution system within the boundaries of the district is prohibited from undertaking any permanent modification, alteration, or improvement to any water treatment facilities without the approval of the authority. The authority shall approve or disapprove any request for approval within 60 days after the receipt of such request. This section shall not bar any publicly owned water distribution system within the boundaries of the district from constructing, modifying, or altering off-site water distribution systems.

Section 12. Any schedule of rates, fees, and charges imposed on water customers by a publicly owned water distribution system within the boundaries of the district, or any additions, modifications, or changes to any schedule of rates, fees, and charge, shall provide a fair and uniform revenue return to such publicly owned water distribution system. The term "fair and uniform revenue return" means such rates, fees, and charges sufficient to produce adequate revenues to fund outstanding indebtedness, approved capital improvements and additions, and necessary anticipated indebtedness to provide the funds to construct or acquire such capital improvements and additions, reasonable costs of operation and maintenance, and customary renewal and replacement requirements, plus such reasonable and customary surplus, as necessary to receive financing for approved capital acquisitions and additions. No value shall be given to investment in capital facilities in the event such capital facilities are dedicated to the publicly owned water distribution systems without consideration. Prior to the effective date of any proposed additions, modifications, or changes to any schedule of rates, fees, and charges of a publicly owned water distribution system within the boundaries of the district, the proposed schedule of rates, fees, and charges shall

be certified to the authority together with a detailed financial plan demonstrating that such proposed schedule of rates, fees, and charges provide a fair and uniform revenue return to such publicly owned water distribution system. The authority shall make such proposed schedule of rates, fees, and charges and financial plan available to interested members of the public, and any such proposed schedule of rates, fees, and charges shall not become effective until 60 days subsequent to the date of certification. Any person, individual or corporate, and any public body receiving water from the publicly owned water distribution system shall have standing to institute appropriate proceeding in a court of competent jurisdiction to determine whether the proposed schedule of rates, fees, and charges provide a fair and uniform revenue return.

Section 13. The powers of eminent domain granted to the authority by this act shall not be exercised to acquire any portion of an investor-owned water utility, including such utility's water system or water distribution system. Investor-owned water utility systems operating under a valid franchise are specifically exempted from all provisions of this act except subsection (7) of section 6.

Section 14. The provisions of this act shall supersede the power and authority of any regional water supply authority created under s. 373.1962, Florida Statutes, and nothing contained in said s. 373.1962, Florida Statutes, shall be construed to limit or restrict the power of the authority to secure and implement a water supply and to provide transmission of same from without or within the boundaries of the district.

Section 15. It is the intent of the Legislature that the authority created by this act is a dependent special district within the definition of s. 200.001(8)(d), Florida Statutes, and not an independent special district within the provisions of s. 190.049, Florida Statutes, ss. 165.022 and 165.041, Florida Statutes, or any other applicable provision of general law. In recognition of such legislative intent it is hereby declared that the provisions of s. 190.049, Florida Statutes, ss. 165.022 and 165.041, Florida Statutes, or any other applicable provision of general law shall not be construed or interpreted to prohibit or restrict the creation of the authority by special law.

Section 16. This act shall take effect upon becoming a law.

On motion by Senator Maxwell, by two-thirds vote SB 1183 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	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

On motion by Senator Maxwell, the rules were waived and SB 1183 after being engrossed was ordered immediately certified to the House.

Consideration of SB 1196 was deferred.

SB 1198—A bill to be entitled An act relating to the Escambia County School District; amending s. 3, chapter 76-356, Laws of Florida; providing for salaries of school board members; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote SB 1198 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

On motion by Senator W. D. Childers, the rules were waived and SB 1198 was ordered immediately certified to the House.

HB 493—A bill to be entitled An act relating to Escambia County; amending section 4 of chapter 81-376, Laws of Florida; providing for an elected governing body of the Escambia County Utilities Authority; providing qualifications and terms of office; providing compensation for members of the governing body; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 5, line 26, strike “rwnact” and insert: act

On motion by Senator W. D. Childers, by two-thirds vote HB 493 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

HB 497—A bill to be entitled An act relating to the City of Pensacola; amending chapter 61-2655, Laws of Florida, chapter 21483, Laws of Florida, 1941, and chapter 78-591, Laws of Florida, relating to the General Pension and Retirement System and the Firemen’s Relief and Pension System; amending definition and procedure for determining and reviewing eligibility for disability pension benefits; transferring jurisdiction for decisions regarding disability pensions from civil service board to pension boards; modifying City reimbursement of General Pension and Retirement Fund; modifying procedures for physical and mental examinations of employees; providing for severability; providing for supersedure of inconsistent laws; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 497 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	McPherson
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Mann	Thurman
Crawford	Henderson	Margolis	Vogt
Dunn	Hill	Maxwell	Weinstein

Nays—None

SB 1202—A bill to be entitled An act relating to Hillsborough County and the City of Tampa; amending s. 4(1)(c), (d), chapter 78-522, Laws of Florida; authorizing the city upon agreement with the county, to charge the county special fees if the county does not reduce or eliminate its discharge to the Tampa system according to a mutually acceptable schedule; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote SB 1202 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Carlucci	Childers, W. D.	Fox
Barron	Castor	Crawford	Frank
Beard	Childers, D.	Dunn	Gersten

Girardeau	Jenne	Mann	Scott
Grant	Jennings	Margolis	Stuart
Grizzle	Johnston	Maxwell	Thomas
Hair	Kirkpatrick	McPherson	Thurman
Henderson	Langley	Myers	Vogt
Hill	Malchon	Rehm	Weinstein

Nays—None

On motion by Senator Beard, the rules were waived and SB 1202 was ordered immediately certified to the House.

On motion by Senator Barron, the rules were waived and House Bills 497, 493, 470 and 423 were immediately certified to the House.

On motion by Senator W. D. Childers, the rules were waived and by two-thirds vote HB 971 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator W. D. Childers, by two-thirds vote SB 1203 was withdrawn from the Committee on Governmental Operations.

SPECIAL ORDER

CS for SB 314—A bill to be entitled An act relating to civil actions; creating s. 768.36, Florida Statutes; providing for the application of comparative negligence in determining damage awards in certain actions; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendment which was adopted:

Amendment 1—On page 1, lines 14-31, and on page 2, lines 1-8, strike all of said lines and insert:

(1) The contributory negligence of a person does not bar such person or his legal representative from recovering damages for negligence resulting in death, personal injury, or property damage. However, the award of damages to a person in an action shall be reduced in proportion to the amount of negligence attributed to him. If a person is claiming damages for a decedent’s wrongful death, any negligence of the decedent shall be imputed to the claimant.

(2) If the negligence of more than one person is an issue, the jury shall return special verdicts, or in the absence of a jury the court shall make special findings, determining the percentage of negligence attributable to each of the persons and determining the total amount of damages sustained by each of the claimants, and the entry of judgement shall be made by the court.

(3) In any action in which the trier of fact finds that more than one person is negligent, each person shall be liable for only that proportion of the total dollar amount awarded as damages which causal negligence bears to the amount of the causal negligence attributed to all persons involved in the occurrence giving rise to the action.

Senator Langley moved the following amendment which was adopted:

Amendment 2—On page 2, line 10, strike “pending on” and insert: filed after

On motion by Senator Barron, by two-thirds vote CS for SB 314 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Frank	Jennings	McPherson
Barron	Girardeau	Johnston	Meek
Beard	Grant	Kirkpatrick	Myers
Carlucci	Grizzle	Langley	Rehm
Castor	Hair	Malchon	Thomas
Childers, D.	Henderson	Mann	Thurman
Childers, W. D.	Hill	Margolis	Vogt
Fox	Jenne	Maxwell	Weinstein

Nays—2

Dunn Scott

Vote after roll call:

Yea—Crawford, Gersten

CS for SB 296—A bill to be entitled An act relating to civil actions; creating s. 768.047, Florida Statutes; requiring leave of court to plead punitive damages; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendment:

Amendment 1—On page 1, strike all of lines 11-20 and insert:

768.047 Punitive Damages.—

(1) In order to constitute a cause of action for punitive damages a plaintiff must plead with particularity and prove by clear and convincing evidence specific facts which constitute fraud, malice, oppression, or willful, wanton, or reckless disregard of the rights of the plaintiff.

(2) When the defendant in an action for punitive damages questions whether the plaintiff has properly pleaded or has evidence to support such action, the defendant may file an appropriate motion with the court. The court shall, at or before the pretrial hearing, ascertain by examining the pleadings and the evidence before it whether the plaintiff will be able to submit clear and convincing evidence of specific facts constituting a cause of action for punitive damages. If the plaintiff does not establish that he will be able to submit such evidence, the court shall dismiss the plaintiff's claim for punitive damages without prejudice.

Further consideration of CS for SB 296 was deferred.

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

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

SB 1195—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 1983, and ending June 30, 1984, to pay salaries, other expenses, capital outlay - buildings and improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Pursuant to Rule 7.6, the amendments constituted an entirely new bill and were not published in the Journal.

On motion by Senator Johnston, the Senate refused to concur in the House amendments and the House was requested to recede and in the event the House refused to recede a conference committee was requested. The action of the Senate was certified to the House.

The Honorable Curtis Peterson, President

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

SB 619—A bill to be entitled An act relating to alcohol abuse; amending s. 396.161, Florida Statutes; authorizing a county or municipality to adopt an ordinance prohibiting a person from being publicly intoxicated after having left an alcohol treatment program under certain circumstances or from causing or participating in a public disturbance while intoxicated; providing penalties; requiring separate minimum security incarceration; requiring alcohol education programs; authorizing local governments to jointly construct and operate facilities; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 2—On page 2, line 9, strike "or" and insert: *and*

On motion by Senator Beard, the Senate concurred in the House amendment.

SB 619 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Hill	Meek
Barron	Frank	Jenne	Myers
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Mann	Thurman
Crawford	Hair	Margolis	Vogt
Dunn	Henderson	Maxwell	Weinstein

Nays—None

Vote after roll call:

Yea—McPherson

The bill was ordered engrossed and then enrolled.

On motion by Senator Girardeau, the rules were waived and the Senate immediately reconsidered the vote by which CS for SJR 46 passed May 26.

Senator Girardeau moved the following amendment which was adopted by two-thirds vote:

Amendment 1—On page 2, lines 8 and 9, strike "in either house of the Legislature"

On motion by Senator Girardeau, CS for SJR 46 as amended was read in full as follows:

CS for SJR 46—A joint resolution proposing an amendment to Section 2 of Article III of the State Constitution relating to legislative privilege for speech or debate.

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

That the amendment to Section 2 of Article III of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1984:

**ARTICLE III
LEGISLATURE**

SECTION 2. Members; officers; legislative privilege.—

(a) Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a Clerk to serve at its pleasure.

(b) *Members of the senate and the house of representatives shall in all cases be privileged with regard to any statement, speech or debate and they shall not be questioned in any other place with respect thereto.*

(c) The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

SPEECH OR DEBATE PRIVILEGE

Provides that legislators' speech or debate relating to matters of legislative interest or concern is privileged and that legislators shall not be subject to compulsory process with regard to legislative actions in accordance with the corresponding federal constitutional provisions.

—and as amended passed by the required constitutional three-fifths vote of the membership, was ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Beard	Childers, D.	Fox
Barron	Castor	Childers, W. D.	Gersten

Girardeau	Hill	Maxwell	Thurman
Gordon	Jennings	Meek	Vogt
Grant	Johnston	Myers	Weinstein
Grizzle	Langley	Rehm	
Hair	Malchon	Stuart	
Henderson	Mann	Thomas	

Nays—3

Carlucci	Dunn	Frank
----------	------	-------

Vote after roll call:

Yea—McPherson
Yea to Nay—Castor

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 296—A bill to be entitled An act relating to civil actions; creating s. 768.047, Florida Statutes; requiring leave of court to plead punitive damages; providing an effective date.

Senator Langley moved the following amendment to Amendment 1 which failed:

Amendment 1A—On page 1, lines 14 and 15, strike “and prove by clear and convincing evidence,” and on line 24, strike “clear and convincing”

Senator Vogt presiding

Amendment 1 was adopted.

On motion by Senator Barron, by two-thirds vote CS for SB 296 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Mr. President	Gersten	Hill	Meek
Barron	Girardeau	Jennings	Myers
Beard	Gordon	Kirkpatrick	Rehm
Carlucci	Grant	Mann	Scott
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Henderson	McPherson	Vogt

Nays—12

Castor	Frank	Johnston	Stuart
Childers, D.	Grizzle	Langley	Thurman
Fox	Jenne	Malchon	Weinstein

Vote after roll call:

Yea—Maxwell
Nay—Dunn

CS for SB 1017—A bill to be entitled An act relating to insurance and civil actions; amending s. 458.331(1)(t), Florida Statutes, 1982 Supplement, and adding subsection (5) to said section; providing definitions; specifying grounds for disciplinary proceedings against physicians by the Board of Medical Examiners; requiring the Board of Medical Examiners to investigate certain physicians; amending s. 627.912, Florida Statutes, 1982 Supplement; requiring insurers and self-insurers to report claims with respect to professional liability; specifying information to be included in such reports; requiring the Department of Insurance to report the names of certain physicians and osteopaths to the Department of Professional Regulation and the Board of Medical Examiners; creating s. 768.047, Florida Statutes; requiring leave of court to plead punitive damages; creating s. 768.33, Florida Statutes; providing for periodic payments of damages and attorney fees in certain civil actions; creating s. 768.34, Florida Statutes; limiting the recovery of noneconomic losses to a certain amount; creating s. 768.36, Florida Statutes; providing for the application of comparative negligence in determining damage awards in certain actions; amending s. 768.40, Florida Statutes; expanding the immunity granted to medical review committees and extending immunity to insurer and self-insurer review committees; adding s. 768.41(5), Florida Statutes; requiring the Department of Health and Rehabilitative Services to review certain reports and report its findings; creating s. 395.0031, Florida Statutes; establishing financial responsibility requirements for ambulatory surgical centers; creating s. 458.321, Florida Statutes; establishing finan-

cial responsibility requirements for physicians; creating s. 459.011, Florida Statutes; establishing financial responsibility requirements for osteopaths; providing a severability clause; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendment which was adopted:

Amendment 1—On page 5, lines 25-31, and on page 6, lines 1-3, strike all of said lines and insert:

768.047 Punitive Damages.—

(1) In order to constitute a cause of action for punitive damages a plaintiff must plead with particularity and prove by clear and convincing evidence specific facts which constitute fraud, malice, oppression, or willful, wanton, or reckless disregard of the rights of the plaintiff.

(2) When the defendant in an action for punitive damages questions whether the plaintiff has properly pleaded or has evidence to support such action, the defendant may file an appropriate motion with the court. The court shall, at or before the pretrial hearing, ascertain by examining the pleadings and the evidence before it whether the plaintiff will be able to submit clear and convincing evidence of specific facts constituting a cause of action for punitive damages. If the plaintiff does not establish that he will be able to submit such evidence, the court shall dismiss the plaintiff's claim for punitive damages without prejudice.

Senator Barron moved the following amendment:

Amendment 2—On page 9, line 23, after “exceed” insert: 200 percent of

Senators Langley, Scott, Weinstein and Dunn offered the following substitute amendment which was moved by Senator Langley and failed:

Amendment 3—On page 8, lines 30 and 31, and on page 9, lines 1-25, strike all of said lines and renumber subsequent sections

The vote was:

Yeas—16

Castor	Gersten	Johnston	Stuart
Dunn	Gordon	Langley	Thurman
Fox	Grant	Malchon	Vogt
Frank	Jenne	Scott	Weinstein

Nays—19

Mr. President	Girardeau	Kirkpatrick	Myers
Barron	Grizzle	Mann	Neal
Carlucci	Henderson	Maxwell	Rehm
Childers, W. D.	Hill	McPherson	Thomas
Crawford	Jennings	Meek	

PAIR

The following pair was announced by the Secretary in accordance with Senate Rule 5.4:

I am paired with Senator Hair on Amendment 3 to CS for SB 1017. If he were present he would vote “yea” and I would vote “nay.”

Malcolm Beard, 22nd District

The question recurred on Amendment 2 which was adopted.

Senator Barron moved the following amendment which was adopted:

Amendment 4—On page 9, lines 30 and 31, and on page 10, lines 1-24, strike all of said lines and insert:

(1) The contributory negligence of a person does not bar such person or his legal representative from recovering damages for negligence resulting in death, personal injury, or property damage. However, the award of damages to a person in an action shall be reduced in proportion to the amount of negligence attributed to him. If a person is claiming damages for a decedent's wrongful death, any negligence of the decedent shall be imputed to the claimant.

(2) If the negligence of more than one person is an issue, the jury shall return special verdicts, or in the absence of a jury the court shall make special findings, determining the percentage of negligence attributable to each of the persons and determining the total amount of damages sustained by each of the claimants, and the entry of judgement shall be made by the court.

(3) In any action in which the trier of fact finds that more than one person is negligent, each person shall be liable for only that proportion of the total dollar amount awarded as damages which his causal negligence bears to the amount of the causal negligence attributed to all persons involved in the occurrence giving rise to the action.

Senator Gordon moved the following amendment which failed:

Amendment 5—On page 15, after line 31, insert:

Section 12. Physicians covered under this act shall not charge a fee for medical procedures in excess of the fee established for that medical procedure under the state group health insurance plan.

(Renumber subsequent sections.)

Senator Gordon moved the following amendment which was adopted:

Amendment 6—On page 15, after line 31, insert:

Section 12. Subsection (6) of section 458.319, Florida Statutes, is created to read:

458.319 Renewal of license.—

(6) *The license renewal fee for any licensee who does not practice in this state in a license year shall be \$500, which shall be deposited into the State Treasury in the Medical Education Trust Fund which is hereby created to be used for medical education in the medical schools at the University of Florida, the University of South Florida, and the University of Miami.*

(Renumber subsequent sections.)

Senator Langley moved the following amendment which was adopted:

Amendment 7—On page 9, strike all of lines 24 and 25

Senator Gordon moved the following amendment which was adopted:

Amendment 8—In title, on page 2, line 12, after "osteopaths," insert: amending s. 458.317, Florida Statutes; increasing license fees to physicians licensed to practice in another state, and creating a trust fund;

On motion by Senator Barron, by two-thirds vote CS for SB 1017 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Girardeau	Jennings	Neal
Barron	Gordon	Kirkpatrick	Rehm
Beard	Grant	Mann	Scott
Carlucci	Grizzle	Margolis	Stuart
Castor	Hair	Maxwell	Thomas
Childers, W. D.	Henderson	McPherson	Thurman
Frank	Hill	Meek	Vogt
Gersten	Jenne	Myers	

Nays—7

Childers, D.	Fox	Langley	Weinstein
Dunn	Johnston	Malchon	

Vote after roll call:

Yea—Crawford

The President presiding

HB 1182—A bill to be entitled An act relating to insurance and health care cost containment; adding subsections (3) and (4) to s. 627.411, Florida Statutes, 1982 Supplement, providing for filing and review of health insurance rates; creating s. 627.4115, Florida Statutes, providing for examination of health insurers to ascertain compliance with chapter 627; amending s. 627.4235(1) and (2), Florida Statutes, 1982 Supplement; providing for coordination of health insurance benefits; adding subsection (3) to s. 627.602, Florida Statutes, 1982 Supplement, providing for printing of notice of co-insurance provision on an insurance policy; amending s. 627.6056, Florida Statutes, 1982 Supplement, providing for individual insurance policy coverage for outpatient services if such services are covered on an inpatient basis; creating s. 627.6095, Florida Statutes, requiring second medical opinion prior to coverage for nonemergency surgery under individual health insurance policies; amending subsection (2) of s. 627.614, Florida Statutes, as amended by chapter

82-243, Laws of Florida, providing that an insurer may require services be rendered by a specified provider if the policy so states; amending s. 627.6176, Florida Statutes, 1982 Supplement, requiring coinsurance in all individual health insurance policies; renumbering and amending ss. 627.621 and 627.622, Florida Statutes, 1982 Supplement, providing for insurer payment of benefits and recovery of benefits paid under certain circumstances; repealing s. 627.623, Florida Statutes, 1982 Supplement; to conform to the act; creating s. 627.6371, Florida Statutes, providing that an insurer may contract with providers for alternate rates of payment, and may offer individual health insurance policies reflecting such rates to insureds; adding subsections (4) and (5) to s. 627.643, Florida Statutes, 1982 Supplement, requiring that the department disseminate health insurance information for the benefit of individual purchasers; providing that the department shall adopt rules to govern preferred provider contracts; amending s. 627.6573, Florida Statutes, 1982 Supplement, requiring coinsurance in all group health insurance policies; amending s. 627.6616, Florida Statutes, 1982 Supplement, providing for group insurance policy coverage for outpatient services if such services are covered on an inpatient basis; creating s. 627.6665, Florida Statutes, providing for recovery of benefits paid under certain circumstances; creating s. 627.6666, Florida Statutes, requiring second medical opinion prior to coverage for nonemergency surgery under group health insurance policies; creating s. 627.6691, Florida Statutes, providing that an insurer may contract with providers for alternate rates of payment, and may offer group health insurance policies reflecting such rates to insureds; creating s. 627.916, Florida Statutes, requiring insurers to report cost containment practices; providing that the provisions of this act shall apply to health insurance policies issued or renewed after the effective date of this act; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendments which were adopted:

Amendment 1—On pages 3-20, strike everything after the enacting clause and insert:

Section 1. Paragraph (t) of subsection (1) of section 458.331, Florida Statutes, 1982 Supplement, is amended and subsection (5) is added to said section to read:

458.331 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 768.45 when enforcing this paragraph. *As used in this paragraph, "repeated malpractice" includes but is not limited to any physician having two or more claims for medical malpractice within the previous 5-year period resulting in any indemnity being paid to the claimant in a judgment or settlement and which claims involved negligent conduct by the physician.*

(5) *Upon the board's receipt from the Department of Insurance of the name of a physician having two or more claims with indemnities within the previous 5-year period, the board shall investigate the occurrences upon which the claims were based and determine if action by it against the physician is warranted.*

Section 2. Section 627.912, Florida Statutes, 1982 Supplement, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) *Each self-insurer authorized under s. 627.356 or s. 627.357 and each Every insurer providing professional liability insurance to a practitioner of medicine licensed pursuant to the provisions of chapter 458, to a practitioner of osteopathic medicine licensed pursuant to the provisions of chapter 459, to a hospital as defined in s. 395.002(6), to an ambulatory surgical center as defined in s. 395.002(2), or to a member of The Florida Bar shall report periodically and in duplicate, but in no event less than once each year, to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:*

- (a) A final judgment in any amount.
- (b) A settlement in any amount.
- (c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department no later than March 15 of the year following the occurrence of one of the events listed in paragraphs (a), (b), and (c).

- (2) The reports required by subsection (1) shall contain:
 - (a) The name, address, and specialty coverage of the insured.
 - (b) The insured's policy number.
 - (c) The date of the occurrence which created the claim.
 - (d) The date of suit, if filed.
 - (e) The date and amount of judgment or settlement, if any, *including the itemization of the verdict as required under s. 768.48, together with a copy of the settlement or judgment.*
 - (f) The date and reason for final disposition, if no judgment or settlement.
 - (g) A summary of the occurrence which created the claim. *If an indemnity has been paid to the claimant by a settlement or judgment, the summary shall include a detailed statement of the cause and nature of the occurrence and injury giving rise to the claim, including the location within the premises in which the claim arose and a statement of whether safety management steps have been taken to make similar occurrences or injuries less likely in the future and the nature of such steps.*

(h) *Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.*

(3) *Except as provided in subsection (4), The department shall maintain the reports filed in accordance with this section shall be maintained as confidential records. The reports shall be released only for bona fide research or educational purposes.*

(4) *The department shall screen the reports annually and send, to the Department of Professional Regulation and the Board of Medical Examiners, copies of the reports of any physicians or osteopaths having two or more claims with indemnities within the previous 5-year period. For purposes of hospital safety management, the department shall annually provide the Department of Health and Rehabilitative Services with copies of the reports in cases resulting in an indemnity being paid to the claimant.*

(5)(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them pursuant to this section.

Section 3. Section 768.047, Florida Statutes, is created to read:

768.047 Punitive damages.—

(1) In order to constitute a cause of action for punitive damages a plaintiff must plead with particularity and prove by clear and convincing evidence specific facts which constitute fraud, malice, oppression, or willful, wanton, or reckless disregard of the rights of the plaintiff.

(2) When the defendant in an action for punitive damages questions whether the plaintiff has properly pleaded or has evidence to support such action, the defendant may file an appropriate motion with the court. The court shall, at or before the pretrial hearing, ascertain by examining the pleadings and the evidence before it whether the plaintiff will be able to submit clear and convincing evidence of specific facts constituting a cause of action for punitive damages. If the plaintiff does not establish that he will be able to submit such evidence, the court shall dismiss the plaintiff's claim for punitive damages without prejudice.

Section 4. Section 768.33, Florida Statutes, is created to read:

768.33 Alternative methods of payment of damage awards.—

(1) When the personal injury of a person is caused by the wrongful act, negligence, default, or breach of contract or warranty of any person in which the trier of fact determines that the amount necessary to compensate the claimant for future losses exceeds \$200,000, the court shall, at the request of either party, enter a judgment ordering the damages for future losses to be paid by periodic payments.

(a) When entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. To the extent possible the finding shall be based on the judgment creditor's annual needs. The total of the periodic payments shall equal the amount of all future damages before any reduction to present value. The period of time over which the periodic payments are to be made shall be the period of years determined by the trier of fact in its itemized verdict. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant. The judgment shall provide that all medical expenses incurred during any given period be paid by the defendant even though they exceed the specified payment. However, there shall be no requirement to pay more than the original lump-sum judgment before any reduction to present value, and, if any periodic payments exceed the amount specified by the judgment, successive payments shall be reduced accordingly until the entire judgment is paid.

(b) Before authorizing periodic payments of future damages, the court shall require the judgment debtor to post security adequate to assure full payment of damages awarded by the judgment. The security may include, but not be limited to, an annuity or a bond. If the judgment debtor fails or is unable to post the required security, the court shall order that all damages, both past and future, be paid to claimant in a lump sum. Upon termination of periodic payments of future damages, the court shall order the return of any remaining security to the judgment debtor.

(c) If the judgment debtor exhibits a continuing pattern of failing to make the required periodic payments, the court shall hold the judgment debtor in contempt and require that all remaining payments be made in a lump sum and may order the judgment debtor to pay the claimant all damages caused by such failure, including court costs and attorney's fees for each supplemental proceeding. If insolvency of the judgment debtor is proven to the court to be probable, the court may order that the balance of payments due be placed in trust for the benefit of the claimant.

(d) The judgment ordering the payment of future damages by periodic payments shall specify the recipient of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments are to be made. Such payments shall be subject to modification only as provided in this section.

(e) If a claimant who has been awarded damages to be paid by periodic payments dies prior to the termination of the period of years during which such payments are to be made, the liability of the defendant for amounts for future medical, surgical, x-ray, dental, rehabilitative services, including amounts for prosthetic devices, necessary ambulance, hospital, nursing services, drugs, therapy, pain and suffering, and other items of general damages shall cease, and the estate of the claimant shall have no claim for such amounts. In that event, the remaining balance of all amounts to be paid for lost wages or loss of earning capacity and other economic losses shall be paid to the estate of the claimant except payment of a lump sum is authorized if the parties agree to the amount thereof. If the claimant lives longer than the period of time in which such payments are to be made, the payments shall continue for the remainder of the claimant's life at the same rate as the payments being made at the time they would otherwise have terminated.

(f) Claimant's attorney's fee shall be payable from the judgment, based upon the total judgment. The attorney's fee may be paid in lump-sum or by periodic payment. The attorney's fee shall be paid from past and future damages in the same proportion, and the claimant's periodic payments shall be reduced by the amount of attorney's fees paid from future damages payable. However, if the attorney elects lump-sum payment, that portion of the fee attributable to future damages shall be based on the amount of future damages after reduction to present value.

(2) Nothing in this section shall preclude any other method of payment of awards, if such method is consented to by the parties.

Section 5. Section 768.34, Florida Statutes, is created to read:

768.34 Determination of noneconomic damages.—

(1) It is the intent of the Legislature to provide a rational basis for determining the maximum amount of damages for noneconomic losses which may be awarded in civil actions based on personal injury or wrongful death. In so doing, the Legislature recognizes that such noneconomic losses should be fairly compensated but also recognizes the desirability of balancing the interests of the injured party with those of society as a whole in that the burden of compensating for such losses is ultimately carried by all citizens instead of by the tortfeasor alone. The Legislature further recognizes that the relationship between economic and noneconomic losses varies significantly depending on the extent of the economic losses, and that noneconomic items of damages do not permit accurate or even approximate monetary assessment.

(2) In an action for personal injury or wrongful death, the plaintiff or his personal representative is entitled to recover damages for noneconomic losses to compensate for pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of capacity for enjoyment of life, and other nonpecuniary damages.

(3) The amount of damages for noneconomic losses may not exceed 200 percent of the amount of economic damages awarded.

(4) This section shall apply to all causes of action pending on the effective date of this act.

Section 6. Section 768.36, Florida Statutes, is created to read:

768.36 Comparative negligence; elimination of joint and several liability.—

(1) The contributory negligence of a person does not bar such person or his legal representative from recovering damages for negligence resulting in death, personal injury, or property damage. However, the award of damages to a person in an action shall be reduced in proportion to the amount of negligence attributed to him. If a person is claiming damages for a decedent's wrongful death, any negligence of the decedent shall be imputed to the claimant.

(2) If the negligence of more than one person is an issue, the jury shall return special verdicts, or in the absence of a jury the court shall make special findings, determining the percentage of negligence attributable to each of the persons and determining the total amount of damages sustained by each of the claimants, and the entry of judgment shall be made by the court.

(3) In any action in which the trier of fact finds that more than one person is negligent, each person shall be liable for only that proportion of the total dollar amount awarded as damages which his casual negligence bears to the amount of the casual negligence attributed to all persons involved in the occurrence giving rise to the action.

(4) This section applies to all causes of action pending on the effective date of this act wherein the doctrine of comparative negligence applies and to cases thereafter filed.

Section 7. Section 768.40, Florida Statutes, is amended to read:

768.40 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means a committee of a state or local professional society of health care providers or of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home, which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area.

(b) The term "health care providers" means physicians licensed under chapter 458, osteopaths licensed under chapter 459, podiatrists licensed under chapter 461, dentists licensed under chapter 466, chiropractors licensed under chapter 460, or pharmacists licensed under chapter 465.

(2)(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly

appointed medical review committee, or any health care provider furnishing any information, including information concerning the prescribing of substances listed in s. 893.03(2), to such committee, or any person, including any person acting as a witness, incident reporter to, or investigator for, a medical review committee, for any act or proceeding undertaken or performed within the scope of the functions of any such committee if the committee member or health care provider acts without malice or fraud. The immunity provided to members of a duly appointed medical review committee shall apply only to actions by providers of health services, and in no way shall this section render any medical review committee immune from any action in tort or contract brought by a patient or his successors or assigns.

(b) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(3) Except as provided in subsection (2), this section shall not be construed to confer immunity from liability on any professional society or hospital or upon any health professional while performing services other than as a member of a medical review committee or upon any person, including any person acting as a witness, incident reporter to, or investigator for a medical review committee, for any act or proceeding undertaken or performed outside the scope of the functions of such committee. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital, professional society, or an individual health professional, such cause of action shall exist as if the preceding provisions had not been enacted.

(4) The proceedings and records of a committee committees as described in the preceding subsections shall not be subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of the matters which are the subject of evaluation and review by such committee, and no person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, or other actions of such committee or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, nor should any person who testifies before such committee or who is a member of such committee be prevented from testifying as to matters within his knowledge, but the said witness cannot be asked about his testimony before such a committee or opinions formed by him as a result of said committee hearings.

Section 8. Subsection (5) is added to section 768.41, Florida Statutes, to read:

768.41 Internal risk management program.—

(5) The Department of Health and Rehabilitative Services shall review reports furnished by the Department of Insurance to determine if the claims summaries contained in such reports reflect patterns of medical procedure or conduct which may give rise to adverse incidents, and shall notify hospitals, ambulatory surgical centers, health maintenance organizations, and other medical facilities of such patterns as they are identified. Annually, the Department of Health and Rehabilitative Services shall report to the Speaker of the House of Representatives and the President of the Senate the determinations reached pursuant to this subsection.

Section 9. Section 395.0031, Florida Statutes, is created to read:

395.0031 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license as an ambulatory surgical center, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services, by one of the following methods:

(1) Post bond with the department and maintain the bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 10. Section 458.321, Florida Statutes, is created to read:

458.321 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license for the practice of medicine, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services, by one of the following methods:

(1) Post bond with the department and maintain a bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 11. Section 459.011, Florida Statutes, is created to read:

459.011 Financial responsibility.—As a condition of licensing, and prior to the issuance or renewal of an active license for the practice of osteopathic medicine, an applicant shall demonstrate, to the satisfaction of the board and the department, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services by one of the following methods:

(1) Post bond with the department and maintain a bond in the amount of \$450,000. Such bond shall be purchased from an insurer as defined under s. 624.09.

(2) Establish and maintain an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the amount of \$450,000.

(3) Obtain and maintain professional liability coverage in an amount not less than \$150,000 per claim with a minimum annual aggregate of not less than \$450,000 from an insurer as defined under s. 624.09, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

Section 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 13. This act shall take effect July 1, 1983.

Amendment 2—In title, on pages 1-3, strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance and civil actions; amending s. 458.331(1)(t), Florida Statutes, 1982 Supplement, and adding subsection (5) to said section; providing definitions; specifying grounds for disciplinary proceedings against physicians by the Board of Medical Examiners; requiring the Board of Medical Examiners to investigate certain physicians; amending s. 627.912, Florida Statutes, 1982 Supplement; requiring insurers and self-insurers to report claims with respect to professional liability; specifying information to be included in such reports; requiring the Department of Insurance to report the names of certain physicians and osteopaths to the Department of Professional Regulation and the Board of Medical Examiners; creating s. 768.047, Florida Statutes; providing for punitive damages; creating s. 768.33, Florida Statutes; providing for periodic payments of damages and attorney fees in certain civil actions; creating s. 768.34, Florida Statutes; limiting the recovery of noneconomic losses to a certain amount; creating s. 768.36, Florida Statutes; providing for the application of comparative negligence in determining damage awards in certain actions; amending s. 768.40, Florida Statutes; expanding the immunity granted to medical review committees and extending immunity to insurer and self-insurer review committees; adding s. 768.41(5), Florida Statutes; requiring the

Department of Health and Rehabilitative Services to review certain reports and report its findings; creating s. 395.0031, Florida Statutes; establishing financial responsibility requirements for ambulatory surgical centers; creating s. 458.321, Florida Statutes; establishing financial responsibility requirements for physicians; creating s. 459.011, Florida Statutes; establishing financial responsibility requirements for osteopaths; providing a severability clause; providing an effective date.

On motion by Senator Barron, by two-thirds vote HB 1182 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gersten	Jennings	Neal
Barron	Girardeau	Kirkpatrick	Rehm
Beard	Gordon	Malchon	Scott
Carlucci	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	Meek	
Frank	Hill	Myers	

Nays—5

Dunn	Jenne	Langley
Fox	Johnston	

Vote after roll call:

Yea—McPherson
Yea to Nay—Malchon
Nay to Yea—Jenne

Consideration of CS for SB 562 and SB 161 was deferred.

CS for SB 561—A bill to be entitled An act relating to professional malpractice; amending s. 627.351(4), Florida Statutes, 1982 Supplement; requiring the Florida Medical Malpractice Joint Underwriting Association to make certain levels of coverage available to physicians, osteopaths, hospitals, and ambulatory surgical centers; deleting obsolete language; amending s. 768.54(2), (3), Florida Statutes, 1982 Supplement; increasing financial responsibility limits for hospitals not participating in the fund; increasing the fund entry level; requiring approval of fund membership fees and assessments by the Insurance Commissioner; removing limitations on deficit assessments to fund members; providing immunity for board members; providing certain powers to the fund; providing conditions for protesting assessments; providing for stay of execution against the fund; providing effective dates.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote CS for SB 561 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gersten	Johnston	Neal
Barron	Girardeau	Kirkpatrick	Rehm
Beard	Gordon	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Henderson	Maxwell	Vogt
Crawford	Hill	McPherson	Weinstein
Fox	Jenne	Meek	
Frank	Jennings	Myers	

Nays—None

The Senate resumed consideration of—

SB 645—A bill to be entitled An act relating to drivers' licenses; amending s. 322.20(3), Florida Statutes, 1982 Supplement, requiring additional information in the individual driver history records maintained by the Department of Highway Safety and Motor Vehicles; providing an effective date.

—which was taken up with pending Amendment 1 by the Committee on Transportation.

Senator Langley moved the following substitute amendment which was adopted:

Amendment 2—On page 1, lines 23 and 24, insert: *received a traffic citation.*

Senators Langley and Carlucci offered the following amendment which was moved by Senator Langley and adopted:

Amendment 3—On page 1, line 11, insert:

Section 1. Paragraphs (a) and (c) of subsection (1) of section 316.1932, Florida Statutes, 1982 Supplement, are amended to read:

316.1932 Tests for impairment or intoxication; implied consent; right to refuse.—

(1)(a) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state shall, by so operating such vehicle, be deemed to have given his consent to submit to an approved chemical test of his breath for the purpose of determining the alcoholic content of his blood, and to a urine test for the purpose of detecting the presence of controlled substances, if he is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages or controlled substances. The breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of either test shall not preclude the administration of the other test. Such person shall be told that his failure to submit to such a breath test or urine test, or both such tests, will result in the suspension of his privilege to operate a motor vehicle for a period of 6 3 months, for a first refusal, or for a period of 1 year 6 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests. The refusal to submit to a chemical breath or urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding.

(c) Any person whose consent is implied as provided in this section shall be deemed to have consented to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of controlled substances as provided herein if such person is admitted to a hospital, clinic, or other medical facility as a result of his involvement as a driver in a motor vehicle accident and the administration of a breath or urine test is impractical or impossible. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition shall be deemed not to have withdrawn his consent to such test. A blood test may be administered whether or not such person is told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle upon the public highways of this state. Any person who is capable of refusal shall be told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle for a period of 6 3 months, for a first refusal, or for a period of 1 year 6 months if the driving privilege of such person has been suspended previously as a result of a refusal to submit to such a test or tests. The refusal to submit to a blood test upon request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

Section 2. Subsections (1) and (3) of section 322.261, Florida Statutes, 1982 Supplement, are amended to read:

322.261 Suspension of license for refusal to submit to test for impairment or intoxication.—

(1) If any person refuses an officer's request to submit to any breath, urine, or blood test provided in s. 316.1932, the department, upon receipt of the officer's sworn statement that he had reasonable cause to believe such person had been driving or had been in actual physical control of a motor vehicle within this state while under the influence of alcoholic beverages or controlled substances and that the person had refused to submit

to such test or tests after being requested by the officer, shall suspend his privilege to operate a motor vehicle for a period of 6 3 months. If the driving privilege of such person has been previously suspended for refusing to submit to such test or tests, the department shall suspend his privilege to operate a motor vehicle for a period of 1 year 6 months. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subsection (2).

(3) Upon his petition in writing, a copy of which he shall forward to the department, being filed within 10 days from the date of receipt of the notice, directed to the clerk of the court having trial jurisdiction of the offense for which he stands charged, such person shall be afforded an opportunity for a hearing at a time to be set by the court, which hearing date shall be within 20 days of the filing of the petition with the court. It shall be the responsibility of the clerk of the court to schedule the hearing and to give proper notice to the petitioner and to the state attorney. If the person fails to appear for the hearing, the clerk of the court shall immediately notify the department, which shall suspend the person's license for a period of 6 3 months, or a period of 1 year 6 months if the driving privilege of such person has been previously suspended for a refusal to submit to such test or tests. For the purposes of this section, the question of whether such person lawfully refused to take a chemical test or tests, as provided for by this law, and the issues determinative shall be:

(a) Whether the arresting law enforcement officer had reasonable cause to believe that the person had been driving or had been in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages or controlled substances;

(b) Whether the person was placed under lawful arrest;

(c) Whether the person refused to submit to any such test after being requested to do so by a law enforcement officer; and

(d) Whether the person had been told that, if he refused to submit to such test, his privilege to operate a motor vehicle would be suspended for a period of 6 3 months, or for a period of 1 year 6 months if his driving privilege had been previously suspended for a refusal to submit to such test.

(Renumber subsequent sections.)

Senator Dunn moved the following amendment which was adopted:

Amendment 4—On page 1, line 24, after "citation." insert: *The record shall also include the disposition of the traffic citation*

Senator Langley moved the following amendments which were adopted:

Amendment 5—In title, on page 1, strike line 2 and insert: An act relating to driving; amending ss. 316.1932(1)(a) and (c), and 322.261(1) and (3), Florida Statutes, 1982 Supplement, increasing the periods of license suspension for refusal to take breath, urine, or blood tests; amending

Amendment 6—In title, on page 1, strike all of lines 4-8 and insert: Supplement; prohibiting the Department of Highway Safety and Motor Vehicles from releasing certain information contained in a driver history record in certain circumstances; providing an effective date.

On motion by Senator Langley, by two-thirds vote SB 645 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Johnston	Myers
Barron	Gordon	Kirkpatrick	Neal
Beard	Grant	Langley	Rehm
Carlucci	Grizzle	Malchon	Scott
Castor	Hair	Mann	Stuart
Childers, W. D.	Henderson	Margolis	Thurman
Crawford	Hill	Maxwell	Vogt
Fox	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Thomas

SB 127—A bill to be entitled An act relating to the Department of Transportation; amending s. 337.28, Florida Statutes, 1982 Supplement; removing obsolete language; authorizing the disposition of certain property no longer needed for a public purpose; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote SB 127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Kirkpatrick	Rehm
Barron	Girardeau	Langley	Scott
Beard	Gordon	Malchon	Stuart
Carlucci	Grant	Mann	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	
Frank	Johnston	Neal	

Nays—None

CS for SB 464—A bill to be entitled An act relating to the state's risk management and safety programs; amending s. 284.01(1) and (2), Florida Statutes, extending the coverage under the Florida Fire Insurance Trust Fund; requiring the provision of rental value insurance to cover loss of income of certain state buildings; amending s. 284.30, Florida Statutes, designating the Florida Casualty Insurance Risk Management Trust Fund as a self-insurance fund; amending s. 284.31, Florida Statutes, including volunteers under coverage of the insurance risk management trust fund; amending s. 284.33, Florida Statutes, providing for special accounts to pay claims against the state; providing for the furnishing of health and mental services or drugs as required by the Workers' Compensation Law without written agreement; amending s. 284.41(2), Florida Statutes, providing for the administration of part III of chapter 284, Florida Statutes, relating to safety programs; creating s. 284.411, Florida Statutes, establishing procedures for the reporting, handling and payment of certain claims; amending s. 284.50(2), Florida Statutes, 1982 Supplement, authorizing the Interagency Advisory Council on Loss Prevention to provide a program of recognition for employees, agents or volunteers who make exceptional contributions to the reduction and control of employment-related accidents; adding a subsection to s. 110.504, Florida Statutes, providing for coverage for state volunteers for medical and funeral expenses under the Workers' Compensation Law; providing an effective date.

—was read the second time by title.

Senator Henderson moved the following amendments which were adopted:

Amendment 1—On page 4, lines 14 and 15, strike “, as defined, by part V of chapter 110”

Amendment 2—On page 5, line 17, after “mental” insert: *health*

Amendment 3—On page 7, lines 13 and 14, strike “for medical and funeral expenses only”

Amendment 4—In title, on page 1, line 17, after “mental” insert: *health*

Amendment 5—In title, on page 2, lines 3 and 4, strike “for medical and funeral expenses”

On motion by Senator Henderson, by two-thirds vote CS for SB 464 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	Gersten	Jennings	Meek
Barron	Girardeau	Johnston	Myers
Beard	Gordon	Kirkpatrick	Rehm
Carlucci	Grant	Langley	Scott
Castor	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Mann	Thomas
Crawford	Henderson	Margolis	Thurman
Fox	Hill	Maxwell	Vogt
Frank	Jenne	McPherson	Weinstein

Nays—None

On motions by Senator Barron, the rules were waived and by two-thirds vote SB 1167 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Finance, Taxation and Claims.

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 745 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 770 was withdrawn from the Committee on Commerce.

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 763 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Barron, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to consider Senate Bills 763 and 770 on May 30.

SB 256—A bill to be entitled An act relating to public officers, employees, and candidates; adding ss. 112.313(13), 112.322(9), Florida Statutes, 1982 Supplement; permitting public officers and full-time agency employees to appear before the Legislature; permitting the Commission on Ethics to extend the deadline for the filing of public disclosure statements under certain circumstances; providing an effective date.

—was taken up with pending Amendment 4 which was withdrawn.

On motion by Senator McPherson, the Senate reconsidered the vote by which Amendment 2 was adopted.

Senator Scott moved the following amendment to Amendment 2 which was adopted:

Amendment 2A—On page 9, line 15, after “if” insert: *upon the filing of a sworn complaint*

Amendment 2 as amended was adopted.

Senator McPherson moved the following amendment which was adopted:

Amendment 5—In title, on page 1, strike all of lines 3-6 and insert: and candidates; adding s. 112.322(9), Florida Statutes, 1982 Supplement;

Senator Stuart moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 112.3145(1)(a), Florida Statutes, 1982 Supplement; requiring members of expressway and transportation authorities to file a statement of financial interest;

On motion by Senator McPherson, by two-thirds vote SB 256 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Johnston	Neal
Barron	Gordon	Kirkpatrick	Rehm
Beard	Grant	Malchon	Scott
Carlucci	Grizzle	Mann	Stuart
Castor	Hair	Margolis	Thomas
Childers, W. D.	Henderson	Maxwell	Thurman
Fox	Hill	McPherson	Vogt
Frank	Jenne	Meek	Weinstein
Gersten	Jennings	Myers	

Nays—None

On motion by Senator McPherson, the rules were waived and SB 256 after being engrossed was ordered immediately certified to the House.

On motion by Senator Henderson—

HB 1080—A bill to be entitled An act relating to the John and Mable Ringling Museum of Art; amending s. 265.26(7), Florida Statutes, 1982 Supplement, relating to the authority of the board of trustees of the museum to purchase insurance for certain works of art, to remove a restriction on the purchase of such insurance; providing an effective date.

—a companion measure, was substituted for SB 782 and read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1080 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gersten	Jennings	Myers
Barron	Girardeau	Kirkpatrick	Neal
Beard	Gordon	Langley	Rehm
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Fox	Hill	McPherson	Weinstein
Frank	Jenne	Meek	

Nays—None

SB 782 was laid on the table.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the Speaker of the House of Representatives has appointed Representatives Carpenter, Bell, Mills, Gustafson, R. M. Johnson; alternates Weinstock, Kutun and Hargrett as Conferees on the part of the House on CS for CS for SB 357.

Allen Morris, Clerk

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments to CS for CS for HB 1129 and requests the Senate to recede and in the event the Senate refuses to recede, requests a Conference Committee. The Speaker has appointed Representatives Mills, T. Brown, Carpenter, Kutun, Patchett; alternates Liberti and Martin as House Conferees.

Allen Morris, Clerk

On motion by Senator Barron, the Senate refused to recede from the Senate amendments and acceded to the request for a Conference Committee.

The President appointed Senator Neal, chairman; Senators Kirkpatrick, Mann, Grizzle and Langley as conferees.

On motion by Senator Barron, the action of the Senate was ordered immediately certified to the House.

SB 463—A bill to be entitled An act relating to condominium associations; adding s. 718.111(14), Florida Statutes, 1982 Supplement; limiting the responsibility of a condominium association for damage to the interior of an individual unit; providing an effective date.

—was taken up with pending Amendment 2.

On motion by Senator Scott, the Senate reconsidered the vote by which Amendment 1A was adopted. Senator Scott withdrew Amendment 1A.

On motion by Senator Crawford, the Senate reconsidered the vote by which Amendment 1 was adopted. Senator Crawford withdrew Amendment 1.

On motion by Senator Scott, the Senate reconsidered the vote by which Amendment 2A was adopted. Senator Scott withdrew Amendment 2A.

Senator Gersten withdrew Amendment 2.

Senator Gersten moved the following amendments which were adopted:

Amendment 3—On page 1, strike everything after the enacting clause and insert:

Section 1. Subsections (8) and (11) of section 718.103, Florida Statutes, are amended, and subsection (22) is added to said section to read:

718.103 Definitions.—As used in this chapter:

(8) "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium—including, but not limited to, assessments, rents, profits, and revenues on account of the common elements—over the common expenses.

(11) "Condominium property" means the lands and leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(22) "Association property" includes that property, real and personal, in which title or ownership is vested in the association for the use and benefit of its members.

Section 2. Paragraphs (k) and (l) of subsection (4) of section 718.104, Florida Statutes, 1982 Supplement, are amended, and paragraph (o) is added to said subsection to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(k) A copy of the bylaws, which shall may be attached as an exhibit. Defects or omissions in the bylaws shall not affect the validity of the condominium or title to the condominium parcels.

(l) A specification of the common elements and any parts thereof which are designated as limited common elements —~~Other desired provisions not inconsistent with this chapter.~~

(o) Other desired provisions not inconsistent with this chapter.

Section 3. Subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels; appurtenances; possession and enjoyment.—

(2) There shall pass with a unit, as appurtenances thereto:

(a) An undivided share in the common elements and common surplus.

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration.

(c) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(d) Membership in the association designated in the declaration, with the full voting rights appertaining thereto.

(e) ~~(d)~~ Other appurtenances as may be provided in the declaration.

Section 4. Subsections (5), (7), and (9) of section 718.110, Florida Statutes, are amended, and subsection (10) is added to said section to read:

718.110 Amendment of declaration.—

(5) If it appears that through scrivener's error a unit has not been designated as owning an appropriate undivided share of the common elements or does not bear an appropriate share of the common expenses or that all the common expenses or interest in the common surplus or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fails to equal 100 percent, or if it appears that more than 100 percent of common elements or common expenses or ownership of the common surplus have been distributed, the error may be corrected by filing an amendment to the declaration approved by the board of administration or a majority of the unit owners. ~~To be effective, the amendment must be executed by the association and the owners of the units and the owners of mortgages thereon affected by the modifications being made in the shares of common elements, common expenses, or common surplus. No other unit owner is required to join in or execute the amendment.~~

(7) The declarations, bylaws, and common elements of two or more independent condominiums of a single complex may be merged to form a single condominium, upon the approval of such voting interest of each condominium as is required by the declaration for modifying the appurtenances to the units or changing the proportion or percentages by

which the owners of the parcel share the common expenses and own the common surplus, upon the approval ~~80 percent of all the unit owners of each condominium~~ and of all record owners of liens, and upon the recording of new or amended articles of incorporation, declarations, and bylaws.

(9) ~~If there is an omission or error in a declaration of condominium, or in other documents required by law to establish the condominium, the association may correct the error or omission by an amendment to the declaration, or the other documents required to create a condominium, in the manner provided in the declaration to amend the declaration, or, if none is provided, then by vote of a majority of the voting interest. The amendment is effective when passed and approved and a certificate of the amendment is executed and recorded as provided in s. 718.104. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected unit owners consent in writing. This subsection does not restrict the powers of the association to otherwise amend the declaration, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of unit owners are not materially or adversely affected. Any vote to amend the declaration of condominium relating to a change in percentage of ownership in the common elements or sharing of the common expense shall be conducted by secret ballot.~~

(10) ~~If there is an omission or error in a declaration of condominium, or other documents required to establish the condominium, which would affect the valid existence of the condominium and which may not be corrected by the amendment procedures in the declaration or this chapter, then the circuit courts have jurisdiction to entertain petitions of one or more of the unit owners therein, or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners and the association must be joined as parties to the action. Service of process on owners may be by publication, but the plaintiff shall furnish all unit owners not personally served with process with copies of the petition and final decree of the court by certified mail, return receipt requested, at their last known residence address. If an action to determine whether the declaration or other condominium documents comply with the mandatory requirements for the formation of a condominium contained in this chapter is not brought within 3 years of the filing of the declaration, the declaration and other documents shall be effective under this chapter to create a condominium, whether or not the documents substantially comply with the mandatory requirements of this chapter. However, both before and after the expiration of this 3-year period, circuit courts have jurisdiction to entertain petitions permitted under this subsection for the correction of the documentation, and other methods of amendment may be utilized to correct the errors or omissions at any time.~~

Section 5. Paragraph (a) of subsection (9) of section 718.111, Florida Statutes, 1982 Supplement, subsections (2), (5), (7), and (12) of said section are amended, and subsections (14), and (15) are added to said section to read:

718.111 The association.—

(2) The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and the units. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common-law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(5) The association has the irrevocable right to access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another unit or units. The association may require that each unit owner maintain a key to the unit with the association for use by the association in an emergency; however, an association requiring keys shall provide a means of protecting the interests of the unit owners against misuse of such keys.

(7)(a) The association shall maintain a copy of each of the following, which shall constitute the official records of the association:

1. The plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4);

2. A photocopy of the recorded declaration of each condominium operated by the association and all amendments thereto;

3. A photocopy of the recorded bylaws of the association and all amendments thereto;

4. A certified copy of the articles of incorporation of the association or other documents creating the association and all amendments thereto;

5. A copy of the current rules of the association;

6. A book or books containing the minutes of all meetings of the association, of the board of directors, and of unit owners, which minutes shall be retained for a period of not less than 7 years;

7. A current roster of all unit owners, their mailing addresses, unit identifications, and, if known, telephone numbers.

8. All current insurance policies of the association and condominiums operated by the associations;

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility;

10. Bills of sale or transfer for all property owned by the association;

11. Accounting records for the association and separate accounting records for each condominium it operates, according to generally accepted accounting principles. Associations operating two or more separate and distinct condominiums, other than those operating pursuant to 718.111(11), shall maintain separate records of surplus, if any. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

(b) The official records of the association shall be maintained in the county in which is located the condominium or a condominium operated by the association.

(c) The official records of the association shall be open to inspection by any association member or the authorized representative of such member at all reasonable times. Failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. ~~The association shall maintain accounting records for each condominium it manages in the county where the condominium is located, according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable times, and written summaries of them shall be supplied at least annually to unit owners or their authorized representatives. Failure to permit inspection of the association's accounting records by unit owners or their authorized representatives~~

~~entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the books and records who, directly or indirectly, knowingly denies access to the books and records for inspection. The records shall include, but are not limited to:~~

~~(a) A record of all receipts and expenditures.~~

~~(b) An account for each unit, designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid upon the account, and the balance due.~~

(9)(a) The association shall use its best efforts to obtain and maintain adequate insurance to protect the association, *the association property*, and the *condominium property required to be insured by the association pursuant to s. 718.111(9)(b) common elements*. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(12) The association has the power to purchase any land or recreation lease upon the approval of *such voting interest as is required by the declaration. If the declaration makes no provision for acquisition of the land or recreation lease, the vote required shall be that required to amend the declaration to permit the acquisition two-thirds of the unit owners of each condominium association, unless a different number or percentage is provided in the declaration or declarations.*

(14) *The association has the power to acquire title to property or otherwise hold property for the use and benefit of its members.*

(15) *The association is not responsible for the interior of an individual unit, including but not limited to interior walls, floors, or ceilings, except for damage that a defective common element causes to such interior.*

Section 6. Section 718.1115, Florida Statutes, is created to read:

718.1115 Master associations.—

(1) It is the intent of the Legislature to recognize and ratify the existence of master condominium associations. The existence of previously existing master associations or joint ventures acting as master associations is hereby validated.

(2) After control of an association has passed to the unit owners, an association may join with one or more other such associations to form a master association. The master association shall be a corporation not for profit organized under chapter 617. The master association may, on behalf of and with the approval of the associations forming the master association, exercise all powers of an association, either jointly or individually.

Section 7. Subsections (1) and (2) of section 718.112, Florida Statutes, 1982 Supplement, are amended to read:

718.112 Bylaws.—

(1) ~~The operation administration of the association and the operation of the condominium property shall be governed by the bylaws of the association, which shall be set forth in or included as a recorded exhibit to the declaration of each condominium operated by the association. No modification or amendment to the bylaws is valid unless recorded, with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded. The bylaws shall be amended in accordance with the procedure and vote set forth in the bylaws or articles of incorporation. If the articles and bylaws do not provide a procedure, the vote required shall be that required to amend the declaration of condominium set forth in or annexed to a recorded amendment to the declaration. The method of amending bylaws shall be governed by separate provisions for amending bylaws and not by the method for amending the declaration.~~

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

(a) The form of administration of the association shall be described, indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of condominiums having five or fewer units, in which case *in not for*

profit corporations the board shall consist of not less than three members, and in profit corporations, such number as is established by the bylaws one owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration.

(b)1. Unless otherwise provided in the bylaws, the percentage of ~~unit owners or~~ voting rights required to make decisions and to constitute a quorum shall be a majority of the *voting interests units*, and decisions shall be made by owners of a majority of the *voting interests units* represented at a meeting at which a quorum is present. Unit owners may vote by proxy.

2. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

(c) Meetings of the board of administration shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

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

~~(e) The minutes of all meetings of unit owners and the board of administration shall be kept in a book available for inspection by unit owners, or their authorized representatives, and board members at any reasonable time. The association shall retain these minutes for a period of not less than 7 years.~~

(e)(f) The board of administration shall mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws or declaration provides that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place of the meeting of the board of administration which will consider the budget. The meeting shall be open to the unit owners. If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the *voting interests unit owners* to the board, shall call a special meeting of the unit owners within 30 days, upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget shall require a vote of not less than a majority vote of all *the voting interests unit owners*. The board of

administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests unit owners in writing, the budget shall be adopted. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property shall be excluded from the computation. However, as long as the developer is in control of the board of administration, the board shall not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests unit owners.

(f)(g) Subject to the provisions of s. 718.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests unit owners. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the voting interest unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

(g)(h) The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units unit owners not less frequently than quarterly, in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(h)(i) The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two-thirds of the voting interests units. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw . . . for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

(i)(j) If the transfer, lease, sale, or sublease of a unit by its owner is subject to approval of the association or any body thereof, a preset fee of up to \$50 may be charged by the association in connection with any such transfer, sale, lease, sublease, or approval to cover the expenditures and services of the association in regard thereto.

(j)(k) The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in s. 718.504(20). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. This subsection shall not apply to budgets in which the level of assessments has been guaranteed pursuant to s. 718.116(8) prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

(k)(l) The fidelity bonding of all officers or directors of any association existing on or after October 1, 1978, who control or disburse funds of the association, in the principal sum of not less than \$10,000 for each such officer or director. The association shall bear the cost of bonding. This paragraph shall not apply to any association operating a condominium consisting of 50 units or less; however, any condominium association may bond any officer of the association, and the association shall bear the cost of bonding.

(l)(m) There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the condominium among unit owners, associations, and their agents and assigns.

Section 8. Subsection (4) is added to section 718.115, Florida Statutes, to read:

718.115 Common expenses and common surplus.—

(4) If the declaration so provides, a unit may be assessed individually for expenses pursuant to the declaration which shall include but not be limited to:

(a) Any expense occasioned by the wrongful or negligent conduct of an owner or occupant of that unit or any licensee or invitee thereof, including but not limited to damages to the common elements or association property.

(b) A fine levied pursuant to s. 718.303(3).

(c) Any expense of the association or its authorized agent, other than a common expense, for the performance of services to a unit or otherwise for a unit owner individually, at the written request of such owner.

Section 9. Section 718.116, Florida Statutes, is amended to read:

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

(1)(a) A unit owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the unit owner. Except as provided for in subsection (6) in a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of transfer of title the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

(b) With respect to each time-share unit, each owner of a time-share estate therein shall be jointly and severally liable for the payment of all assessments and other charges levied pursuant to the declaration or bylaws against or with respect to that unit, except to the extent that the declaration or bylaws may provide to the contrary.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments on them not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, then interest shall accrue at the highest rate permitted by law for consumer loans to individuals legal rate.

(4)(a) The association has a lien on each condominium parcel for any unpaid assessments with interest and, if the declaration so allows, for reasonable attorney's fees incurred by the association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the condominium parcel is located, stating the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. The lien is in effect until all sums secured by it have been fully paid or until barred by chapter 95. The claim of lien shall recite includes only assessments which are due when the claim is recorded; however such claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which may accrue subsequent to the recording of the claim of lien, and prior to entry of a final judgment of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice in substantially the following form, a unit owner or his agent or attorney may require the association to enforce a recorded claim of lien against his condominium parcel:

NOTICE OF CONTEST OF LIEN

TO: . . . (Name and address of association) . . .
 You are notified that the undersigned contests the claim of lien filed by you on . . . 19 . . . , and recorded in Official Records Book . . . at Page . . . , of the public records of . . . County, Florida, and that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice.

Executed this . . . day of . . . , 19 . . .

Signed: . . . (Owner or Attorney) . . .

(b) The clerk of the circuit court shall mail a copy of the recorded notice of contest to the lien claimant at the address shown in the claim of lien or most recent amendment to it, shall certify to the service on the face of the notice, and shall record the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien, and if the action is not filed within the 90-day period, the lien is void.

(5)(a) The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

(b) No foreclosure judgment may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the unit owner. If, after diligent search and inquiry, the association cannot find the unit owner or a mailing address *within the United States* at which the unit owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. *If at the time the notice is given, the unit owner is a resident of or is located in a country other than the United States, and if the unit owner is not then occupying the unit, the notice may be sent by registered mail, return receipt requested, and upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law.* The notice requirements of this subsection are satisfied if the unit owner records a Notice of Contest of Lien as provided in subsection (4). *The notice requirements of this subsection shall not apply if an action to foreclose a mortgage on the condominium unit is pending before any court, if the condominium association's rights would be affected by such foreclosure, and if actual, constructive, or substitute service of process has been made on the unit owner.*

(c) If the unit owner remains in possession of the unit and the claim of lien is foreclosed, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, and the association is entitled to the appointment of a receiver to collect the rent.

(d) The association, unless prohibited by the declaration, the documents creating the association, or its bylaws, has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

(6) When the mortgagee of a first mortgage of record, or other purchaser, of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or, if the declaration so provides, as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of common expenses or assessments by the association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of common expenses or assessments are common expenses collectible from all of the unit owners, including such acquirer and his successors and assigns. If the declaration so provides, the foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

~~(7) Any unit owner has the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which he has a lien.~~

(7)(a)(~~8~~) No unit owner may be excused from the payment of his share of the common expense of a condominium unless all unit owners are likewise proportionately excused from payment, except as provided in subsection (6) and in the following cases:

1.(~~a~~) If the declaration so provides, a developer or other person owning condominium units offered for sale may be excused from the payment of the share of the common expenses and assessments related to those units for a stated period of time subsequent to the recording of the declaration of condominium. The period must terminate no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

2.(b) A developer or other person owning condominium units or having an obligation to pay condominium expenses may be excused from the payment of his share of the common expense which would have been assessed against those units during the period of time that he shall have guaranteed to each purchaser in the purchase contract, declaration, or prospectus, or by agreement between the developer and a majority of the unit owners other than the developer, that the assessment for common expenses of the condominium imposed upon the unit owners would not increase over a stated dollar amount and shall have obligated himself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

(b) *If the purchase contract, declaration, prospectus, or agreement between the developer and a majority of unit owners other than the developer provides for the developer or another person to be excused from the payment of assessments pursuant to paragraph (a), no funds receivable from unit purchasers or owners by the developer or the association, other than regular periodic assessments for common expenses as provided in the declaration and disclosed in the estimated operating budget pursuant to s. 718.503(2)(f) or s. 718.504(20)(b), shall be used for payment of common expenses prior to the assumption of control of the association's finances by unit owners other than the developer, pursuant to s. 718.301, except for initial start-up expenses of the association, including but not limited to utility deposits and advanced insurance premiums. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from unit purchasers at closing.*

Section 10. Subsection (25) is added to section 718.504, Florida Statutes, to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(25) *The legal description and identification of the significant terms of any existing easement affecting the unit owners or condominium property or any easement to the developer for such purposes as marketing or construction and a statement describing the intent of any contemplated easements to be created.*

Section 11. Section 718.203, Florida Statutes, is amended to read:

718.203 Warranties.—

(1) The developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended as follows:

~~(a) As to each unit, a warranty for 3 years commencing with the completion of the building containing the unit.~~

(a)(~~b~~) As to the personal property that is transferred with, or appurtenant to, each unit, a warranty which is for the same period as that provided by the manufacturer of the personal property, commencing with the date of closing of the purchase or the date of possession of the unit, whichever is earlier.

~~(e) As to all other improvements for the use of unit owners, a 3 year warranty commencing with the date of completion of the improvements.~~

(b)(d) As to all other personal property for the use of unit owners, a warranty which shall be the same as that provided by the manufacturer of the personal property.

(c)(e) As to the roof and structural components of a building, ~~and~~ other improvements ~~to real property~~ and as to mechanical, electrical, and plumbing elements serving improvements, ~~or a building, except mechanical elements serving only one or more units unit,~~ a warranty for a period beginning with the completion of construction of each building or improvement and continuing for 3 years thereafter or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

~~(f) As to all other property which is conveyed with a unit, a warranty to the initial purchaser of each unit for a period of 1 year from the date of closing of the purchase or the date of possession, whichever occurs first.~~

(2) The contractor and all subcontractors and suppliers grant to the developer and to the purchaser of each unit implied warranties of fitness as to the work performed or materials supplied by them ~~for the same periods as the warranties provided by the developer to purchasers pursuant to subsection (1). as follows:~~

~~(a) For a period of 3 years from the date of completion of construction of a building or improvement, a warranty as to the roof and structural components of the building or improvement and mechanical and plumbing elements serving a building or an improvement, except mechanical elements serving only one unit.~~

~~(b) For a period of 1 year after completion of all construction, a warranty as to all other improvements and materials.~~

(3) "Completion of a building or improvement" means, ~~for new construction,~~ issuance of a certificate of occupancy for the entire building or improvement, or the equivalent authorization issued by the governmental body having jurisdiction, and in jurisdictions where no certificate of occupancy or equivalent authorization is issued ~~for the building or improvement,~~ it means substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

(4) These warranties are conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(5) The warranties provided by this section shall inure to the benefit of each owner and his successor owners and to the benefit of the developer.

(6) Nothing in this section affects a condominium as to which rights are established by contracts for sale of 10 percent or more of the units in the condominium by the developer to prospective unit owners prior to July 1, 1974, or as to condominium buildings on which construction has been commenced prior to July 1, 1974.

(7) Residential condominiums may be covered by an insured warranty program underwritten by a licensed insurance company registered in this state. ~~, provided that such warranty program meets the minimum requirements of this chapter;~~ To the degree that such warranty program does not meet the minimum requirements of this chapter, ~~the developer, contractor, subcontractors, and suppliers shall be liable as provided in this section such requirements shall apply.~~

(8) ~~The warranties provided by this section shall not operate to exclude any warranties implied at common law or expressly provided by the developer, contractor, subcontractors, or suppliers, but are intended to be coexistent with any such warranties.~~

Section 12. Subsection (4) of section 718.301, Florida Statutes, is amended, and subsection (5) is added to said section to read:

(Substantial rewording of subsection. See s. 718.301(4), F.S., for present text.)

718.301 Transfer of association control.—

(4) Following the first closing on a contract for sale or executing a lease for a period of more than 5 years, of any unit in the condominium

building pursuant to s. 718.104(4)(e) or phase pursuant to s. 718.403, the developer shall, at the expense of the developer, provide to the association operating the condominium a copy of each of the following:

(a) The as-built architectural, structural, engineering, mechanical, electrical, and plumbing plans and any specifications therefor; or, in the case of a conversion of existing improvements, any such plans regarding remodeling, renovation, or other improvement.

(b) If available, the plans for underground site service, site grading, drainage, and landscaping together with any cable television drawings; or, in the case of a conversion of existing improvements, any such plans or drawings regarding remodeling, renovation, or other improvement.

(c) Such other available plans and information not mentioned in paragraphs (a), (b), or (c) but relevant to future repair or maintenance of the property.

(d) Copies of any certificates of occupancy that have been issued for any part of the property.

(e) Any other permits issued by governmental bodies applicable to any part of the property and either in force or issued within 3 years of the first closing or applicable lease in the condominium, building, or phase, as provided in this section.

(f) Any written warranties of the contractor, subcontractors, suppliers, or manufacturers, that are still effective.

(g) The names and addresses of all contractors, subcontractors, and suppliers involved in the construction, improvement, furnishing, and landscaping of the condominium or property owned by the association.

(h) All records specified in s. 718.111(7) that may be applicable.

(5) *The developer shall relinquish all control of the association, including but not limited to control of its finances, immediately upon election of a majority of the association board of administration by unit owners other than the developer. Prior to or not more than 60 days after that time, the developer shall provide to the association, at the developer's expense, a review of the association's financial records, including financial statements and source documents from the date of incorporation of the association through the date of such election. The review shall be performed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records including the cash disbursements and related paid invoices to determine whether expenditures were for association purposes, and billings, cash receipts, and related records to determine whether the developer was charged and paid the proper amounts of assessments.*

Section 13. Paragraphs (a), (b), (c), and (d) of subsection (1) of section 718.302, Florida Statutes, are amended to read:

718.302 Agreements entered into by the association.—

(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for operation, maintenance, or management of a condominium association or property serving the unit owners of a condominium shall be fair and reasonable, and may be canceled by unit owners other than the developer:

(a) If the association operates only one condominium and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the ~~voting interests units~~ in the condominium, the cancellation shall be by concurrence of the owners of not less than 75 percent of the ~~voting interest units~~ other than the ~~voting interests units~~ owned by the developer. If a grant, reservation, or contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation in lieu of the canceled obligation, at the direction of the owners of not less than a majority of the ~~voting interests units~~ in the condominium other than the ~~voting interests units~~ owned by the developer.

(b) If the association operates more than one condominium and the unit owners other than the developer have not assumed control of the

association, and if unit owners other than the developer own at least 75 percent of the *voting interests units* in a condominium operated by the association, any grant, reservation, or contract for maintenance, management, or operation of buildings containing the units in that condominium or of improvements used only by unit owners of that condominium may be canceled by concurrence of the owners of at least 75 percent of the *voting interests units* in the condominium other than the *voting interests units* owned by the developer. No grant, reservation, or contract for maintenance, management, or operation of recreational areas or any other property serving more than one condominium, and operated by more than one association, may be canceled except pursuant to paragraph (d). If a grant, reservation, or contract is canceled under this provision, the association shall provide for maintenance, management, or operation of the property in a manner consented to by the owners of not less than a majority of the *voting interests units* in the condominium other than the *voting interests units* owned by the developer.

(c) If the association operates more than one condominium and the unit owners other than the developer have assumed control of the association, the cancellation shall be by concurrence of the owners of not less than 75 percent of the total number of *voting interests units* in all condominiums operated by the association other than the *voting interests units* owned by the developer.

(d) If the owners of units in a condominium have the right to use property in common with owners of units in other condominiums and those condominiums are operated by more than one association, no grant, reservation, or contract for maintenance, management, or operation of the property serving more than one condominium may be canceled until unit owners other than the developer have assumed control of all of the associations operating the condominiums that are to be served by the recreational area or other property, after which cancellation may be effected by concurrence of the owners of not less than 75 percent of the total number of *voting interests units* in those condominiums other than *voting interests units* owned by the developer.

Section 14. Subsection (3) is added to section 718.303, Florida Statutes, to read:

718.303 Obligations of owners.—

(3) *If the declaration so provides the association may levy reasonable fines against a unit for failure of the owner of the unit or its licensee or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee.*

Section 15. Subsection (1), paragraphs (a), (b), (c), and (d) of subsection (2), and subsection (6) of section 718.403, Florida Statutes, are amended and subsection (7) is added to said section to read:

718.403 Phase condominiums.—

(1) *Notwithstanding the provisions of s. 718.110, a developer may develop a condominium in phases, if the original declaration of condominium submitting the initial phase to condominium ownership or an amendment to the declaration approved by all of the unit owners and unit mortgagees provides for and describes in detail all anticipated phases; the impact, if any, which the completion of subsequent phases would have upon the initial phase; and the time period, which shall not exceed 7 years from the date of recording the declaration of condominium, within which all phases must be added to the condominium and comply with the requirements of this section or said right to add additional phases shall expire ~~each phase must be completed.~~*

(2) The original declaration of condominium, or an amendment to the declaration approved by all unit owners and unit mortgagees, and the developer, shall describe:

(a) The land which may become part of the condominium and the land on which each phase is to be built. The descriptions shall include metes and bounds or other legal descriptions of the land for each phase, plot plans, and surveys. *Plot plans, attached as an exhibit, must show the approximate location of all existing and proposed buildings and improvements that may ultimately be contained within the condominium. The plot plan may be modified by the developer as to unit or building types to the extent that such changes are described in the declaration. If provided in the declaration, the developer may make nonmaterial changes in the legal description of a phase.*

(b) *The minimum and maximum number and general size of units to be included in each phase. The general size may be expressed in terms of minimum and maximum square feet. In stating the minimum and maximum number of units, the difference between the minimum and maximum numbers shall not be greater than 20 percent of the maximum.*

(c) *Each unit's percentage ownership in the common elements as each phase is added. In lieu of specific percentages, a formula for reallocating each unit's proportion or percentage of ownership in the common elements and manner of sharing common expenses and owning common surplus as additional units are added to the condominium by the addition of any land may be described. The basis for allocating percentage ownership of units in phases added shall be consistent with the basis for allocation made among the units originally in the condominium.*

(d) *The recreation areas and facilities which will to be owned as common elements by all unit owners and all personal property to be provided as each phase is added to the condominium. and A description of those facilities or areas which may not be built or provided if any phase or phases are not developed and added as a part of the condominium. The developer may reserve the right to add additional common element recreational facilities if the original declaration contains a description of each type of facility and its proposed location. The declaration shall set forth the circumstances under which such facilities will be added.*

(4) If one or more phases are not built, the units which are built are entitled to 100 percent ownership of all common elements within the phases actually developed and added as a part of the condominium.

(6) *Notwithstanding other provisions of this chapter, any amendments by the developer adding any land to the condominium shall be consistent with the provisions of the declaration granting such right and shall contain or provide for the following matters:*

(a) *A statement submitting the additional land to condominium ownership as an addition to the condominium.*

(b) *The legal description of the land being added to the condominium.*

(c) *An identification of each unit within the land added to the condominium by letter, name of number, or a combination thereof, so that no unit in the condominium including the additional land will bear the same designation as any other unit.*

(d) *A survey of the additional land and graphic description of the improvements in which any units are located and a plot plan thereof, and a certificate of surveyor, in conformance with s. 718.104(4)(e).*

(e) *The undivided share in the common elements appurtenant to each unit in the condominium stated as percentages or fractions which, in the aggregate, must equal the whole and must be determined in conformance with the manner of allocation set forth in the original declaration of condominium.*

(f) *The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common elements.*

(g) ~~Notwithstanding the provisions of s. 718.110, Amendments adding phases to a condominium shall not require the execution of such amendments or consents thereto by unit owners other than the developer, unless the amendment permits the creation of time-share estates in any unit of the additional phase of the condominium and such creation is not authorized by the original declaration.~~

(7) *An amendment to the declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons having record title to the interest in the land submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All such amendments shall comply with the provisions of s. 718.104(3).*

Section 16. Paragraph (b) of subsection (4) and subsection (14) of section 718.504, Florida Statutes, are amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it

with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units *if the condominium is not a phase condominium. If the condominium is a phase condominium, the maximum number of buildings that may be contained within the condominium, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium.*

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(14) If the condominium is part of a phase project, *the following shall be stated: there shall be a statement to that effect and a complete description of the phasing.*

(a) *A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.*

(b) *A summary of the provisions of the declaration providing for the phasing.*

(c) *A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium, and if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.*

(d) *A statement of the maximum number of buildings containing 11.3 units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units, that may be contained within each parcel of land which may be added to the condominium.*

Section 17. Paragraph (c) of subsection (1) of section 718.612, Florida Statutes, is amended to read:

718.612 Right of first refusal.—

(1) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, the developer offers the unit at a price lower than that offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period

of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, "offer" includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list *but shall not include a transaction involving the sale of more than one unit to one purchaser.*

Section 18. Subsection (3) of section 718.616, Florida Statutes, is amended to read:

718.616 Disclosure of condition of building and estimated replacement costs.—

(3)(a) Disclosure of condition shall be made for each of the following components that the existing improvements may include:

1. Roof.
2. Structure.
3. Fireproofing and fire protection systems.
- 4.2. Elevators.
- 5.2. Heating and cooling systems.
- 6.4. Plumbing.
- 7.5. Electrical systems.
- 8.6. Swimming pool.
- 9.7. Seawalls.
- 10.8. Pavement and parking areas.
- 11.9. Drainage systems.

(b) For each component, the following information shall be disclosed and substantiated by attaching a copy of a certificate under seal of an architect or engineer authorized to practice in this state:

1. The age of the component.
2. The estimated remaining useful life of the component.
3. The estimated current replacement cost of the component, expressed:
 - a. As a total amount; and
 - b. As a per unit amount, based upon each unit's proportional share of the common expenses.
4. The structural and functional soundness of the component.
5. The compliance of the component with any applicable building codes.

Section 19. Paragraph (a) of subsection (1), and subsections (4) and (7) of section 718.618, Florida Statutes, are amended to read:

718.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than 72 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 18 and the denominator of which shall be 20. In addition, when such air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 19 cents for each square foot of floor space served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 18 and the denominator of which shall be 20.

2. ~~When water is supplied to the existing improvements through galvanized plumbing,~~ The developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 63 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 18 and the denominator of which shall be 20.

3. Each developer converting existing improvements to ownership as a residential condominium shall fund a roof reserve account. The amount of the funding shall be not less than the unit amount for each square foot of roof, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or 18 and the denominator of which shall be 20. The unit amount shall be determined based on the roof type, as follows:

Roof Type	Unit Amount
a. Built-up roof without insulation	\$.100
b. Built-up roof with insulation	1.85
c. Cement tile roof	2.00
d. Asphalt shingle roof	1.00
e. Copper roof	0.00
f. All other types	1.00

(4) The developer shall establish the reserve account in the name of the association at a bank, *savings and loan association*, or trust company located in this state.

(7) A developer makes no implied warranties when existing improvements are converted to ownership as a residential condominium and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fire proofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements, except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to condominium and continuing for 3 years thereafter, or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

Section 20. Section 718.304, Florida Statutes, is hereby repealed.

Section 21. This act shall take effect October 1, 1983.

Amendment 4—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to condominiums; amending ss. 718.103(8), (11), 718.106(2), 718.110(5), (7), (9), 718.116, 718.203, 718.301(4), 718.302(1)(a)-(d), 718.403(1), (2)(a)-(d), (6), and adding subsection (7) to said section, 718.504(4)(b), (14), 718.616(3), 718.618(1)(a), (4), (7), Florida Statutes; amending ss. 718.104(4)(k), (l), 718.111(2), (5), (7), (9), (12), 718.112(1), (2), Florida Statutes, 1982 Supplement, adding ss. 718.103(22), 718.110(10), 718.115(4), 718.301(5), 718.303(3), 718.504(25), Florida Statutes; adding ss. 718.104(4)(o), 718.111(14), (15), Florida Statutes, 1982 Supplement; creating s. 718.115, Florida Statutes; providing for creation and powers of master associations; limiting the responsibility of a condominium association for damage to the interior of an individual unit; repealing s. 718.304, Florida Statutes, relating to the association's right to amend the declaration of condominium; providing definitions; amending the provisions required to be in the declaration of condominium; adding membership in the condominium association to the appurtenances to a unit; amending the procedures for amending the declaration of condominium; amending the powers and duties of the condominium association, including the requirements for the official records; amending requirements relating to the bylaws of the condominium association; providing for assessments on individual units to pay certain expenses or fines; providing for a grantee's responsibility for a grantor's unpaid assessments for common expenses; revising provisions relating to a condominium association's lien for assessments, including provisions on maximum interest rates, on the date from which the lien accrues, on notice requirements, and for a certificate showing the amount of unpaid assessments; providing that, if anyone is

excused from paying assessments, certain funds collected by the developer shall not be used to pay common expenses until unit owners control association finances; requiring a prospectus or offering circular to contain certain information; amending warranty provisions; revising the list of items that a developer is to provide to the condominium association before any unit is sold or is leased for more than 5 years; providing for transfer of control from the developer to the association and for a review of financial records upon such transfer; substituting percentages of "voting interests" for "units" in certain voting requirements for the association to enter into certain agreements; providing for the association to levy a fine against a unit for failure of the unit owner, his licensee or invitee to comply with certain regulations; revising certain requirements for phase condominiums; amending disclosure requirements for condition of building and estimated replacement costs; requiring the developer to fund certain reserve accounts; requiring additional warranties; amending s. 718.612(1)(c), Florida Statutes; excluding bulk sales from right of first refusal; providing an effective date.

On motion by Senator Margolis, by two-thirds vote SB 463 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	Gersten	Jennings	Meek
Barron	Girardeau	Johnston	Myers
Beard	Gordon	Kirkpatrick	Rehm
Carlucci	Grant	Langley	Scott
Castor	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Mann	Thomas
Crawford	Henderson	Margolis	Thurman
Fox	Hill	Maxwell	Vogt
Frank	Jenne	McPherson	Weinstein

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives refused to recede from House Amendment 1 to SB 1195 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Morgan, Pajcic, Bell, Thompson, Kutun, Easley, Gordon, Burnsed, Lippman, Gardner, Gallagher; alternates Gustafson, Carpenter, Burrall, Ward, Martinez, Mills and Davis as the Conferees on the part of the House.

Allen Morris, Clerk

Conference Committee on SB 1195

The President announced the appointment of the following conferees on SB 1195: Senator Johnston, chairman; Senator Thomas, vice chairman; Senators Neal, Scott, Maxwell, Kirkpatrick, Vogt and Margolis; alternates: Senators Gordon, Grant, Beard and Crawford.

On motion by Senator Thomas, by unanimous consent—

CS for SB 1065—A bill to be entitled An act relating to insurance; amending s. 20.13(2), Florida Statutes; creating the Division of Rehabilitation and Liquidation of the Department of Insurance; amending s. 624.155(2), Florida Statutes, 1982 Supplement; providing for notice in advance of civil action; adding s. 624.404(8), Florida Statutes, 1982 Supplement; prohibiting authorization of certain insurers; amending s. 624.424(1), Florida Statutes, 1982 Supplement; providing for annual statement; amending s. 624.425(3), (5), Florida Statutes, 1982 Supplement; providing for power of attorney; providing exception; amending s. 624.428(3), Florida Statutes, 1982 Supplement; providing exception to the licensed agent law; amending s. 624.501, Florida Statutes, 1982 Supplement; providing fees; amending s. 626.731(1)(b), Florida Statutes, 1982 Supplement; providing qualifications for licensure as a general lines agent; amending s. 627.331(4), Florida Statutes, 1982 Supplement; requiring filing of underwriting rules and rates; amending s. 627.4145(1), (6), Florida Statutes, 1982 Supplement; providing for readable language in policies; amending s. 627.461, Florida Statutes, 1982 Supplement; deleting reference to interest; creating s. 627.4615, Florida Statutes; specifying interest payable on death claims; amending s. 627.7264(1), Florida

Statutes, 1982 Supplement; requiring disclosure of certain information; amending s. 627.848(1), Florida Statutes, 1982 Supplement; providing for mailing of notice of cancellation; repealing s. 627.743, Florida Statutes, as created by chapter 82-243, Laws of Florida, relating to payment of third-party claims; amending s. 627.914(5), Florida Statutes, 1982 Supplement; providing for reports by workers' compensation insurers; amending s. 634.121(2), Florida Statutes, 1982 Supplement; providing for the filing of forms; amending s. 634.1216, Florida Statutes, 1982 Supplement; providing for rating filings, providing an effective date.

—was taken up out of order and read the second time by title.

Senator Thomas moved the following amendments which were adopted:

Amendment 1—On page 16, line 5, strike “subsection (2) and” and insert: ~~subsection (2) and~~

Amendment 2—On page 17, between lines 25 and 26 insert: Section 19. Subsection (7) of Section 626.989, Florida Statutes, is hereby repealed.

(Renumber subsequent sections.)

Amendment 3—On page 14, line 17, strike “1982” and insert: 1983

Amendment 4—On page 17, between lines 26-27 insert: Section 19. Subsection (11) of section 625.012, 1982 Supplement, is amended to read:

625.012 “Assets” defined.—In any determination of the financial condition of an insurer, there shall be allowed as “assets” only such “assets” as are owned by the insurer and which consist of:

(11) Electronic and mechanical machines, including computer operating software equipment constituting a data processing and accounting system, if the cost of such system is at least \$25,000, which cost shall be amortized in full over a period not to exceed 7 calendar years.

(Renumber subsequent section.)

Amendment 5—In title, on page 2, line 14, after the semicolon insert: amending s. 625.012(11), Florida Statutes, 1982 Supplement; providing for the inclusion of computer operating software equipment;

Amendment 6—On page 17, between lines 26 and 27, insert:

Section 19. Section 624.604, Florida Statutes, 1982 Supplement, is amended to read:

624.604 “Property insurance” defined.—“Property insurance” is insurance on real or personal property of every kind and of every interest therein, whether on land, water, or in the air, against loss or damage from any and all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual legal liability for any such loss or damage. “Property insurance” may contain a provision for accidental death, or injury, as part of the multiple peril homeowners policy. Such insurance, which is incidental to the property insurance shall not be subject to provisions of this code applicable to life or health insurance. Property insurance does not include title insurance as defined in s. 624.608.

(Renumber subsequent sections.)

Amendment 7—In title, on page 2, line 14, after the semicolon (;) insert: amending s. 624.604, Florida Statutes, 1982 Supplement; providing a new definition for “property insurance”;

Amendment 8—On page 17, line 25, after the period (.) insert: For each insurer and motor vehicle service agreement company which offers the motor vehicle purchaser a service agreement at no cost or at an

amount less than the rate filed with the department, such insurer or motor vehicle service association shall establish an unearned premium reserve as required by s. 634.041 for such service agreement using the rate filed with the department.

Amendment 9—In title, on page 2, line 14, after the semicolon insert: providing an unearned premium reserve account;

Amendment 10—On page 15, strike lines 27-29 and insert: Section 15. Section 627.743, Florida Statutes, as created by chapter 82-243, Laws of Florida, is amended to read:

627.743 Payment of third-party claims.—

Prior to making any payment on a claim for damage to an automobile for a total loss regardless of amount, ~~or for an amount in excess of \$2,000,~~ which automobile is owned by a person who is not named as an insured in the policy under which payment is made, the insurer shall first cause a search of the records of the Department of Highway Safety and Motor Vehicles to be made in order to determine whether the damaged vehicle is subject to any liens. If the search discloses the existence of any liens, payment of the claim shall be made jointly to the owner of the damaged vehicle and the first lienholder of record. The insurer shall not be subject to the requirements of this section if the owner of the damaged vehicle presents to the insurer a title certificate for such vehicle.

Amendment 11—In title, on page 2, line 5, strike “repealing” and insert: amending

Senator Henderson moved the following amendment which failed:

Amendment 12—On page 5, line 24, before the period insert: prior to October 1, 1983

On motion by Senator Thomas, by two-thirds vote CS for SB 1065 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Jenne	Myers
Barron	Gersten	Jennings	Rehm
Beard	Girardeau	Kirkpatrick	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Mann	Thurman
Childers, W. D.	Hair	Margolis	Vogt
Crawford	Henderson	McPherson	Weinstein
Fox	Hill	Meek	

Nays—None

On motion by Senator Barron, the House was requested to return HB 1012.

ENROLLING REPORTS

Senate Bills 511 and 671 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 27, 1983.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 26 was corrected and approved as follows:

Page 409, column 2, from bottom, line 26, strike “124” and insert: 164

CO-INTRODUCERS

Senator Margolis—SB 763; Senator Scott—Senate Bills 435 and 650
Senator Henderson withdrew as co-introducer of SB 763

On motion by Senator Barron, the Senate adjourned at 12:38 p.m. to reconvene at 2:00 p.m., Monday, May 30.