



Journal of the Senate

Number 29

Thursday, June 2, 1983

BILL ACTION SUMMARY

Thursday, June 2, 1983

- H 32 Passed as amended
H 42 Passed
H 54 Passed
H 56 Passed
H 184 Passed as amended
H 208 Passed
H 213 Passed as amended
H 234 Passed
H 238 Passed
H 249 Passed
H 254 Passed
H 333 Passed
H 343 Passed
H 348 Passed
H 365 Passed
H 387 Refused to recede, requests House to concur
H 408 Passed as amended
H 434 Concurred, passed as amended
H 473 Passed as amended
H 489 Passed as amended
H 599 Passed as amended
H 602 Passed as amended
H 624 Passed
H 680 Passed as amended
H 758 Passed
H 769 Passed as amended
H 822 Passed
H 825 Passed as amended
H 841 Passed
H 927 Passed
H 985 Passed
H 1039 Passed
H 1046 Passed as amended
H 1060 Passed
H 1069 Passed
H 1074 Passed
H 1075 Passed as amended
H 1106 Passed
H 1109 Passed
H 1149 Passed
H 1153 Passed
H 1161 Passed
H 1164 Passed as amended
H 1169 Passed as amended
H 1171 Passed
H 1176 Passed
H 1198 Passed
H 1228 Passed
H 1237 Passed
H 1239 Amendments adopted
H 1262 Passed
H 1277 Passed as amended
H 1284 Passed
H 1290 Passed
H 1302 Amendments adopted
H 1305 Passed as amended
H 1307 Passed
H 1317 Passed
S 98 Passed as amended
S 107 Concurred, C/S passed as amended
S 110 C/S passed
S 113 Passed as amended
S 118 C/S passed
S 119 C/S passed
S 256 Passed as amended
S 304 Passed as amended
S 313 Concurred, C/S passed as amended
S 343 Passed
S 359 Concurred, passed as amended
S 362 Amendment pending
S 398 Passed as amended
S 513 Passed as amended
S 514 Passed as amended
S 568 Passed as amended
S 589 Failed to pass
S 594 C/S passed
S 626 C/S passed
S 648 Passed as amended
S 656 Passed as amended
S 765 Passed
S 810 C/S passed as amended
S 815 C/S passed as amended
S 952 Passed as amended
S 964 C/S passed as amended
S 979 Adopted
S 1002 C/S passed
S 1029 Passed as amended
S 1049 C/S passed as amended
S 1050 Passed as amended
S 1149 Passed as amended
S 1208 Adopted

and passed the following local bills: House Bills 819, 820, 1048, 682, 832, 968, 1126, 1010, 396, 683, 931, 516, 574, 448, 1027, 1097, 741, 782 and 708.

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

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

Excused periodically: Senators Mann, Neal, Langley, Kirkpatrick and Grizzle, conferees on CS for HB 1129; Senators Gordon, Barron, Grant, Maxwell, Vogt and Hair, conferees on CS for SB 357; Senators Johnston, Thomas, Kirkpatrick, Margolis, Maxwell, Neal, Scott, Vogt, Beard, Crawford, Gordon and Grant, conferees and alternates on SB 1195.

Prayer by the Rev. Ron Meyer, Pastor, St. Andrew Baptist Church, Panama City:

Heavenly Father, great God, our creator, I praise you for your gift of life, real life and abundant life, and I thank you, Lord, that we can enjoy so much of that life in this great State of Florida. Thank you for the men and women of this Senate. Father, bless them today with an awareness of their importance to those of us who live in this state. I thank you for the good they do and I ask you to give them uniquely your gift of wisdom today. Bless their families. Bless those thousands that they represent. And, Lord, we ask you in the name of our saviour, please God, bless America. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, June 2, 1983: HB 819, HB 820, HB 1048, HB 682, HB 832, HB 968, HB 1126, HB 1010, HB 396, HB 683, HB 931, HB 516, HB 574, HB 448, HB 1027, HB 1097, HB 741, HB 782

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Consent Calendar for Thursday, June 2, 1983: HB 825, CS for SB 317, SB 113, SB 514, SB 98, SB 1029, SB 925, SB 568, SB 1110, SB 770, CS for SB 383, CS for SB 810, HB 333, CS for SB 453, SB 868, SB 398, SB 1127, CS for SB 414, SB 765, CS for SB 718, SB 543, CS for SB 626, CS for SB 298, SB 513, CS for SB 815, SB 973, SB 304, CS for SB's 594 and 389, SB 690, CS for SB 1049, SB 648, CS for SB 823, SB 656, CS for SB 483, SB 593, HB 1307, CS for SB 476

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 Thursday June 2, 1983: CS for SB 362, CS for SB 365, CS for SB 367, CS for SB 964, CS for SB 661, SB 14, SB 1029, SB 642, CS for SB 164, CS for SB 35, CS for SB 1094, SB 1072, SB 949, CS for SB 28, CS for SB 293, HB 1149, SJR 118, SB 119. CS for SB 20, SB 159, SB 807, CS for SB 829, CS for SB 206, CS for SB 860. SB 1130, SB 450, CS for SB 145, CS for CS for SB 110, SB 684, CS for SB 539, SB 1095, CS for SB's 609 and 769, CS for SB 718, HB 1093, SB 283, SB 288, SB 656, SB 952, CS for HB 97, SB 857, SB 85, HB 180, CS for SB 218, CS for SB 492, CS for SB 777, CS for SB 971, CS for HB 54, CS for CS for SB 132, CS for SB 736, CS for SB 130, CS for SB 1002

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Commerce recommends the following pass: HB 1277 with 15 amendments

The Committee on Finance, Taxation and Claims recommends the following pass: SB 763

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

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 1034

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

The Committee on Rules and Calendar recommends committee substitutes for the following: SJR 118, SB 119

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

REQUESTS FOR EXTENSION OF TIME

June 2, 1983

The Committee on Corrections, Probation and Parole requests an extension of 15 days for consideration of the following: SB 247, SB 421, SB 751, SB 1047, SB 1078, HB 651, HB 1140

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Rules and Calendar and Senator Fox—

CS for SJR 118—A joint resolution proposing an amendment to Section 8, Article V of the State Constitution, relating to eligibility for office of justice or judge.

By the Committee on Rules and Calendar and Senator Fox—

CS for SB 119—A bill to be entitled An act relating to a special election for the approval or rejection by the electors of a joint resolution relating to eligibility for the office of justice or judge; providing for publication of notice and for procedures; providing an effective date.

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

CS for SB 1034—A bill to be entitled An act relating to alcohol, drug abuse, and mental health services; amending ss. 394.65 and 394.66, Florida Statutes, changing the short title and intent to expand the scope of "The Community Mental Health Act" to include alcohol and drug abuse services; amending s. 394.67, Florida Statutes, 1982 Supplement, conforming definitions to the act; creating s. 394.675, Florida Statutes; establishing a comprehensive alcohol, drug abuse, and mental health services system; providing component types of services and the funding for such services; amending s. 394.71, Florida Statutes, transferring certain duties of mental health boards to the district administrators of the Department of Health and Rehabilitative Services; creating s. 394.715, Florida Statutes, creating alcohol, drug abuse, and mental health planning councils in each service district; amending s. 394.73, Florida Statutes, conforming to the act provisions relating to joint service programs in two or more counties; amending s. 394.74, Florida Statutes, 1982 Supplement, conforming to the act provisions relating to contracts for services; amending s. 394.75, Florida Statutes, 1982 Supplement; expanding provisions relating to preparation of a mental health plan to conform to the act; specifying the content of the combined district alcohol, drug abuse, and mental health plan; amending s. 394.76, Florida Statutes, 1982 Supplement, deleting certain funding provisions to conform to the act; providing procedure for collection in the event of audit liabilities or overpayments with respect to a contractor; authorizing certain local appropriations and restricting their use; amending s. 394.77, Florida Statutes, 1982 Supplement, including drug abuse services within the uniform management information system and fiscal accounting system of the department; amending s. 394.78, Florida Statutes, requiring the department to establish a standardized auditing procedure for service providers; amending s. 394.79, Florida Statutes, requiring preparation of a biennial state plan; repealing ss. 394.69, 394.70, and 394.72, Florida Statutes, abolishing mental health boards and staffing provisions; repealing s. 394.81, Florida Statutes, deleting certain funding provisions; amending ss. 381.494(7)(b), 394.453(1), 394.457(3), 394.461(1), and 916.11(2), Florida Statutes, 1982 Supplement, amending ss. 396.072(2) and 394.4573(2), Florida Statutes, and amending s. 394.455(9), Florida Statutes, 1982 Supplement, and repealing subsections (6) and (7) thereof, relating to district mental health boards, to conform to the act; providing an effective date.

Special Guests

The President introduced Secretary of State George Firestone who addressed the Senate and presented the President with a replica of the USS Trident Submarine "Florida" and a crew patch and cap. The submarine will be commissioned June 18 in Groton, Connecticut.

On motion by Senator Hill, by two-thirds vote SR 979 was withdrawn from the Committee on Rules and Calendar.

SR 979—A resolution honoring the Rouse Brothers for their contribution to Florida by composing, recording, and performing "The Orange Blossom Special", a song commemorating the train bearing that name.

—was read the second time in full. On motion by Senator Hill, SR 979 was adopted. The vote on adoption was:

Yeas—35

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

Nays—None

The President appointed Senator Hill to escort Ernest Gordon Rouse to the rostrum. Mr. Rouse and his late brother, Ervin Thomas Rouse, were honored by the Senate for their contributions to the culture and popularity of the state by their musical performances and the composition, recording and performances of their song, "Orange Blossom Special", which was named by ASCAP as the most played song of 1982.

The President presented a copy of SR 979 to Mr. Rouse who addressed the Senate briefly.

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 14 was placed on the special order calendar following CS for SB 661.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 688 was withdrawn from the Committee on Executive Business.

On motions by Senator Johnston, the rules were waived and by two-thirds vote Senate Bills 302, 343, 707 and CS for SB 1010 were withdrawn from the Committee on Appropriations.

On motion by Senator Thomas, the rules were waived and the Committee on Commerce was granted permission to meet immediately upon recess to consider SB 957 and HB 1277.

Senator Crawford presiding

The President presiding

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—

CS for SB 313—A bill to be entitled An act relating to educational facilities; creating s. 235.057, Florida Statutes; authorizing education boards to purchase, own, convey, sell, lease, or encumber air space or any other interests in real property above the surface of the land; specifying conditions for board purchase, sale, lease, and conveyance of air space or other interests in property; providing restrictions on the use of proceeds from such sale or lease; specifying requirements for buildings constructed for nonpublic purposes in sold or leased air space; specifying that educational facilities constructed or leased in joint occupancy facilities are subject to certain rules and requirements; renumbering s. 235.056(2), Florida Statutes, and adding a new subsection (2) to said section; providing for lease and lease-purchase, for educational purposes, of real property owned by a school board; amending s. 235.26(5)(a), Florida Statutes, 1982 Supplement; providing for reusing certain construction documents under certain circumstances; creating s. 230.2301, Florida Statutes, authorizing school boards, to create nonprofit corporations for the purpose of issuing tax-exempt obligations and to enter into lease financing programs for capital construction; authorizing municipalities to enter into lease-purchase agreements for property for public purposes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, lines 14-30 and page 4, lines 1-11, strike all of section 2 and renumber subsequent sections.

Amendment 2—On page 7, lines 4 and 5, strike: and section 2 shall take effect October 1, 1983

Amendment 3—On page 1, in the title, lines 25-30, strike all of said lines and insert: circumstances; authorizing municipalities to

On motions by Senator Plummer the Senate concurred in the House amendments.

CS for SB 313 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Girardeau, Hair

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—

SB 1050—A bill to be entitled An act relating to community redevelopment; amending s. 163.356(2), Florida Statutes; specifying membership of a community redevelopment agency; amending s. 163.357(1), Florida Statutes; authorizing the governing body of a county or municipality which declares itself to be the community redevelopment agency to appoint additional members to the agency in certain circumstances; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 14, after “agency.” insert: *Terms of office of the additional members shall be for 4 years, except that the first person appointed shall initially serve a term of 2 years. Persons appointed under this section shall be subject to all provisions of this part relating to appointed members of a community redevelopment agency.*

Senators Hair, Margolis and Stuart offered the following amendments which were moved by Senator Stuart and adopted:

Amendment 1 to House Amendment 1—On page 1, between lines 6 and 7, insert:

Section 3. Subsections (1), (2) and (9) of section 163.340, Florida Statutes, are amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, shall have the following meanings:

(1) “Agency” or “community redevelopment agency” means a public agency created by, or designated pursuant to, s. 163.356 or s. 163.357.

(2) “Public body” or “taxing authority” means the state or any county, municipality, authority, special district, or any other public body of the state.

(9) “Community redevelopment project” means undertakings and activities of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight and may include slum clearance and redevelopment in a community redevelopment area, rehabilitation or conservation in a community redevelopment area, or any combination or part thereof in accordance with a community redevelopment plan including the preparation of such a plan.

Section 4. Section 163.345, Florida Statutes, is amended to read:

163.345 Encouragement of private enterprise.—

(1) Any county or municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part, shall afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Any county or municipality shall give consideration to this objective in exercising its powers under this part, including the formulation of a workable program, the approval of community redevelopment plans, communitywide plans or programs for community redevelopment, and general neighborhood redevelopment plans (consistent with the general plan of the county or municipality), the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

(2) *In giving consideration to the objectives outlined in subsection (1), the county or municipality shall consider making available the incentives provided under the Florida Enterprise Zone Act of 1982.*

Section 5. Subsections (3), (4), (5) and (6) of section 163.360, Florida Statutes, are amended to read:

163.360 Community redevelopment plans.—

(3) The county, municipality, or community redevelopment agency may itself prepare or cause to be prepared a community redevelopment

plan, or any person or agency, public or private, may submit such a plan to a community redevelopment agency. Prior to its consideration of a community redevelopment plan, the community redevelopment agency shall submit such plan to the local planning agency of the county or municipality for review and recommendations as to its conformity with the comprehensive plan for the development of the county or municipality as a whole. The local planning agency shall submit its written recommendations with respect to the conformity of the proposed community redevelopment plan to the community redevelopment agency within 60 days after receipt of the plan for review. Upon receipt of the recommendations of the local planning agency, or, if no recommendations are received within said 60 days, then without such recommendations, the community redevelopment agency may proceed with its consideration of the proposed community redevelopment plan project.

(4) The community redevelopment agency shall submit any community redevelopment plan it recommends for approval, together with its written recommendations, to the governing body. The governing body shall then proceed with the hearing on the proposed community redevelopment plan project as prescribed by subsection (5).

(5) The governing body shall hold a public hearing on a community redevelopment plan project after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the county or municipality. The notice shall describe the time, date, place, and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and outline the general scope of the community redevelopment plan project under consideration.

(6) Following such hearing, the governing body may approve a community redevelopment project and the plan therefor if it finds that:

(a) A feasible method exists for the location of families who will be displaced from the community redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;

(b) The community redevelopment plan conforms to the general plan of the county or municipality as a whole;

(c) The community redevelopment plan gives due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plans; and

(d) The community redevelopment plan will afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, for the rehabilitation or redevelopment of the community redevelopment area by private enterprise.

Section 6. Subsections (1) and (3) of section 163.361, Florida Statutes, are amended to read:

163.361 Modification of community redevelopment plans.—

(1) If at any time after the approval of a community redevelopment plan by the governing body it becomes necessary or desirable to amend or modify such plan, the governing body may amend such plan upon the recommendation of the agency. The agency recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the redevelopment project area to add land to or exclude land from the redevelopment project area.

(3) If a community redevelopment plan is modified by the county or municipality after the lease or sale of real property in the community redevelopment project area, such modification may be conditioned upon such approval of the owner, lessee, or successor in interest as the county or municipality may deem advisable and, in any event, shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert.

Section 7. Subsections (1), (3), (4), (7) and (8) of section 163.362, Florida Statutes, are amended to read:

163.362 Contents of community redevelopment plan.—Every community redevelopment plan shall:

(1) Contain a legal description of the boundaries of the community redevelopment project area.

(3) If the redevelopment project area contains low or moderate income housing, contain a neighborhood impact element, which describes in detail the impact of the project upon the residents of the project area and the surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population, and other matters affecting the physical and social quality of the neighborhood.

(4) Describe generally the proposed method of financing the redevelopment of the redevelopment project area.

(7) Provide assurances that there will be replacement housing for the relocation of persons temporarily or permanently displaced from housing facilities within the community redevelopment project area.

(8) Provide an element of residential use in the redevelopment project area if such use exists in the area prior to the adoption of the plan.

Section 8. Subsections (1), (2) and (4) of section 163.367, Florida Statutes, are amended to read:

163.367 Public officials, commissioners, and employees subject to code of ethics prohibited from acquiring an interest.—

(1) ~~The officers, commissioners, and employees of a community redevelopment agency created by, or designated pursuant to, s. 163.356 or s. 163.357 shall be subject to the provisions and requirements of part III of chapter 112. No public official or employee of a county or municipality, or board or commission thereof, and no commissioner or employee of a community redevelopment agency which has been vested by any county or municipality with community redevelopment powers under s. 163.356 or s. 163.357, shall voluntarily or involuntarily acquire any personal interest, direct or indirect, in any community redevelopment project, in any property included or planned to be included in any community redevelopment project of such county or municipality, or in any contract or proposed contract in connection with such community redevelopment project.~~

(2) ~~In the event of involuntary acquisition, the interest acquired shall be immediately disclosed in writing to the governing body, and such disclosure shall be entered upon the minutes of the governing body. If any such official, commissioner, or employee presently owns or controls, or owned or controlled within the preceding 2 years, any interest, direct or indirect, in any property which he knows is included or planned to be included in a community redevelopment area project, he shall immediately disclose this fact in the manner provided in part III of chapter 112 in writing to the governing body, and such disclosure shall be entered upon the minutes of the governing body, and any such official, commissioner, or employee shall not participate in any action by the county or municipality, or board or commission thereof, or community redevelopment agency affecting such property. Any disclosure required to be made by this section to the governing body shall concurrently be made prior to taking any official action pursuant to this section to a community redevelopment agency which has been vested with community redevelopment powers by the county or municipality pursuant to the provisions of s. 163.356 or s. 163.357.~~

~~(4) Any violation of the provisions of this section shall constitute misconduct in office.~~

Section 9. Subsections (1) and (4) of section 163.387, Florida Statutes, are amended and subsection (6) is added to said section to read:

163.387 Redevelopment trust fund.—

(1) There shall be established for each community redevelopment agency created under s. 163.356 a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the agency to finance or refinance each community redevelopment project it undertakes. No community redevelopment agency shall exercise any community redevelopment powers under this section unless and until the governing body has, by ordinance, provided for the funding of the redevelopment trust fund for the duration of a community redevelopment project. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of the county or municipality derived from or held in connection with its undertaking and carrying out of community redevelopment projects under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by all taxing authorities except school districts on taxable real property contained within the geographic boundaries of a community redevelopment project; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for all taxing authorities except school districts upon the total of the assessed value of the taxable real property in the community redevelopment project as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund approving the community redevelopment plan.

(4) The revenue bonds and notes of every issue under this part shall be payable solely out of revenues pledged to and received by a community redevelopment agency and deposited to its redevelopment trust fund. The lien created by such bonds or notes shall not attach until the revenues referred to herein are deposited in the redevelopment trust fund at the times, and to the extent that, such revenues accrue. The holders of such bonds or notes shall have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes. ~~The redevelopment trust fund shall receive the tax increment described in this section only as, if, and when such taxes are collected.~~

(6) *Moneys in the redevelopment trust fund may be expended from time to time for the following purposes, when directly related to the financing or refinancing of a community redevelopment project:*

(a) *Administrative and overhead expenses necessary or incidental to the preparation and implementation of a community redevelopment plan adopted by the agency;*

(b) *Expenses of redevelopment planning, surveys, and financial analysis;*

(c) *The acquisition of real property in the redevelopment area;*

(d) *The clearance, and preparation of any redevelopment area for redevelopment and relocation of site occupants as provided in s. 163.370;*

(e) *Repayment of principal and interest for loans, advances, bond anticipation notes, and other forms of indebtedness; and*

(f) *All expenses incidental or connected with the issuance, sale, redemption, retirement, or purchase of agency bonds, bond anticipation notes, or other forms of indebtedness.*

(Renumber subsequent section.)

Amendment 1 to title—On page 1, line 1, after the semicolon (;) insert: amending s. 163.340(1), (2) and (9), Florida Statutes, redefining the terms “agency,” “public body” and “community redevelopment project”; amending s. 163.345, Florida Statutes, providing that consideration be given to use of the Florida Enterprise Zone Act of 1982 and its incentives in community redevelopment areas; amending s. 163.360(3), (4), (5) and (6), Florida Statutes, eliminating reference to community redevelopment project and substituting therefor community redevelopment plan; amending s. 163.361(1) and (3), Florida Statutes, relating to modification of community redevelopment plans; amending s. 163.362(1), (3), (4), (7) and (8), Florida Statutes, providing that community redevelopment plans apply to redevelopment areas rather than to project areas; amending s. 163.367(1), (2) and (4), Florida Statutes, providing that officers, commissioners and employees of community redevelopment agencies are subject to the provisions of the law governing the code of ethics for public officers and employees; amending s. 163.387(1), (4), Florida Statutes, and adding subsection (6) thereto; prescribing method for determining the tax increment; deleting provisions that the trust fund received the tax increment only as, if, and when such taxes are collected; providing for the uses of funds in community redevelopment trust funds;

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

SB 1050 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Hair

The Honorable Curtis Peterson, President

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

CS for SB 107—A bill to be entitled An act relating to other-personal-services employment; amending s. 216.011(1)(o), Florida Statutes; modifying the definition of “other personal services”; providing definitions; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing for exceptions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 15, strike everything after the enactment clause and insert:

Section 1. Section 110.131, Florida Statutes, is created to read:

110.131 Other-personal-services temporary employment.—

(1) *As used in this section, “agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.*

(2) *No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual's other-personal-services employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this subsection shall not apply to board members or consultants.*

(3) *The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in subsection (2); and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.*

(4) *The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy*

thereof at the time of application and shall discuss the information contained thereon with each applicant at the time of interview or employment commencement, whichever occurs sooner.

(5) The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than October 15 of each year, beginning in 1984. The report shall include, but not be limited to, the following data for each agency by budget entity with an agency summary for the preceding fiscal year:

(a) The number of individuals, and full-time equivalent, employed as other-personal-services personnel, by employment category, for each month of the fiscal year.

(b) The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.

(c) For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

(6) The provisions of subsections (2), (3), and (4) shall not apply to any employee for whom the Board of Regents or the Board of Trustees of the Florida School for the Deaf and the Blind is the employer as defined in s. 447.203(2); except that, for purposes of subsection (5), the Board of Regents and the Board of Trustees of the Florida School for the Deaf and the Blind shall, with respect to those other-personal-services employees exempted by this subsection, comply with the recordkeeping and reporting requirements adopted by the department pursuant to subsection (3).

(7) The Department of Administration shall annually assess agencies for the regulation of other personal services on a pro rata share basis not to exceed an amount as provided in the General Appropriations Act.

Section 2. Paragraph (o) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the following terms shall have the meaning indicated:

(o) "Other personal services" means the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This shall include, but not be limited to, temporary employees, student or graduate assistants, fellowships, part-time academic employment, board members, consultants, ~~common or casual labor, consultant fees,~~ and other services specifically budgeted by each agency in this category.

1. In distinguishing between payments to be made from salaries appropriation and other-personal-services appropriation, those persons filling an established position shall be paid from salaries appropriations and those persons performing services for a state agency, but who are not filling an established position, shall be paid from the other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

Section 3. This act shall take effect July 1, 1983.

Amendment 2—On page 1, in the title, lines 1-12, strike all of said lines and insert:

A bill to be entitled An act relating to other-personal-services employment; creating s. 110.131, Florida Statutes; defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an exception; amending s. 216.011(1)(o), Florida Statutes, modifying the definition of "other personal services"; providing an effective date.

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

CS for SB 107 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—McPherson

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 as amended CS for HB 927 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Natural Resources and Representative Smith and others—

CS for HB 927—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.1585, Florida Statutes, creating the Hernando-Pasco-Citrus Counties Shrimping and Crabbing Advisory Committee; providing for appointment, terms of office, and duties; directing the Department of Natural Resources to initiate rulemaking proceedings with respect to committee recommendations; authorizing the executive director of the department to open or close areas to shrimping or crabbing in the Hernando-Pasco-Citrus Counties area upon certain recommendations of the committee; repealing s. 370.158, Florida Statutes, as created by chapter 81-199, Laws of Florida, relating to the Citrus County shrimping and crabbing advisory committee; providing for review and repeal in accordance with the Sundown Act; providing an effective date.

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

On motions by Senator Thurman, by unanimous consent, CS for HB 927 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Senator Vogt presiding

The Honorable Curtis Peterson, President

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

SB 589—A bill to be entitled An act relating to water pollution; amending s. 403.088(3), Florida Statutes; providing conditions under which an applicant has a right to renewal of a water pollution operation permit; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 12, strike everything after the period and strike lines 13 through 19 and insert: *However, the applicant shall have the right to have the Department renew an operation permit authorizing the discharges from industrial sources to surface waters or receive state certification of any renewal of a federal permit issued for such discharges, pursuant to Section 402 of the Federal Clean Water Act, after public notice and opportunity for public hearing has been provided, if the applicant can show by the preponderance of competent substantial evidence that:*

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

SB 589 failed to pass. The vote was:

Yeas—11

Barron	Crawford	Langley	Thomas
Carlucci	Hill	Maxwell	Thurman
Childers, W. D.	Kirkpatrick	Plummer	

Nays—24

Beard	Gersten	Henderson	McPherson
Castor	Girardeau	Jenne	Meek
Childers, D.	Gordon	Johnston	Myers
Dunn	Grant	Malchon	Stuart
Fox	Grizzle	Mann	Vogt
Frank	Hair	Margolis	Weinstein

Vote after roll call:

Yea to Nay—Hill

The Honorable Curtis Peterson, President

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

SB 359—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.103, Florida Statutes, authorizing the Department of Natural Resources to enter into certain agreements with the Federal Government for the protection of saltwater fisheries; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 24, after the period (.) insert: Where differences between state and federal laws occur, state laws shall take precedence.

Amendment 2—On page 1, line 24 after the period, insert:

Section 2. Section 370.023 is created to read:

370 023 Administration of department grant programs.—

(1) The Department of Natural Resources is hereby authorized to establish grant programs which are consistent with statutory authority and legislative appropriations. The department is further authorized to receive funds from any legal source for purposes of matching state dollars or for passing through the agency as grants to other entities whether or not matching funds or in-kind match are required.

(2) For any grant program established by the department, the department shall adopt rules, pursuant to the requirements of Chapter 120, Florida Statutes, for each grant program which shall include, but are not limited to, the method or methods of payment, the supporting documents required before payment will be made; when matching funds or in-kind match are allowed, what monies, services, or other sources and amounts of match will be eligible to use for matching the department's grant; who is eligible to participate in the program; and other provisions the department finds necessary to achieve program objectives and an accounting for state funds in accordance with law and generally accepted accounting principles.

(3) The department is authorized to pre-audit or post-audit account books and other documentation of grant recipients to assure that grant funds were used in accordance with the terms of the grant, and state rules and statutes. When such audit reveals that monies were not spent in accordance with grant requirements, the department may withhold monies or recover monies previously paid. Grant recipients will be allowed a maximum of sixty (60) days to submit any additional pertinent documentation to offset the amount identified as being due the department.

(Renumber subsequent section.)

Amendment 3—On page 1, line 2 in title after the semicolon, insert: creating s. 370.023, Florida Statutes, relating to the administration of grant programs by the Department of Natural Resources;

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

SB 359 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

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 amendments—

SB 256—A bill to be entitled An act relating to public officers, employees, and candidates; adding s. 112.322(9), Florida Statutes, 1982 Supplement; permitting the Commission on Ethics to extend the deadline for the filing of public disclosure statements under certain circumstances; amending s. 112.3145(1)(a), Florida Statutes, 1982 Supplement; requiring members of expressway and transportation authorities to file a statement of financial interest; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 14, after the colon, insert:

Section 1. Section 112.511, Florida Statutes, is created to read:

112.511. Municipal board members; suspension; removal from office.—

(1) For the purposes of this section "municipal board member" is defined as any person who is appointed, elected, or confirmed by the governing body of a municipality to be a member of a board, commission, authority or council which is created or authorized by general law, special act or municipal charter.

(2) By resolution specifying facts sufficient to advise the municipal board member as to the basis of the suspension or removal and after reasonable notice to the municipal board member and an opportunity for the board member to be heard, the governing body of the municipality may suspend or remove from office any municipal board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties. In addition, the governing body of the municipality may suspend or remove from office any municipal board member who is arrested, indicted, informed against or convicted of a federal or state felony or misdemeanor. For the purpose of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding the suspension of sentence or the withholding of adjudication. Suspension of such municipal board member by the governing body of the municipality shall create a temporary vacancy in such office during suspension.

(3) The suspended municipal board member may at any time, before removal, be reinstated by the governing body of the municipality. The suspended municipal board member shall be reinstated if he is acquitted or found not guilty, or the charges which were the basis of the arrest, indictment or information are otherwise dismissed.

(4) Any temporary vacancy in office created by the suspension of a municipal board member under the provisions of this section shall be filled by a temporary appointment to such office for the period of such suspension, not to extend beyond the term of the municipal board

member. Such temporary appointment shall be made in the same manner and by the same authority by which permanent vacancies for such offices are filled as provided by law. If no provision for filling permanent vacancies in such office is provided by law, special act or municipal charter such temporary appointment shall be made by the governing body of the municipality.

(5) No municipal board member who has been suspended from office under this section may perform any official act, duty or function during his suspension, receive any pay or allowances during his suspension, or be entitled to any of the emoluments or privileges of his office during suspension.

Renumber subsequent section.

Amendment 2—On page 1 in the title, line 3 after the semicolon, insert: creating s. 112.511, Florida Statutes; providing procedures for suspension and removal from office of municipal board members; providing for reinstatement; providing for filling vacancies; prohibiting certain activities during suspension;

Amendment 3—On page 13, line 6, insert a new Section 6.

Section 6. Section 112.313(12), Florida Statutes, is amended to read:

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer and an officer of any district within a county is a stockholder or an officer or director of a bank will not bar such banks from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it shall appear in the records of the agency that the governing body of such agency has determined that such officer or member of a public board or body as aforesaid has not favored such bank or banks over other qualified banks.

Renumber subsequent sections.

Amendment 4—On page 1, in the title, line 11, insert after semicolon (:): amending section 112.313(2), Florida Statutes;

Amendment 5—On page 13, line 6, insert: Section 7. Section 6 of this act shall take effect immediately upon becoming law.

Renumber subsequent sections.

Amendment 6—On page 1, line 14, after the colon, insert:

Section 1. Section 112.3143, Florida Statutes, is amended to read:

112.3143 Voting conflicts.—

(1) *Except as provided in subsection (2), no public officer shall be prohibited from voting in his official capacity on any matter. However, any public officer voting in his official capacity upon any measure in which he has a personal, private, or professional interest and which inures to his special private gain or the special gain of any principal by whom he is retained shall, within 15 days after the vote occurs, disclose the nature of his interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.*

(2) *No county, municipal, or other local public officer shall vote in his official capacity upon any measure in which he has a personal, private, or professional interest and which inures to his special private gain or the special gain of any principal by whom he is retained, except as provided in s. 112.313(5). Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of his interest in the matter from which he is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. However, commissioners of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357 shall not be prohibited from voting. Where provisions of a county charter conflict herewith, this subsection shall not apply to said charter county.*

Renumber subsequent sections.

Amendment 7—On page 1 in the title, line 3, after the semi-colon, insert: amending s. 112.3143, Florida Statutes, relating to voting conflicts by certain public officers;

Amendment 8—On page 13, line 6, insert Section 6. Section 106.1425, Florida Statutes, is created to read:

106.1425 Usage and removal of political campaign advertisement.—

(1) Each candidate, whether federal, state, county or district, shall at the time of qualifying for office, file a statement with the qualifying officer that a good faith effort will be made to remove all of the candidate's political campaign advertisements within 30 days from the date of the election in which the candidate participates. The candidate shall not be liable for the removal of political campaign advertisements remaining after the thirty (30) day removal provision if such political advertisements are in the form of signs used by an outdoor advertising business as provided in Chapter 479. The provisions herein shall not apply to political campaign advertisements placed on motor vehicles.

(2) If political campaign advertisements are not removed within the specified period, the political subdivision or governmental entity shall have the authority to remove such advertisements and may charge the candidate the actual cost for such removal. Funds collected for removing such advertisements shall be deposited to the general revenue of the political subdivision.

(3) No political campaign advertisement shall be erected, posted, painted, tacked, nailed or otherwise displayed, placed or located on or above any state, county or municipal road right-of-way. Notwithstanding the penalty provided in chapter 479 for violating this provision, the candidate may be additionally assessed by the political subdivision as provided in this section.

(4) This provision shall not preclude municipalities from imposing additional or more stringent requirements on the usage and removal of political campaign advertisements.

Renumber subsequent sections.

Amendment 9—On page 1, in the title, line 11, insert: creating s. 106.1425, Florida Statutes, requiring specified political candidates to file statements with respect to the removal of political campaign advertisements; providing an exemption; authorizing political subdivisions to remove advertisements and assess costs for noncompliance; prohibiting the display of campaign advertisements at certain locations;

Amendment 10—On page 1, line 14, after the colon, insert:

Section 1. Subsections (4), (5), (6), and (7) of section 99.012, Florida Statutes, are renumbered as subsections (5), (6), (7), and (8), respectively, subsections (2) and (3) of said section are amended, and a new subsection (4) is added to said section, to read:

99.012 Restrictions on individuals qualifying for public office.—

(2) No individual may qualify as a candidate for public office who holds another elective or appointive office, whether state, county or municipal, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify, without resigning from such office not less than 10 days prior to the first day of qualifying for the office he intends to seek. Said resignation shall be effective not later than the day of qualifying for the office he intends to seek ~~date upon which he would assume office, if elected to the office to which he seeks to qualify, the expiration date of the term of the office which he presently holds, or the general election day at which his successor is elected, whichever occurs earliest.~~ With regard to elective offices, said resignation shall create a vacancy in said office thereby permitting persons to qualify as candidates for nomination and election to that office in the same manner as if the term of such public officer were otherwise scheduled to expire; or, in regard to elective municipal or home rule charter county offices, said resignation shall create a vacancy which may be filled for the unexpired term of the resigned officer in such manner as provided in the municipal or county charter. A vacancy created by virtue of a public officer resigning to qualify for another office, which vacancy is required to be filled by appointment, shall be filled by the Governor or the governing body within 30 days of the effective date of said vacancy. This subsection does not apply to political party offices.

(3) Any incumbent public officer whose term of office or any part thereof runs concurrently to the term of office for which he seeks to qualify shall resign his office pursuant to the provisions of this section and shall execute an instrument in writing directed, except as provided below, to the Governor, irrevocably resigning from the office he currently occupies. The resignation shall be presented to the Governor with a copy to

the Department of State except that, in the case of a county or municipal public officer, the resignation shall be directed and presented to the officer with whom he qualified for the office from which he is resigning, or, in the case of an appointed official, to the officer or authority by whom he was appointed to the office from which he is resigning, with a copy to the Governor and to the Department of State. The resignation shall become effective and shall have the effect of creating a vacancy in office, to be as provided herein, and the public officer shall continue to serve until his successor is elected or the vacancy otherwise filled as provided in subsection (2).

(4) Any public officer who seeks to qualify for nomination or election to another public office without resigning from the office held as required shall not be entitled to have his name printed on the ballot. If time does not permit the candidate's name to be removed from the ballot, the canvassing board shall not count votes cast for such candidate. This shall not preclude a public officer from resigning instantaneously with the resignation taking effect on the date the candidate submits his resignation.

Section 2. Subsection (1) of section 106.18, Florida Statutes, is amended to read:

106.18 When a candidate's name to be omitted from ballot.—

(1) The name of a candidate shall not be printed on the ballot for an election if the candidate is convicted of violating s. 106.19 or s. 99.012.

Section 3. Subsections (2), (3), (4), (5), and (6) of section 106.25, Florida Statutes, are renumbered as subsections (3), (4), (5), (6), and (7), respectively, and a new subsection (2) is added to said section, to read:

106.25 Reports of alleged violations to Department of State; disposition of findings.—

(2) The Florida Elections Commission is empowered to investigate complaints filed with reference to the resign-to-run law. If a complaint is filed against a candidate for violating the provisions of the resign-to-run law, the commission shall investigate the complaint and make a determination of the candidate's eligibility within 15 days after the complaint is filed. In no case shall a complaint be accepted by the Division of Elections which is filed later than 20 days after the end of the qualifying period.

Section 4. Subsection (12) of section 106.26, Florida Statutes, is amended to read:

106.26 Powers of commission; rights and responsibilities of parties; findings by commission.—

(12) At the conclusion of its hearings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence presented at such hearings and shall proceed to determine by affirmative vote of four of the members present whether a violation of this chapter has occurred. Such determination shall promptly be made public. The order shall contain a finding of violation or no violation, together with brief findings of pertinent facts, and the assessment of such civil penalties as are permitted by this chapter or no such assessment and shall bear the signature or facsimile signature of the chairman or vice chairman. In regard to a resign-to-run allegation, if the commission determines that the candidate is a public officer required to resign 10 days prior to the first day of qualifying for office, the commission shall contact the appropriate supervisor of elections requiring the name of the candidate to be omitted from the ballot. If the commission determines that the candidate is not a public officer, the proceedings shall be at an end.

Renumber subsequent sections.

Amendment 11—On page 1, in the title, line 3, after the semi-colon, insert: amending s. 99.012(2) and (3), Florida Statutes, and adding a new subsection (4) thereto; providing that the resignation of an individual from public office under the resign-to-run law shall take effect no later than the day of qualifying for office; providing for filling of vacancies; providing that violators shall not be entitled to have their names printed on the ballot; amending s. 106.18(1), Florida Statutes, providing for omission of a candidate's name from the ballot; adding a new subsection (2) to s. 106.25, Florida Statutes, empowering the Florida Elections Commission to investigate violations of the resign-to-run law; amending s. 106.26(12), Florida Statutes, providing duties of the commission with respect to enforcement of the resign-to-run law;

Amendment 12—On page 1, line 14 after the colon, insert:

Section 1. Section 112.3176, Florida Statutes, is created to read:

112.3176 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(1) INTENT.—It is the intent of the Legislature to implement the provisions of s. 8(d), Art. II of the State Constitution.

(2) DEFINITIONS.—As used in this section, unless the context otherwise requires:

(a) "Public officer or employee" means an officer or employee of any public body, political subdivision, or public instrumentality within the state.

(b) "Specified offense" means:

1. The committing, aiding, or abetting of an embezzlement of public funds;

2. The committing, aiding, or abetting of any theft by a public officer or employee from his employer;

3. Bribery in connection with the employment of a public officer or employee;

4. Any felony specified in chapter 838;

5. The committing of an impeachable offense;

6. The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public, or the public agency for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his public office or employment position.

(c) "Court" means any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense.

(d) "Conviction" and "convicted" mean an adjudication of guilt by a court of competent jurisdiction; or a plea of guilty or of nolo contendere, or jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation, or conviction by the Senate of an impeachable offense.

(e) "Public retirement system" means any retirement system or plan to which the provisions of part VII of this chapter apply.

(3) FORFEITURE.—Any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his admitted commitment, aiding, or abetting of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he is a member, except for the return of his accumulated contributions as of his date of termination.

(4) NOTICE.—

(a) The clerk of a court in which a proceeding involving a specified offense is being conducted against a public officer or employee shall furnish notice of the proceeding to the Commission on Ethics. Such notice is sufficient if in the form of a copy of the indictment, information, or other document containing the charges. In addition, if a verdict of guilty is returned by a jury or by the court trying the case without a jury, or a plea of guilty or of nolo contendere is entered in the court by the public officer or employee, the clerk shall furnish a copy thereof to the Commission on Ethics.

(b) The Secretary of the Senate shall furnish to the Commission on Ethics notice of any proceeding of impeachment being conducted by the Senate. In addition, if such trial results in conviction, the Secretary shall furnish notice thereof to the commission.

(c) The employer of any member whose office or employment is terminated by reason of his admitted commitment, aiding, or abetting of a specified offense shall forward notice thereof to the commission.

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or

employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Division of Retirement of the Department of Administration shall assist the commission in identifying the appropriate public retirement system.

(5) FORFEITURE DETERMINATION.—

(a) Whenever the official or board responsible for paying benefits under a public retirement system receives notice pursuant to subsection (4), or otherwise has reason to believe that the rights and privileges of any person under such system are required to be forfeited under this section, such official or board shall give notice and hold a hearing in accordance with chapter 120 for the purpose of determining whether such rights and privileges are required to be forfeited. If the official or board determines that such rights and privileges are required to be forfeited, the official or board shall order such rights and privileges forfeited.

(b) Any order of forfeiture of retirement system rights and privileges shall be appealable to the district court of appeal.

(c) Payments of retirement benefits ordered forfeited, except payments drawn from nonemployer contributions to the retiree's account, shall be stayed pending an appeal as to a felony conviction. If such conviction is reversed, no retirement benefits shall be forfeited. If such conviction is affirmed, retirement benefits shall be forfeited as ordered herein.

(d) If any person's rights and privileges under a public retirement system are forfeited pursuant to this section, and if such person has received benefits from such system in excess of his accumulated contributions, such person shall pay back to the system the amount of the benefits received in excess of his accumulated contributions, and, if he fails to pay back such amount, the official or board responsible for paying benefits pursuant to the retirement system or pension plan may bring an action in circuit court to recover such amount, plus court costs.

(6) FORFEITURE NONEXCLUSIVE.—

(a) The forfeiture of retirement rights and privileges pursuant to this section shall be supplemental to any other forfeiture requirements provided by law.

(b) This section shall not preclude or otherwise limit the Commission on Ethics under authority of other law in conducting an independent investigation of a complaint which it may receive against a public officer or employee involving a specified offense.

Renumber subsequent sections.

Amendment 13—On page 1, in the title, line 3 after the semicolon, insert: creating s. 112.3176, Florida Statutes, providing legislative intent; providing definitions; requiring the forfeiture of certain benefits under any public retirement system by any officer or employee convicted of a felony involving the use of such office or employment or other specified offense; providing for notice of such conviction; providing for a forfeiture hearing and for appeal from a forfeiture order; providing for the return of certain benefits; providing that said forfeiture provisions shall be supplemental to any other forfeiture provisions of law;

On motions by Senator McPherson, the Senate refused to concur in House Amendments 1, 2, 6, 7, 8, 9, 10, 11, 12 and 13 and the House was requested to recede.

Senator McPherson moved the following amendments which were adopted:

Amendment 1 to House Amendment 3—On page 1, between lines 4 and 5, insert:

112.313 Standards of conduct for public officers and employees of agencies.—

(12) EXEMPTION.—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or his spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or his spouse or child has in no way used or attempted to use his influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Department of State, if he is a state officer or employee, or with the clerk of the circuit court of the county in which the agency has its principal office, if he is an officer or employee of a political subdivision, disclosing his interest, or his spouse's or child's interest, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of the officer's or employee's interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the subject transaction does not exceed \$500.

Amendment 1 to House Amendment 4—On page 1, strike line 3, and insert: amending s. 112.313(12), Florida Statutes; providing an exemption from conflict of interest laws; adding s. 112.312(19), Florida Statutes, 1982 Supplement; providing a definition; amending s. 112.3145(1)-(5), Florida Statutes, 1982 Supplement; requiring certain officers and employees to provide financial disclosure; changing deadlines for filing financial disclosure statements; requiring supervisors of elections to provide certain forms and perform certain duties; providing for each unit of government to assist the Commission on Ethics in preparing a list of those persons required to file disclosure; prescribing requirements for certain forms; providing conforming language; amending s. 112.324(6), Florida Statutes; providing for determination of sufficient grounds for review;

Amendment 1 to House Amendment 5—On page 1, strike lines 2 and 3, and after "1983" insert: except that this section and the section amending section 112.313(12), Florida Statutes, shall take effect upon becoming a law

On motions by Senator McPherson, the Senate concurred in House Amendments 3, 4 and 5 as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 256 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 387 and requests the Senate to recede.

Allen Morris, Clerk

By Representative Danson—

HB 387—A bill to be entitled An act relating to Sarasota County; amending Chapters 81-488 and 81-489, Laws of Florida, deleting certain lands from the Fruitville Area Fire Control District and adding such lands to the Northeast Fire District; providing for the pro-rata division of assessments collected on said lands between the two fire districts; providing that unpaid assessments for the current year on the subject lands shall become a lien in favor of the Northeast Fire District; directing the County tax collector to pay over collections on such assessments after the effective date of this act to the Northeast Fire District; requiring Northeast Fire District to pay over to Fruitville Area Fire Control District the pro-rata share of Fruitville Area Fire Control District's share of such collections; requiring the Fruitville Area Fire Control District to pay over to the Northeast Fire District all impact fees collected for construction in the area after a specified date; providing a time period in which such payments must be made; providing that certain lands heretofore incorporated in both districts are properly part of Northeast Fire District; ratifying previous actions treating lands as part of Northeast Fire District; providing an effective date.

On motion Senator Henderson, the Senate refused to recede from the Senate amendments and again asked the House to concur. 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 amended Senate Amendments 1 and 2, concurred in same as amended and passed CS for HB 434, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Regulatory Reform—

CS for HB 434—A bill to be entitled An act relating to nursing homes and related facilities; amending ss. 20.19(6)(f) and (7)(g) and 159.27(16), Florida Statutes, 1982 Supplement, correcting terminology and references to conform; revising part I of chapter 400, Florida Statutes; amending ss. 400.011, 400.021, 400.023, 400.041, 400.051, 400.063, 400.102(1), 400.121, 400.125(1)(a), 400.126(1)-(3) and (9)-(11), 400.141, 400.151, 400.17(2) and (5), 400.176(1), 400.179, 400.20(2), 400.23, 400.241, 400.261, 400.29, 400.311, and 400.321, Florida Statutes, amending s. 400.071(3)-(6), Florida Statutes, and adding new subsections thereto, and amending ss. 400.022, 400.062(3) and (4), 400.111, 400.162, 400.18, 400.19, 400.191, 400.211, 400.301, 400.304, 400.307, 400.314, and 400.317, Florida Statutes, 1982 Supplement; repealing s. 400.126(12), Florida Statutes; amending and transferring ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, relating to standards for laboratory tests and X-rays, to itemized billing, and to certification of nursing assistants, to part I of chapter 400; reenacting and amending s. 400.322, Florida Statutes, relating to emergency medication kits, and repealing s. 5 of chapter 81-152, Laws of Florida, which provides for review and repeal thereof; generally revising part I of chapter 400, relating to regulation of nursing homes, to change "patient" to "resident" and "chapter" to "part" and to change certain references to "facility" to "licensee"; renaming the State Nursing Home and Long-Term Care Facility Ombudsman Committee and the district nursing home and long-term care facility ombudsmen committees as the State Nursing Home and Long-Term Care Facility Ombudsman Council and the district nursing home and long-term care facility ombudsman councils, respectively; revising definitions; revising rights of residents with respect to transfer or discharge when the source of payment for care changes, providing rights with respect to bed reservation policy for hospitalization, and providing a penalty for certain actions against employees submitting, or desiring to submit, a complaint concerning a suspected violation; revising license fees and disposition thereof; establishing the Nursing Homes and Related Facilities Licensure Trust Fund and providing for disposition thereof; authorizing use of certain self-testing procedures; revising provisions relating to establishment of the Resident Protection Trust Fund, deposits therein and use of such funds; authorizing the Department of Health and Rehabilitative Services to establish, without advance approval, a separate bank account for each facility, subject to its intervention, for the deposit of moneys received from the trust fund; authorizing the department to requisition moneys from the trust fund in advance of need; providing for security and accounting; removing provisions relating to return of patients placed in alternate placement and termination of expenditure of funds on their behalf; restricting certain persons from being or becoming controlling

persons in any nursing home; directing the department to establish standards with respect to an applicant's financial ability to operate a nursing home; providing that certain requirements relating to Medicaid recipients apply to all licensees other than those offering continuing care agreements; requiring a certificate of need; providing that certain license renewal applications received after the filing date shall not be subject to a fine; providing for issuance of a conditional license when certain judicial proceedings are pending against an applicant for renewal; revising provisions relating to conditions for appointment and qualifications of a receiver, and accounting to the court after termination; providing that failure of the department to relocate certain residents of certain facilities which are closing is not in and of itself grounds to petition for appointment of a receiver; authorizing certain reimbursement; establishing prima facie evidence that a facility cannot meet its financial obligations; providing financial liability of licensees placed in receivership; revising terminology with respect to relationships of certain outpatient clinics and nursing homes; providing that microfilms of contracts may be retained in lieu of original records; directing the department to specify an alternative method for notification to parties to the contract of changes in cost of supplies; revising provisions relating to trust funds and other property of deceased residents; providing for distribution of rules to nursing homes; modifying provisions relating to unannounced onsite facility reviews; specifying additional persons who are exempt from nursing assistant certification requirements, modifying said requirements, and revising time limitation for enrolling an uncertified employee in a certification program; providing for automatic certification of certain persons; providing additional time limitations; providing for construction standards; authorizing the department to require alterations; providing for standard, rather than "unrated," licenses; revising provisions relating to review of plans and specifications for new projects and fees therefor; deleting certain information relating to nursing home employees from annual report requirements; providing that ombudsman council members who are affiliated with a nursing home or long-term care facility shall not participate in investigation or inspection of that facility or in an appeal associated therewith; modifying council-member qualifications; correcting cross references; removing obsolete provisions and timetables; revising part II of chapter 400, Florida Statutes; amending s. 400.402(1), (5), (7), (8), (10), and (11), Florida Statutes, 1982 Supplement, and adding subsections (13) and (14) thereto, modifying and adding definitions; adding paragraph (e) and (f) to s. 400.404(2), Florida Statutes, exempting certain facilities from the part; adding subsection (8) to s. 400.407, Florida Statutes, providing a penalty; amending s. 400.411, Florida Statutes, 1982 Supplement; modifying provisions relating to initial application for license; requiring proof of liability insurance; requiring notice of changed ACLF administration; requiring notice of employment or utilization of any nurse for the purpose of administering drugs; creating s. 400.412, Florida Statutes, relating to sale or transfer, including lease, of the ownership of a facility; providing for new license; providing for notice; providing for liability; providing for payment of certain debts; amending s. 400.414(2)(b), Florida Statutes, and adding subsection (3) thereto; modifying grounds for denial, suspension, or revocation of license; providing for a moratorium on admissions under certain circumstances; amending s. 400.417, Florida Statutes, 1982 Supplement; requiring notice by certified mail prior to expiration of license; limiting late renewal fees; authorizing the issuance of conditional or provisional licenses under certain circumstances; amending s. 400.418(1), Florida Statutes, 1982 Supplement, renaming the "Adult Congregate Living Facilities Trust Fund" as the "Aging and Adult Licensure Trust Fund"; amending s. 400.419(1)(a), (b), and (d), (2)(b), and (5), Florida Statutes, relating to violations and penalties, to conform; creating s. 400.420, Florida Statutes, prohibiting solicitation of contributions by or on behalf of one or more ACLF's under certain circumstances and providing a penalty for violation; amending s. 400.422(2) and (9), Florida Statutes, relating to receivership, to conform; amending s. 400.424(1) and (2), Florida Statutes, requiring facilities to maintain resident contracts on the premises and modifying requirements as to contract contents; amending s. 400.426, Florida Statutes, relating to examination of ACLF residents; providing responsibility of owner or administrator; providing a restriction upon the employment of physicians; modifying provisions relating to physical examination of admittees; providing for medical records; authorizing annual examination of supplemental security income recipients; providing for examination of certain residents at their own expense; providing for determination of appropriateness of residency; providing for mandatory relocation of residents deemed to be inappropriately in residence; amending s. 400.427(1), (2), and (7), Florida Statutes, 1982 Supplement, relating to property and personal affairs of residents, to conform; amending s. 400.428(1)(d) and (f) and (2), Florida Statutes, providing for ACLF visiting rights between 9 a.m. and 9 p.m., at mini-

mum; amending s. 400.429(1), Florida Statutes, relating to civil actions, to conform; amending s. 400.431(3), Florida Statutes, providing for refund of advance payments within 7 days of closure; amending s. 400.434, Florida Statutes, 1982 Supplement, conforming terminology and removing a restriction upon random-sample auditing; amending s. 400.441(1)(f), Florida Statutes, and adding paragraph (g) thereto, providing for standards relating to provision of, or arrangement for, certain activities and services and relating to establishment of criteria defining appropriateness of admission and continued residency; amending s. 400.452(1), Florida Statutes, relating to staff training and educational programs, to conform; revising part III of chapter 400, Florida Statutes; amending s. 400.461(2), Florida Statutes, and adding subsection (3) thereto; clarifying purpose; providing for creation of a task force; providing for a report; amending s. 400.462(2), Florida Statutes, modifying definition of "home health agencies" to limit application to Medicare providers only; amending s. 400.467(2), Florida Statutes, raising agency fee cap to \$500; revising part IV of chapter 400, Florida Statutes; creating ss. 400.5565 and 400.5575, Florida Statutes; providing for the imposition of administrative fines; providing limits; specifying factors to be considered; providing for disposition of fees and fines; revising part V of chapter 400, Florida Statutes; amending s. 400.602, Florida Statutes, modifying licensure requirements and providing for exemptions; amending s. 400.603, Florida Statutes, providing certificate-of-need requirements and exemptions therefrom; amending and renumbering s. 400.612, Florida Statutes, authorizing inspection of hospices by the Department of Health and Rehabilitative Services; amending s. 400.605, Florida Statutes; providing rulemaking authority; requiring annual inspections; amending s. 400.606(1) and (4), Florida Statutes; requiring plans for implementation of home, outpatient, and inpatient care within specified time periods; correcting a cross-reference; adding subsections (3) and (4) to s. 400.607, Florida Statutes, providing for revocation of license upon violation of timetables; amending s. 400.608(2) and (15), Florida Statutes; proscribing certain contractual arrangements; limiting requirements related to designation of specific rooms, alterations of certain physical plants, staffing standards, institutional standards for inpatient facilities, and full-time personnel; amending s. 400.610(1), Florida Statutes, and adding subsection (3) thereto, limiting requirements which may be made with respect to number of committees which must be established and number of meetings which must be held thereby; repealing s. 400.418(2), Florida Statutes, 1982 Supplement, and ss. 400.419(7), 400.422(13), 400.426(2), 400.428(9), 400.429(2), 400.435(4), 400.452(2), and 400.454(3), Florida Statutes, relating to sunset repeals, to remove obsolete timetables; repealing s. 400.437, Florida Statutes, relating to the establishment of an ad hoc committee on congregate living facilities; repealing ss. 400.561 and 400.565, Florida Statutes, abolishing an ad hoc committee and removing obsolete compliance timetables; repealing ss. 400.604 and 400.6115, Florida Statutes, and s. 400.615, Florida Statutes, 1982 Supplement, relating to exemptions from the act, the establishment of a hospice task force and the rights of inspection thereof, and requirements and restrictions with respect to rulemaking authority; saving ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, from sunset review and repeal scheduled October 1, 1983; saving parts I, II, III, IV, and V of chapter 400, Florida Statutes, from sunset review and repeal scheduled October 1, 1983; saving ss. 400.304 and 400.307, Florida Statutes, relating to state and district nursing home and long-term care facility ombudsman councils, from sunset review and repeal scheduled October 1, 1983; providing for sunset review and repeal of parts I, II, III, IV, and V of chapter 400, Florida Statutes, and for sunset review and repeal of ss. 400.304 and 400.307, Florida Statutes, on October 1, 1993; providing effective dates.

House Amendment 1 to Senate Amendment 1—On page 5, line 3 through page 135, line 22 strike all language and insert:

**PART I
NURSING HOMES**

Section 1. Paragraph (f) of subsection (6) and paragraph (g) of subsection (7) of section 20.19, Florida Statutes, 1982 Supplement, are amended to read:

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(6) STATEWIDE HUMAN RIGHTS ADVOCACY COMMITTEE.—

(f) The responsibilities of the committee shall include, but are not limited to:

1. Serving as a third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or regulated by the department.

2. Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the Human Rights Advocacy Committee by a district human rights advocacy committee. For the purposes of such investigation, the committee shall have access to all client files and reports when the client is receiving services through, and the files and reports are in the physical custody of, the Department of Health and Rehabilitative Services. In all other cases, the Human Rights Advocacy Committee shall have standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of human or constitutional rights or the abuse of a client. Upon completion of a general investigation of practices and procedures of the department, the committee may report its findings to the department. All information obtained through examination of such reports shall remain confidential. Client files, records, and reports, or copies thereof, shall not be removed from the department or agency facilities. All matters before the committee concerning abuse or deprivation of rights of an individual client or group of clients of the department subject to the provisions of this section shall be closed to the public and exempt from the provisions of s. 119.07(1). All other matters before the committee shall be open to the public and subject to chapter 119. Any person who knowingly and willfully discloses any such confidential information is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted to allow committee access to confidential adoption records in accordance with the provisions of ss. 39.11, 63.022, and 63.162.

3. Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

4. Submitting an annual report to the Legislature, no later than November 30 of each calendar year, concerning activities, recommendations, and complaints reviewed or developed by the committee during the year.

5. Conducting meetings at least six times a year at the call of the chairperson and at other times at the call of the Governor or by written request of four members of the committee.

6. Developing bylaws to be used to carry out the purposes of this subsection, which bylaws are developed in consultation with the secretary and include at least the following:

- a. The responsibilities of the committee;
- b. The organization and operation of the committee, including procedures for replacing a member;
- c. Procedures for receiving and investigating reports of abuse of constitutional or human rights;
- d. The relationship of the committee to the district human rights advocacy committees;
- e. The relationship of the committee to the department secretary, including the way in which reports of findings and recommendations related to reported abuse are given to the department;

f. Provision for cooperation with the State Nursing Home and Long-Term Care Facility Ombudsman ~~Committee~~; and

g. Procedures for appeal. An appeal to the state committee is made by a district human rights advocacy committee when a valid complaint is not resolved at the district level. The statewide committee may appeal an unresolved complaint to the secretary. If, after exhausting all remedies, the statewide committee is not satisfied that the complaint can be resolved within the department, the appeal may be referred to the Governor.

7. Reviewing and approving annually all district committee bylaws to assure their consistency with statute.

(7) DISTRICT HUMAN RIGHTS ADVOCACY COMMITTEES.—

(g) Each district human rights advocacy committee shall comply with appeal procedures established by the statewide Human Rights Advocacy Committee. The duties, actions, and procedures of both new and existing district or regional human rights advocacy committees shall conform to the provisions of this act. The duties of each district human rights advocacy committee shall include, but are not limited to:

1. Serving as a third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or regulated by the department.

2. Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights within the area of jurisdiction of the committee. For the purposes of such investigation, the committee shall have access to all client files and reports when the client is receiving services through, and the files and reports are in the physical custody of, the Department of Health and Rehabilitative Services. In all other cases, the Human Rights Advocacy Committee shall have standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of human or constitutional rights or the abuse of a client. Upon completion of a general investigation of practices and procedures of the department, the committee may make a report of its findings to the department. All information obtained through an examination of such reports shall remain confidential. Client files, records, and reports, or copies thereof, shall not be removed from the department or agency facilities. All matters before a district human rights advocacy committee concerning abuse or deprivation of rights of an individual client or group of clients of the department subject to the protections of this section shall be closed to the public and exempt from the provisions of s. 119.07(1). All other matters before the committee shall be open to the public and subject to chapter 119. Any person who knowingly and willfully discloses any such confidential information is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted to allow committee access to confidential adoption records in accordance with the provisions of ss. 63.162, 63.022, and 39.11.

3. Reviewing, and making recommendation with respect to, the involvement by departmental clients as subjects for research projects, prior to implementation, insofar as their human rights are affected.

4. Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

5. Appealing to the state committee any complaint unresolved at the district level.

6. Submitting an annual report by September 30 to the statewide Human Rights Advocacy Committee concerning activities, recommendations, and complaints reviewed or developed by the committee during the year.

7. Conducting meetings at least six times a year at the call of the chairperson and at other times at the call of the Governor or by written request of four members of the committee.

8. Developing bylaws to be used to carry out the purposes of this subsection, which bylaws are developed in consultation with the district administrator, consistent with law, and amended to reflect any statutory changes. The bylaws shall address at least the following:

- a. The responsibilities of the committee;
- b. The organization and operation of the committee, including procedures for replacing a member;
- c. Procedures for receiving and investigating reports of abuse of constitutional or human rights;
- d. The relationship of the committee to the statewide Human Rights Advocacy Committee;
- e. The relationship of the committee to the district, including the way in which reports of findings and recommendations related to reported abuse are given to the department;

f. Provision for cooperation with the district nursing home and long-term care facility ombudsman ~~council committee~~; and

g. Procedures for appeal in accordance with procedures developed by the statewide Human Rights Advocacy Committee.

Section 2. Subsection (16) of section 159.27, Florida Statutes, 1982 Supplement, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(16) "Health care facility" means property operated in the private sector, whether operated for profit or not, used for or useful in connection with the diagnosis, treatment, therapy, rehabilitation, housing, or care of or for aged, sick, ill, injured, infirm, impaired, disabled, or handicapped persons, without discrimination among such persons due to race, religion, or national origin; or for the prevention, detection, and control of disease, including, without limitation thereto, hospital, clinic, emergency, outpatient, and intermediate care, including, but not limited to, facilities for the elderly such as adult congregate living facilities, facilities defined in s. 154.205(8), day care and share-a-home facilities, nursing homes, and the following related property when used for or in connection with the foregoing: laboratory; research; pharmacy; laundry; health personnel training and lodging; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services; provided, if required by ss. 381.493-381.499 ~~381-498~~ and ss. 400.601-400.614 ~~400-615~~, a certificate of need therefor is obtained prior to the issuance of the bonds.

Section 3. Section 400.011, Florida Statutes, is amended to read:

400.011 Purpose.—The purpose of this ~~part chapter~~ is to provide for the development, establishment, and enforcement of basic standards for the health, care, and treatment of persons in nursing homes and related health care facilities, and for the construction, maintenance, and operation of such institutions which will insure safe and adequate care, treatment, and health of persons in such facilities.

Section 4. Section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this ~~part chapter~~, unless the context otherwise requires:

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

(2) "Administrator" means the licensed individual who has the general administrative charge of a facility.

(3) "Manager" or "supervisor" means the individual in charge of homes for aged, homes for special services, and related health care facility homes.

(4) "Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but shall not include any place providing care and treatment primarily for the acutely ill. A facility offering services for less than three persons shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

(5) "Nursing home facility" means any facility which provides nursing services as defined in chapter 464 and is licensed according to this ~~part chapter~~.

(6) "Home for special services" means a related health care facility which provides specialized health care services, including personal and custodial care, but not continuous nursing services.

(7) "Related health care facility home" means a facility for the aged, home for special services, or other home as defined in rules and regulations of the department.

(8) "Nursing service" means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in s. 464.003 ~~464-021~~.

(9) "Custodial service" means care for a person which entails observation of diet and sleeping habits and maintenance of a watchfulness over the general health, safety, and well-being of the aged or infirm.

(10) ~~"Existing facilities" means those licensed facilities which were in operation, or those proposed facilities which began construction or renovation of a building under final plans approved by the department, for the purpose of operating such facilities prior to July 7, 1970.~~

(11) ~~"New facility" means those facilities which were constructed or renovated for the purpose of operating an institution according to architectural plans approved by the department subsequent to July 7, 1970.~~

(10)(12) "Board" means the Board of Nursing Home Administrators.

(11)(13) "Bed reservation policy" means the number of consecutive days and the number of days per year that a *resident patient* may leave the nursing home facility for overnight therapeutic visits with family or friends or for hospitalization for an acute condition before the *licensee facility* may discharge the *resident patient* due to his absence from the facility.

(12)(14) "*Resident Patient* care plan" means a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the *resident patient* or his designee or legal representative, which includes a comprehensive assessment of an individual *resident's patient's* needs, a listing of services provided within or outside the facility to meet those needs, and an explanation of service goals.

(13)(15) "*Resident Patient* designee" means a person, other than the owner, administrator, or employee of the facility, designated in writing by a *resident patient* or a *resident's patient's* guardian, if the *resident patient* is adjudicated incompetent, to be the *resident's patient's* representative for a specific, limited purpose.

(14)(16) "State ombudsman *council committee*" means the State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee* established pursuant to s. 400.304.

(15)(17) "District ombudsman *council committee*" means each district nursing home and long-term care facility ombudsman *council committee* established pursuant to s. 400.307.

Section 5. Section 400.022, Florida Statutes, 1982 Supplement, is amended to read:

400.022 *Residents' Patients'* rights.—

(1) All *licensees* of nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the *residents patients* residing in such facilities and shall treat such *residents patients* in accordance with the provisions of that statement. The statement shall assure each *resident patient* the following:

(a) The right to civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

(b) The right to private and uncensored communication, including, but not limited to, receiving and sending unopened correspondence, access to a telephone, visiting with any person of the *resident's patient's* choice during visiting hours, and overnight visitation outside the facility with family and friends in accordance with facility policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act regulations, without the *resident patient* losing his bed. Facility visiting hours shall be flexible, taking into consideration special circumstances such as, but not limited to, out-of-town visitors and working relatives or friends. Unless otherwise indicated in the *resident patient* care plan, the *licensee facility* shall, with the consent of the *resident patient* and in accordance with policies approved by the department, permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure programs, and members of the clergy access to the facility during visiting hours for the purpose of visiting with and providing services to any *resident patient*.

(c) The right to present grievances on behalf of himself or others to the facility's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to facility personnel; and to join with other *residents patients* or individuals within or outside the facility to work for improvements in *resident patient* care,

free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to ombudsmen and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.

(d) The right to manage his own financial affairs or to delegate such responsibility to the *licensee facility*, but only to the extent of the funds held in trust by the *licensee facility* for the *resident patient*. A quarterly accounting of any transactions made on behalf of the *resident patient* shall be furnished to the *resident patient* or the person responsible for the *resident patient*.

(e) The right to be fully informed, in writing and orally, prior to or at the time of admission and during his stay, of services and charges for services not covered under Title XVIII or Title XIX of the Social Security Act or not covered by the basic per diem rates; and of bed reservation and refund policies of the facility.

(f) The right to be adequately informed of his medical condition and proposed treatment, unless otherwise indicated by the *resident's patient's* physician; to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the *resident's patient's* physician; and to know the consequences of such actions.

(g) The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the *resident patient* care plan, with established and recognized practice standards within the community, and with rules as promulgated by the department.

(h) The right to have privacy in treatment and in caring for personal needs; to close room doors, and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; to have confidentiality in the treatment of personal and medical records; and to security in storing and using personal possessions. Privacy of the *resident's patient's* body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for *resident patient* safety or assistance.

(i) The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the *licensee facility*, including those required to be offered on an as-needed basis.

(j) The right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency. In case of an emergency, restraint may only be applied by a qualified licensed nurse who shall set forth in writing the circumstances requiring the use of restraint, and, in the case of use of a chemical restraint, a physician shall be consulted immediately thereafter. Restraints shall not be used in lieu of staff supervision or merely for staff convenience, for punishment, or for reasons other than *resident patient* protection or safety.

(k) The right to be transferred or discharged only for medical reasons or for the welfare of other *residents patients*, and the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the nursing home, or in the case of conflicting rules and regulations which govern Title XVIII or Title XIX of the Social Security Act. For nonpayment of a bill for care received, the *resident patient* shall be given 15 days' advance notice. A *licensee facility* certified to provide services under Title XIX of the Social Security Act shall not transfer or discharge *residents patients* solely because the source of payment for care changes from private to public funds or from public to private funds, ~~unless the facility, as documented in the patient's medical record, makes a reasonable effort to arrange for appropriate continued care in the community or through another nursing home. The resident and the resident's family or representative shall be consulted in choosing another facility.~~

(l) The right to freedom of choice in selecting a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the *resident's patient's* choice, at the *resident's patient's* own expense or through Title XIX of the Social Security Act, and to obtain information about, and to participate in, community-based activities programs, unless medically contraindicated as documented by a physician in the *resident's*

patient's medical record. If a *resident patient* chooses to use a community pharmacy and the facility in which the *resident patient* resides uses a unit-dose system, the pharmacy selected by the *resident patient* shall be one that provides a compatible unit-dose system, provides service delivery, and stocks the drugs normally used by long-term care *residents patients*. If a *resident patient* chooses to use a community pharmacy and the facility in which the *resident patient* resides does not use a unit-dose system, the pharmacy selected by the *resident patient* shall be one that provides service delivery and stocks the drugs normally used by long-term care *residents patients*.

(m) The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other *residents patients* or unless medically contraindicated as documented by a physician in the *resident's patient's* medical record. If clothing is provided to the resident by the *licensee facility*, it shall be of reasonable fit.

(n) The right to have copies of the facility's rules and regulations and an explanation of the *resident's patient's* responsibility to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other *residents patients*.

(o) *The right to be informed of the bed reservation policy for a hospitalization. The nursing home shall inform a private pay resident and his responsible party that his bed shall be reserved for any single hospitalization for a period up to 30 days provided the nursing home receives reimbursement. Notice shall be provided within 24 hours of the hospitalization.*

(2) *The licensee for each nursing home shall provide a copy of the statement required by subsection (1) to each resident patient or the resident's patient's guardian at or before the resident's patient's admission to a facility and to each staff member of a facility. Each such licensee facility shall prepare a written plan and provide appropriate staff training to implement the provisions of this section.*

(3) Any violation of the *resident's patient's* rights set forth in this section shall constitute grounds for action by the department under the provisions of s. 400.102. In order to determine whether the *licensee facility* is adequately protecting *residents' patients'* rights, the annual inspection of the facility shall include private informal conversations with a sample of *residents patients* to discuss *residents' patients'* experiences within the facility with respect to rights specified in this section and general compliance with standards, and consultation with the ombudsman council committee in the district in which the nursing home is located.

(4) Any person who submits or reports a complaint concerning a suspected violation of the *resident's patient's* rights or concerning services or conditions in a facility or who testifies in any administrative or judicial proceeding arising from such complaint shall have immunity from any criminal or civil liability therefor, unless that person has acted in bad faith, with malicious purpose, or if the court finds that there was a complete absence of a justifiable issue of either law or fact raised by the losing party.

Section 6. Section 400.023, Florida Statutes, is amended to read:

400.023 Civil enforcement.—

(1) Any *resident patient* whose rights as specified in this part are deprived or infringed upon shall have a cause of action against any *licensee facility* responsible for the violation. The action may be brought by the *resident patient* or his guardian or by a person or organization acting on behalf of a *resident patient* with the consent of the *resident patient* or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a *resident patient*. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a *resident patient* and to the department.

(2) If chapter 400 is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.

Section 7. Section 400.041, Florida Statutes, is amended to read:

400.041 Nursing facilities; categories for licensing.—For the administration of this part, *licensees chapter, facilities* shall be issued licensed in the following categories.

- (1) Nursing home.
- (2) Home for special service.
- (3) Such other health-related categories as may be defined by rules and regulations issued by the department.

Section 8. Section 400.051, Florida Statutes, is amended to read:

400.051 Homes or institutions exempt from the provisions of this part chapter.—

(1) The following shall be exempt from the provisions of this part chapter:

- (a) Any facility, institution, or other place operated by the Federal Government or agency thereof.
- (b) Any institution which offers its services primarily for medical treatment or surgery and is licensed by the state.

(2) Any facility or institution operated only for persons who rely exclusively upon treatment by prayer or spiritual means, in accordance with the creed or tenets of any organized church or religious denomination, shall be exempt only from any requirement of this part chapter or rule and regulation adopted pursuant thereto requiring medical examinations or medical treatment of residents or patients therein.

Section 9. Subsections (3) and (4) of section 400.062, Florida Statutes, 1982 Supplement, are amended to read:

400.062 License required; fee; disposition; display; transfer.—

(3) ~~The annual license fee required for each license issued under of a facility licensed by this part shall be at the rate of \$2 per bed. The minimum license fee hereunder shall be \$26, and the maximum fee shall be \$300, no part of which shall be returned. The annual license fee shall be comprised of two parts. Part I of the license fee shall be the basic license fee, which shall not exceed \$75 per facility. The rate per bed for the basic license fee shall be established annually, and in establishing such rate, the department shall divide one-third of the total fiscal year legislative appropriation for carrying out the provisions of this part by the total number of beds to be licensed under this part. Part II of the license fee shall be the resident patient protection fee, which shall be at the rate of not less than \$.25 per bed. The rate per bed shall be the minimum rate per bed, and such rate shall remain in effect until the effective date of a rate per bed promulgated by rule by the department pursuant to this part. At such time as the amount on deposit in the Resident Protection Trust Fund is less than \$500,000, the department may promulgate rules to establish a rate which shall not exceed \$10 per bed. The rate per bed shall revert back to the minimum rate per bed when the amount on deposit in the Resident Protection Trust Fund reaches \$500,000, except that any rate established by rule shall remain in effect until such time as the rate has been equally required for each license issued under this part. Any amount in the fund in excess of \$800,000 shall revert to the Nursing Home and Related Facilities Licensure Trust Fund, and shall not be expended without prior approval of the Legislature. not exceed \$225 per facility. The department may prorate the annual license fee, and the minimum and maximum fee ranges in this section, for those licenses which it issues under this part for less than 1 year. Funds generated by license fees collected in accordance with this section shall be deposited divided between both parts in the following manner:~~

(a) ~~The basic license To a maximum of \$75, half of the fee collected from any facility shall be a basic license fee and shall be deposited in the Nursing Homes and Related Facilities Licensure Trust Fund, hereby established for the sole purpose of carrying out the provisions of this part General Revenue Fund.~~

(b) ~~The resident protection fee A maximum of \$225 generated from fees collected hereunder shall be deposited in the Resident Patient Protection Trust Fund for the sole purpose of paying, that shall be established by the Department of Administration. Funds so deposited shall be appropriated in a grants-in-aid category and directed to the Department of Health and Rehabilitative Services specifically to pay, in accordance with the provisions of s. 400.063, for the appropriate alternate placement,~~

care, and treatment of a *resident patient* removed from a nursing home facility on a temporary, emergency basis, or to maintain and care for *residents in the facility pending removal and alternate placement*.

(4) Counties or municipalities applying for licenses under this *part chapter* shall be exempt from the payment of license fees provided herein.

Section 10. Section 400.4175, Florida Statutes, 1982 Supplement, is renumbered as section 400.0625 and amended to read:

400.0625 400.4175 Minimum standards for clinical laboratory test results and diagnostic X-ray results.—

(1) Each nursing home, as a requirement for issuance or renewal of its license, shall require that all clinical laboratory tests performed by or for the nursing home shall be performed by a clinical laboratory licensed under the provisions of chapter 483, *except for such self testing procedures approved by the department by rule*. Results of clinical laboratory tests performed prior to admission which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and clinical laboratory tests which may be ordered by a physician for *residents patients* of the nursing home.

(2) Each nursing home, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X rays performed by or for the nursing home. Such minimum standards shall require licensure or registration of the source of ionizing radiation under the provisions of chapter 404. Diagnostic X-ray results which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and in lieu of diagnostic X rays which may be ordered by a physician for *residents patients* of the nursing home.

Section 11. Section 400.063, Florida Statutes, is amended to read:

400.063 *Resident Patient Protection Trust Fund*.—

(1) ~~A Resident Patient Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 400.062(3)(b), 400.111(1), 400.121(2), and 400.23(4). Such funds shall be for the sole purpose of paying directed to the Department of Health and Rehabilitative Services to pay for the appropriate alternate placement, care, and treatment of residents patients who are removed from a nursing home facility in which the department determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the nursing home residents patients. If the department determines that it is in the best interest of the residents' patients' health, safety, or security to provide for an orderly removal of the residents patients from the facility, the department may utilize such funds to maintain and care for the residents patients in the facility pending removal and alternative placement. The maintenance and care of the residents patients shall be under the direction and control of a receiver appointed pursuant to s. 400.126(1). However, funds may be expended on an emergency basis upon a filing of a petition for a receiver.~~

(2) ~~The Department of Health and Rehabilitative Services is authorized to establish for each facility, subject to the department's intervention, a separate bank account for the deposit to the credit of the department of any moneys received from the Resident Protection Trust Fund or any other moneys received for the maintenance and care of residents in the facility, and the department is authorized to disburse moneys from such account to pay obligations incurred for the purposes of this section. The department is authorized to requisition moneys from the Resident Protection Trust Fund in advance of actual cash need on the basis of the department's estimate of moneys to be spent under authority of this section. Any bank account established under this section need not be approved in advance of its creation as required by s. 18 101, but shall be secured by depository insurance equal to or greater than the balance of such account or by the pledge of collateral security in conformance with criteria established in s. 18.11. The department shall notify the Treasurer and the Comptroller of any such account so established and shall make a quarterly accounting to the Comptroller for all moneys deposited in such account. Any patient receiving care and treatment in an appropriate alternate placement as provided for in this section shall be returned to the facility from which he was removed, and funds expended on his behalf as provided for in this section shall be terminated within 2 days after the department certifies that the condition or conditions requiring the patient's removal have been corrected and that the necessary relicensure or recertification has been accomplished.~~

(3) Funds authorized under this section shall be expended on behalf of all *residents patients* transferred to an alternate placement, at the usual and customary charges of the facility used for the alternate placement, provided no other source of private or public funding is available. However, such funds shall not be expended on behalf of a *resident patient* who is eligible for Title XIX of the Social Security Act, if the alternate placement accepts Title XIX of the Social Security Act. Funds shall be utilized for maintenance and care of *residents patients* in a facility in receivership only to the extent private or public funds, including funds available under Title XIX of the Social Security Act, are not available or are not sufficient to adequately manage and operate the facility, as determined by the department. The existence of the *Resident Patient Protection Trust Fund* shall not make the department liable for the maintenance of any *resident patient* in any facility. The state shall be liable for the cost of alternate placement of *residents patients* removed from a deficient facility, or for the maintenance of *residents patients* in a facility in receivership, only to the extent that funds are available in the *Resident Patient Protection Trust Fund*.

(4) The department is authorized to promulgate rules necessary to implement the provisions of this section.

~~(5) If part I of this chapter is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this section shall also be repealed on the same date as is therein provided.~~

Section 12. Subsections (3), (4), (5), and (6) of section 400.071, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

400.071 Application for license.—

(3) The applicant shall submit evidence which establishes the good moral character of the applicant, manager, supervisor, and administrator. No applicant, if the applicant is an individual; no member of a board of directors or officer of an applicant, if the applicant is a firm, partnership, association, or corporation; and no licensed nursing home administrator shall have been convicted, or found guilty, regardless of adjudication, of a crime in any jurisdiction which affects or may potentially affect *residents patients* in the facility.

(4) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the home in accordance with the requirements of this part and all rules promulgated hereunder, *and the department shall establish standards for this purpose*. The department shall *also* establish documentation requirements, to be completed by each *applicant facility*, that show anticipated facility revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the facility, and *an applicant's a facility's* access to contingency financing.

(5) If the applicant offers continuing-care agreements as defined in chapter 651, proof shall be furnished that such applicant has obtained a certificate of authority as required for operation under that chapter. ~~This provision shall not apply prior to 12 months from the date of the adoption of the rules by the Department of Insurance as contemplated by s. 651.101.~~

(6) As a condition of *initial* licensure, each *licensee facility*, except one offering continuing-care agreements as defined in chapter 651, must agree to accept recipients of Title XIX of the Social Security Act on a temporary, emergency basis. The persons who the department may require such *licensees facilities* to accept are those recipients of Title XIX of the Social Security Act who are residing in a facility in which existing conditions constitute an immediate danger to the health, safety, or security of the nursing home facility's *residents patients*.

(7) ~~The department shall not issue a license to a nursing home which fails to receive a certificate of need under the provisions of ss. 381.493-381.495. The department shall consider, in addition to the other criteria specified in s. 381.494, the applicant's statement of intent to designate a percentage of the facility's beds for use by patients eligible for care under Title XIX of the Social Security Act, the percentage to be all or a portion of the need for such beds as identified in the local health plan. It is the intent of the Legislature that preference be given to an application which most closely meets the need for such beds.~~

Section 13. Subsection (1) of section 400.102, Florida Statutes, is amended to read:

400.102 Action by department against *licensee facility*; grounds.—

(1) Any of the following conditions shall be grounds for action by the Department of Health and Rehabilitative Services against a *licensee facility*:

(a) An intentional or negligent act materially affecting the health or safety of residents of the facility;

(b) Misappropriation or conversion of the property of a resident of the facility;

(c) Violation of provisions of this *part chapter* or of minimum standards, rules, or regulations promulgated pursuant thereto; and

(d) Any act constituting a ground upon which application for a license may be denied.

Section 14. Section 400.111, Florida Statutes, 1982 Supplement, is amended to read:

400.111 Expiration of license; renewal.—

(1) A license issued for the operation of a facility, unless sooner suspended or revoked, shall expire on the date set forth by the department on the face of the license or 1 year from the date of issuance, whichever occurs first. Ninety days prior to the expiration date, an application for renewal shall be submitted to the Department of Health and Rehabilitative Services. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this part and all rules and regulations promulgated hereunder. An applicant for renewal of a license issued under this part for a period of 4 months or less, however, shall submit an application for renewal to the department, on forms furnished by the department, 14 days prior to the expiration date. The failure to file an application within the period established herein shall result in a late fee charged to the *licensee facility* by the department in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date. A late fee shall be levied for each and every day the filing of the license application is delayed, but in no event shall such fine aggregate more than \$5,000. *If an application is received after the required filing date and exhibits a hand-canceled postmark obtained from a United States Post Office dated on or before the required filing date, no fine shall be levied.* A license renewed for a period of 4 months or less shall not be subject to late fees provided for in this section. Late fees shall be deposited and disbursed through the Resident Patient Protection Trust Fund established by s. 400.063. New facilities which are in substantial compliance with this section and with the rules of the Department of Health and Rehabilitative Services, but which have deficiencies, may be issued conditional licenses pending correction of deficiencies.

(2) A licensee against whom a revocation or suspension proceeding, or any judicial proceeding instituted by the department under this part, is pending at the time of license renewal may be issued a conditional license effective until final disposition by the department of such proceeding. If judicial relief is sought from the aforesaid administrative order, the court having jurisdiction may issue such orders regarding the issuance of a conditional permit during the pendency of the judicial proceeding.

Section 15. Section 400.121, Florida Statutes, is amended to read:

400.121 Denial, suspension, revocation of license; moratorium on admissions; administrative fines; procedure.—

(1) The Department of Health and Rehabilitative Services may deny, revoke, or suspend a license or impose an administrative fine, not to exceed \$500 per violation per day, for a violation of any provision of s. 400.102(1). All hearings shall be held within the county in which the licensee or applicant operates or applies for a license to operate a facility as defined herein.

(2) The department, as a part of any final order issued by it under the provisions of this *part chapter*, may impose such fine as it deems proper, except that such fine shall not exceed \$500 for each violation. Each day a violation of this *part chapter* occurs shall constitute a separate violation and shall be subject to a separate fine, but in no event shall any fine aggregate more than \$5,000. A fine may be levied pursuant to this section in lieu of and notwithstanding the provisions of s. 400.23. Fines paid by any nursing home facility licensee under the provisions of this subsection shall be deposited in the Resident Patient Protection Trust Fund and expended as provided in s. 400.063.

(3) The department may issue an order immediately suspending or revoking a license when it determines that any condition in the facility presents a danger to the health, safety, or welfare of the residents patients in the facility.

(4) The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a threat to the health, safety, or welfare of the residents patients in the facility.

Section 16. Paragraph (a) of subsection (1) of section 400.125, Florida Statutes, is amended to read:

400.125 Injunction proceedings authorized.—

(1) The Department of Health and Rehabilitative Services may institute injunction proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of this *part chapter* or any minimum standard, rule, regulation, or order issued or entered into pursuant thereto; or

Section 17. Section 18 of chapter 80-186, Laws of Florida, appearing as subsection (12) of section 400.126, Florida Statutes, is hereby repealed, and subsections (1), (2), (3), (9), (10) and (11) of said section are amended to read:

400.126 Receivership proceedings.—

(1) As an alternative to or in conjunction with injunctive proceedings, the department may petition a court of competent jurisdiction for the appointment of a receiver, ~~if suitable alternate placements are not available~~, when any of the following conditions exist:

(a) Any person ~~The facility~~ is operating a facility without a license and refuses to make application for a license as required by s. 400.062.

(b) The *licensee facility* is closing the facility or has informed the department that it intends to close and adequate arrangements have not been made for relocation of the residents patients within 7 days, exclusive of weekends and holidays, of the closing of the facility. *However, the failure on the part of the department, after receiving notice of the closing of a facility that is certified to provide services under Title XIX of the Social Security Act, a minimum of 90 days prior to the closing date, to make adequate arrangement for relocating those residents who are receiving assistance under s. 409.266 shall in and of itself not be grounds to petition for the appointment of a receiver. Under these circumstances, if a facility remains open beyond the closing date, the department shall reimburse the facility for all costs incurred, up to the cap, for those residents who are receiving assistance under s. 409.266, provided that the facility continues to be licensed pursuant to this part and certified to provide services under Title XIX of the Social Security Act.*

(c) The department determines that conditions exist in the facility which present an imminent danger to the health, safety, or welfare of the residents patients of the facility or a substantial probability that death or serious physical harm would result therefrom.

(d) The *licensee facility* cannot meet its financial obligation for providing food, shelter, care, and utilities. *Evidence such as issuance of bad checks or accumulation of delinquent bills for such items as personnel salaries, food, drugs or utilities shall constitute prima facie evidence that the ownership of the facility lacks the financial ability to operate the home in accordance with the requirements of this part and all rules promulgated hereunder.*

(2) Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days of the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The department shall notify the owner or administrator of the facility named in the petition of its filing and the date set for the hearing. The court shall grant the petition only upon finding that the health, safety, or welfare of residents patients of the facility would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver shall not be appointed ex parte unless the court determines that one or more of the conditions in subsection (1) exist; that the facility owner or administrator cannot be found; that all reasonable means of locating the owner or the administrator and notifying him of the petition and hearing have been exhausted; or that the owner or administrator, after notification of the hearing, chooses

not to attend. After such findings, the court may appoint any person qualified by education, training, or experience to carry out the responsibilities of receiver pursuant to this section, who shall either be qualified pursuant to s. 400.20 or who shall employ a licensed nursing home administrator in compliance with s. 400.20 as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership. The receiver may be selected from a list of persons qualified to act as receivers developed by the department and presented to the court with each petition for receivership. Under no circumstances shall the department or designated departmental employee be appointed as a receiver for more than 60 days; however, the receiver may petition the court, one time only, for a 30-day extension. The court shall grant the extension upon a showing of good cause.

(3) The receiver shall make provisions for the continued health, safety, and welfare of all *residents patients* of the facility and:

(a) Shall exercise those powers and perform those duties set out by the court.

(b) Shall operate the facility in such a manner as to assure safety and adequate health care for the *residents patients*.

(c) Shall take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the receiver is appointed, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to *residents patients* and to any other persons receiving services from the facility at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to *residents patients* or others during the period of the receivership at the same rate of payment charged by the owners at the time the petition for receivership was filed, or at a fair and reasonable rate otherwise approved by the court for private-pay *residents patients*. The receiver may apply to the department for a rate increase for Title XIX of the Social Security Act *residents patients* if the facility is not receiving the "state reimbursement cap" and expenditures justify an increase in the rate.

(e) May correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety or health of *residents patients* while they remain in the facility, provided the total cost of correction does not exceed \$3,000. The court may order expenditures for this purpose in excess of \$3,000 on application from the receiver after notice to the owner and a hearing.

(f) May let contracts and hire agents and employees to carry out the powers and duties of the receiver under this section.

(g) Shall honor all leases, mortgages, and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, become due during the period of receivership.

(h) Shall have full power to direct and manage and to discharge employees of the facility, subject to any contract rights they may have. The receiver shall pay employees at the rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employees made prior to the appointment of a receiver and not carried out by the receiver.

(i) Shall be entitled to take possession of all property or assets of *residents patients* which are in the possession of a facility or its owner. The receiver shall preserve all property or assets and all *resident patient* records of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and receiver shall be made at the time the receiver takes possession of the facility.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist; or

(b) All of the *residents patients* in the facility have been transferred or discharged.

(10) Within 30 days after the termination, unless this time period is extended by the court, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected and disbursed, and of the expenses of the receivership. ~~Unless otherwise specified by the court, within 30 days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.~~

(11) Nothing in this section shall be deemed to relieve any owner, administrator, or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator, or employee prior to the appointment of a receiver; nor shall anything contained in this section be construed to suspend during the receivership any obligation of the owner, administrator, or employee for payment of taxes or other operating and maintenance expenses of the facility, or of the owner, administrator, employee, or any other person for the payment of mortgages or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership. A licensee placed in receivership by the court shall be liable for all expenses and costs incurred by the Resident Protection Trust Fund which occur as a result of the receivership.

Section 18. Section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards, rules, and regulations of the Department of Health and Rehabilitative Services and shall:

(1) Be under the administrative direction and charge of a licensed administrator, supervisor, or manager.

(2) Have available the regular, consultative, and emergency services of physicians licensed by the state.

(3) Provide for the access of the facility ~~its~~ residents to dental and other health-related services, recreational services, rehabilitative services, and social-work services appropriate to their needs and conditions and not directly furnished by the licensee facility. When a geriatric outpatient nurse clinic is conducted in accordance with rules adopted by the department, outpatients attending such a clinic shall not be counted as part of the nursing home facility's general resident patient population, nor shall the nursing staff of the geriatric outpatient clinic be counted as part of the nursing staff of the facility, until the outpatient clinic case load exceeds 15 a day.

(4) Maintain the facility ~~its~~ premises and equipment and conduct its operations in a safe and sanitary manner.

(5) If the licensee facility furnishes food service, provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians. In making rules and regulations to implement this subsection, the department shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics.

(6) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident patient care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the department.

(7) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this ~~part~~ chapter.

Section 19. Section 400.151, Florida Statutes, is amended to read:

400.151 Contracts.—

(1) The presence of each resident in a facility shall be covered by a contract, executed by the licensee facility and the resident or his designee or legal representative at the time of admission or prior thereto and, at the expiration of the term of a previous contract, and modified by the licensee and the resident or his designee or legal representative at the

time the source of payment for the *resident's patient's* care changes. Each party to the contract shall be entitled to a duplicate original thereof, printed in boldfaced type, and the *licensee facility* shall keep on file all contracts which it has with residents. The *licensee facility* shall not destroy or otherwise dispose of any such contract until 5 years after its expiration or such longer period as may be provided in the rules and regulations of the department. *Microfilm or other similar duplicative process may be kept in lieu of the original records.*

(2) Each contract to which this section applies shall contain express provision specifically setting forth the services and accommodations to be provided by the *licensee facility*, the rates or charges therefor, bed reservation and refund policies, and any other matters which the parties deem appropriate. The *licensee facility* shall attach to the contract a list of services and supplies available but not covered by the facility's per diem rate or by Title XVIII and Title XIX of the Social Security Act and the standard charge to the *resident patient* for each item. The *licensee facility* shall provide written notification to each party to the contract of any changes in any attachment thereto, not fewer than 14 days in advance of the effective date of those changes. *The department shall specify by rule an alternative method for notification of changes in the cost of supplies.* If the *resident patient* is a party to the contract, the *licensee facility* shall provide him with a written and oral notification of the changes.

(3) No contract or any provision thereof shall be construed to relieve any *licensee facility* of any requirement or obligation imposed upon it by this *part chapter* or standards, rules, or regulations in force pursuant thereto.

Section 20. Section 400.162, Florida Statutes, 1982 Supplement, is amended to read:

400.162 Property and personal affairs of *residents patients*.—

(1) The admission of a resident to a facility and his presence therein shall not confer on the facility or its owner, administrator, manager, supervisor, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of the aforementioned persons any authority or responsibility for the personal affairs of the resident, except what may be necessary for the safety and orderly management of the facility.

(2) No *licensee, facility and no* owner, administrator, manager, supervisor, employee, or representative thereof shall act as guardian, trustee, or conservator for any resident of the facility or any of such resident's property.

(3) A *licensee facility* shall provide for the safekeeping of personal effects, funds, and other property of the resident in the facility. Whenever necessary for the protection of valuables, or in order to avoid unreasonable responsibility therefor, the *licensee facility* may require that they be excluded or removed from the facility and kept at some place not subject to the control of the *licensee facility*.

(4) A *licensee facility* shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping.

(5)(a) Any funds or other property belonging to or due to a resident or expendable for his account which are received by a *licensee facility* shall be trust funds, shall be kept separate from the funds and property of the facility, *shall be deposited in a bank, savings association, trust company, or credit union located in the State of Florida and, if possible, located in the same district in which the facility is located, shall not be represented as part of the assets of a facility on a financial statement,* and shall be used or otherwise expended only for the account of the resident.

(b)1. Any *licensee facility* which holds resident funds in trust, as provided in paragraph (a), during the period for which a license is requested or issued shall file a surety bond with the department in an amount equal to twice the average monthly balance in the *resident patient* trust fund during the prior year or \$5,000, whichever is greater. The bond shall be executed by the *licensee facility* as principal and a surety company authorized and licensed to do business in the state as surety. The bond shall be conditioned upon the faithful compliance of the *licensee facility* with the provisions of this section and shall run to the department for the benefit of any resident injured by the violation by the *licensee facility* of the provisions of this section.

2. A new bond or a proper continuation certificate shall be required on the annual renewal date of each licensee's bond. Such bond or certificate shall be filed with the department as provided in subparagraph 1.

3. Any surety company which cancels or does not renew the bond of any licensee shall notify the department, in writing, not less than 30 days in advance of such action, giving the reason for the cancellation or non-renewal.

(c) As an alternative to posting a surety bond, the *licensee facility* may enter into a self-insurance agreement to pool its liability for *resident patient* trust funds with one or more other *licensees facilities* in accordance with rules adopted by the department. Funds contained in the pool shall run to any resident suffering financial loss as a result of the violation by the *licensee facility* of the provisions of this section. Such funds shall be awarded to any resident in an amount equal to the amount that the resident can establish by affidavit or other adequate evidence was deposited in trust with the *licensee facility* and which could not be paid to the resident within 30 days of the resident's request. The department shall promulgate rules with regard to the establishment, organization, and operation of such self-insurance pools. Such rules shall include, but shall not be limited to, requirements for monetary reserves to be maintained by such self-insurers to assure their financial solvency.

(d) If, at any time during the period for which a license is issued, a *licensee facility* that has not purchased a surety bond or entered into a self-insurance agreement, as provided in paragraphs (b) and (c), is requested to provide safekeeping for the personal funds of a resident, the *licensee facility* shall notify the department of the request and make application for a surety bond or for participation in a self-insurance agreement within 7 days of the request, exclusive of weekends and holidays. Copies of the application, along with written documentation of related correspondence with an insurance agency or group, shall be maintained by the *licensee facility* for review by the department and the nursing home and long-term care facility ombudsman *council committee*.

(e) Moneys or securities received as advance payment for care shall at no time exceed the cost of care for a 6-month period.

(f) At least every 3 months, the *licensee facility* shall furnish the resident and the guardian, trustee, or conservator, if any, for the resident a complete and verified statement of all funds and other property to which this subsection applies, detailing the amounts and items received, together with their sources and disposition. In any event, the *licensee facility* shall furnish such a statement annually and upon the discharge or transfer of a resident. Any governmental agency or private charitable agency contributing funds or other property on account of a resident also shall be entitled to receive such statement annually and upon discharge or transfer and such other report as it may require pursuant to law.

(6) In the event of a *resident's patient's* death, a *licensee facility* shall place all trust funds of the *resident patient* in an interest-bearing account in a bank, savings association, trust company, or credit union located in the State of Florida and, if possible, located within the same district in which the facility is located, which funds shall not be represented as part of the assets of a facility on a financial statement, and shall maintain such account until such time as the trust funds are disbursed pursuant to the provisions of the Florida Probate Code. *All other property of a deceased resident held in trust by a licensee shall be safeguarded until such time as the property is disbursed pursuant to the provisions of the Florida Probate Code. The Such* trust funds and property of deceased residents shall be kept separate from the funds and the property of the *licensee facility* and from the funds and property of the residents of the facility. *The nursing home need only maintain one account in which the trust funds amounting to less than \$100 of the deceased residents are placed. However, it shall be the obligation of the nursing home to maintain adequate records to permit compilation of interest due each individual resident's account. Separate accounts shall be maintained with respect to trust funds of deceased residents equal to or in excess of \$100.* In the event the trust funds of the deceased *resident patient* are not disbursed pursuant to the provisions of the Florida Probate Code within 2 years of the *resident's patient's* death, the trust funds shall be deposited in the Resident *Patient* Protection Trust Fund and expended as provided for in s. 400.063, *notwithstanding the provisions of any other Florida law. Any other property of a deceased resident held in trust by a licensee which is not disbursed in accordance with the provisions of the Florida Probate Code shall escheat to the state as provided by law.*

Section 21. Section 400.425, Florida Statutes, 1982 Supplement, is renumbered as section 400.165 and amended to read:

400.165 400.425 Itemized *resident patient* billing, form and content prescribed by the department.—

(1) Within 7 days following discharge or release from confinement or admittance in a nursing home, or within 7 days after the earliest date at which the loss or expense from the confinement or service may be determined, which in the case of long-term confinement may be the monthly charge, the nursing home providing the service shall submit to the *resident patient*, or to his survivor or legal guardian as may be appropriate, an itemized statement detailing in language comprehensible to an ordinary layman the specific nature of charges or expenses incurred by the *resident patient*, which in the initial billing shall contain a statement of specific services received and expenses incurred for such items of service, enumerating in detail the constituent components of the services received within each department of the nursing home and including unit-price data on rates charged by the nursing home as may be prescribed by the department.

(2) Each statement shall:

(a) Not include charges of nursing home-based physicians if billed separately.

(b) Not include any generalized category of expenses such as "other" or "miscellaneous" or similar categories.

(c) List drugs by brand or generic name and shall not refer to drug code numbers when referring to drugs of any sort.

(d) Specifically identify therapy treatment as to the date, type, and length of treatment when therapy treatment is a part of the statement. The person receiving a statement pursuant to this section shall be fully and accurately informed as to each charge and service provided by the institution preparing the statement.

(3) On a random-sample basis, as approved by the department, a copy of the itemized bill shall be given to the *resident's patient's* physician. The random sample shall include not less than 10 itemized bills per year.

(4) On each such itemized statement there shall appear the words "A FOR-PROFIT (or NOT-FOR-PROFIT or PUBLIC) NURSING HOME LICENSED BY THE STATE OF FLORIDA" or substantially similar words sufficient to identify clearly and plainly the ownership status of the nursing home.

(5) In any billing for services subsequent to the initial billing for such services, the *resident patient*, or his survivor or legal guardian, may elect, at his option, to receive a copy of the detailed statement of specific services received and expenses incurred for each such item of service as provided in subsection (1).

(6) No physician, dentist, or nursing home may add to the price charged by any third party except for a service or handling charge representing a cost actually incurred as an item of expense; however, the physician, dentist, or nursing home is entitled to fair compensation for all professional services rendered. The amount of the service or handling charge, if any, shall be set forth clearly in the bill to the *resident patient*.

Section 22. Subsections (2) and (5) of section 400.17, Florida Statutes, are amended to read:

400.17 Bribes, kickbacks, certain solicitations prohibited.—

(2) Whoever furnishes items or services directly or indirectly to a nursing home *resident patient* and solicits, offers, or receives any:

(a) Kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment; or

(b) Return of part of an amount given in payment for referring any such individual to another person for the furnishing of such items or services;

shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, or by fine not exceeding \$5,000, or both.

(5) The admission, maintenance, or treatment of a nursing home *resident patient* whose care is supported in whole or in part by state funds shall not be made conditional upon the receipt of any manner of

contribution or donation from any person. However, this shall not be construed to prohibit the offer or receipt of contributions or donations to a nursing home which are not related to the care of a specific *resident patient*. Contributions solicited or received in violation of this subsection shall be grounds for denial, suspension, or revocation of a license for any nursing home on behalf of which such contributions were solicited.

Section 23. Subsection (1) of section 400.176, Florida Statutes, is amended to read:

400.176 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for *residents patients* referred to a nursing home licensed under this ~~part~~ chapter.

Section 24. Section 400.179, Florida Statutes, is amended to read:

400.179 Sale or transfer of ownership of a nursing facility.—

(1) It is the intent of the Legislature to protect the rights of nursing home *residents patients* and the security of public funds when a nursing facility is sold or the ownership is transferred.

(2) Whenever a nursing facility is sold or the ownership is transferred, including leasing, the transferee shall make application to the department for a new license at least 60 days prior to the date of transfer of ownership.

(3) The transferor shall notify the department in writing at least 60 days prior to the date of transfer of ownership. The transferor shall be responsible and liable for the lawful operation of the nursing facility and the welfare of the *residents patients* domiciled in the facility until the date the transferee is licensed by the department. The transferor shall be liable for any and all penalties imposed against the facility for violations occurring prior to the date of transfer of ownership and for any outstanding liability to the state, unless the transferee has agreed, as a condition of sale or transfer, to accept the outstanding liabilities and to guarantee payment therefor. However, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability. If the penalty imposed is a moratorium on admissions, and the threat to the health, safety, or welfare of the *residents patients* continues unabated, the moratorium shall remain in full force and effect after the transfer of ownership, or it may be grounds for denial of a license to the transferee in accordance with chapter 120.

(4) The transferor shall, prior to transfer of ownership, repay or make arrangements to repay to the department any amounts owed to the department. Should the transferor fail to repay or make arrangements to repay the amounts owed to the department prior to the transfer of ownership, the issuance of a license to the transferee shall be delayed until repayment or until arrangements for repayment are made.

~~(5) If chapter 400 is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 25. Section 400.18, Florida Statutes, 1982 Supplement, is amended to read:

400.18 Closing of nursing facility.—

(1) Whenever a *licensee facility* voluntarily discontinues operation, and during the period when it is preparing for such discontinuance, it shall inform the department not less than 90 days prior to the discontinuance of operation. The *licensee facility* also shall inform the *resident patient* or the next of kin, legal representative, or agency acting on the *resident's patient's* behalf of the fact, and the proposed time, of such discontinuance and give at least 90 days' notice so that suitable arrangements may be made for the transfer and care of the *resident patient*. In the event any *resident patient* has no such person to represent him, the *licensee facility* shall be responsible for securing a suitable transfer of the *resident patient* prior to the discontinuance of operation. The department shall be responsible for arranging for the transfer of those *residents patients* requiring transfer who are receiving assistance under s. 409.266.

(2) A representative of the department shall be placed in a facility 30 days prior to the voluntary discontinuance of operation, or immediately

upon the determination by the department that the *licensee facility* is discontinuing operation or that existing conditions or practices represent an immediate danger to the health, safety, or security of the residents in the facility, to:

- (a) Monitor the transfer of *residents patients* to other facilities.
 - (b) Ensure that the rights of *residents patients* are protected.
 - (c) Observe the operation of the facility.
 - (d) Assist the management of the facility by advising the management on compliance with state and federal laws and rules.
 - (e) Recommend further action by the department.
- (3) The department shall discontinue the monitoring of a facility pursuant to subsection (2) when:

- (a) All *residents patients* in the facility have been relocated; or
- (b) The department determines that the conditions which gave rise to the placement of a representative of the department in the facility no longer exist and the department is reasonably assured that those conditions will not recur.
- (4) Immediately upon discontinuance of operation of a facility, the *licensee owner* shall surrender the license therefor to the department, and the license shall be canceled.

Section 26. Section 400.19, Florida Statutes, 1982 Supplement, is amended to read:

400.19 Right of entry and inspection.—

(1) The department and any duly designated officer or employee thereof or a member of the State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee* or the district nursing home and long-term care facility ombudsman *council committee* shall have the right to enter upon and into the premises of any facility licensed pursuant to this *part chapter* at any reasonable time in order to determine the state of compliance with the provisions of this *part chapter* and rules in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe is being operated or maintained as a facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same. Any application for a facility license or renewal thereof, made pursuant to this *part chapter*, shall constitute permission for and complete acquiescence in any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints.

(2) The department shall coordinate nursing home facility licensing activities and responsibilities of any duly designated officer or employee involved in nursing home facility inspection to assure necessary, equitable, and consistent supervision of inspection personnel without unnecessary duplication of inspections, consultation services, or complaint investigations. To facilitate such coordination, all rules and regulations promulgated ~~or enforced by the state pursuant to this part and other related statutes shall be compiled into a single packet~~ by the department ~~pursuant to this part shall be distributed 30 days prior to implementation and made available to nursing homes licensed under s. 400.062 and to applicants for such licensure. This shall not apply to emergency rules.~~

(3) The department shall annually conduct at least one unannounced inspection to determine compliance by the *licensee nursing home facility* with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of *residents patients*. The department shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the department to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 110.

(4) The department shall conduct ~~four or more~~ unannounced onsite facility reviews ~~within a 12-month period~~ following written verification of

licensee facility noncompliance in instances where a nursing home ombudsman *council committee*, pursuant to ss. 400.311 and 400.317, has received a complaint and has documented deficiencies in *resident patient* care or in the physical plant of the facility that threaten the health, safety, or security of residents, or when the department documents through inspection that conditions in a facility present a direct or indirect threat to the health, safety, or security of *residents patients*. *However, the department shall conduct four or more unannounced onsite reviews within a 12-month period of facilities with conditional ratings.* Deficiencies related to physical plant shall not require follow-up reviews after the department determines that correction of the deficiency has been accomplished and that the correction is of the nature that continued compliance can be reasonably expected.

Section 27. Section 400.191, Florida Statutes, 1982 Supplement, is amended to read:

400.191 Availability, distribution, and posting of reports and records.—

(1) The department shall, within 60 days from the date of an annual inspection visit or within 30 days from the date of any interim visit, forward the results of all inspections of nursing home facilities to:

- (a) The district ombudsman *council committee* in whose district the inspected facility is located.
- (b) At least one public library or, in the absence of a public library, the county seat in the county in which the inspected facility is located.
- (c) The district administrator of the department in whose district the inspected facility is located.
- (d) The board.

(2) Each nursing home facility *licensee* shall maintain as public information, available upon request, records of all cost and inspection reports pertaining to that facility that have been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in said records for not less than 5 years from the date the reports are filed or issued.

(3) Any records, reports, or documents which by state or federal law or regulation are deemed confidential shall not be distributed or made available for purposes of compliance with this section unless and until such confidential status expires.

(4) Any records of a nursing home facility determined by the department to be necessary and essential to establish lawful compliance with any rules or standards shall be made available to the department on the premises of the facility.

(5) Every nursing home *facility licensee* shall:

(a) Post, in a sufficient number of prominent positions in the nursing home so as to be accessible to all residents and to the general public, a concise summary of the last inspection report pertaining to the nursing home and issued by the department, with references to the page numbers of the full reports, noting any deficiencies found by the department and the actions taken by the *licensee nursing home* to rectify such deficiencies and indicating in such summaries where the full reports may be inspected in the nursing home.

(b) Upon request, provide to any person who has completed a written application with an intent to be admitted to, or to any resident of, such nursing home, or to any relative, spouse, or guardian of such person, a copy of the last inspection report pertaining to the nursing home and issued by the department, provided the person requesting the report agrees to pay a reasonable charge to cover copying costs.

Section 28. Subsection (2) of section 400.20, Florida Statutes, is amended to read:

400.20 Licensed nursing home administrator required; limitation on number of facilities to be subject to administrator's supervision.—

(2) If the facilities involved are of a class or classes found by the Department of Health and Rehabilitative Services to be of a character, size, and type of operation making it reasonable for a single administrator, manager, or supervisor to perform such functions effectively for more than one facility, such administrator, manager, or supervisor of a facility may function as an administrator, manager, or supervisor for not more than three facilities. As part of the classifications made pursuant to this

section, the department shall determine and fix specific limits on the number of facilities of particular classes which may be supervised by the same individual acting as administrator, manager, or supervisor. No administrator, manager, or supervisor shall accept employment in violation of this subsection, and no licensee owner of a facility shall knowingly employ any person in violation thereof.

Section 29. Section 400.211, Florida Statutes, 1982 Supplement, is amended, and section 468.1801, Florida Statutes, 1982 Supplement, is transferred to said section and amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

~~468.1801—Certification of nursing assistants.—~~

(1) No person who is not certified pursuant to this section, other than a registered nurse or practical nurse licensed in accordance with the provisions of chapter 464, or an applicant for such licensure who is permitted to practice nursing in accordance with rules promulgated by the Board of Nursing pursuant to chapter 464, shall serve as a nursing assistant in any nursing home. The Department of Education shall issue a certificate to any person who:

(a) Has successfully completed a nursing assistant program from a state-approved school or program; or

(b)(a) Is at least 18 years of age; and

(b) has demonstrated to the Department of Education, through such procedures as the department may develop, that he is competent and capable of providing services as a nursing assistant at a nursing home. If testing is used to assess the competency and skill of an applicant for certification, an oral examination shall be administered upon request.

(2) Any candidate for certification under paragraph (1)(b) who, prior to receiving instruction, satisfactorily demonstrates the competency and skill required for certification shall be exempt from related classroom attendance requirements.

~~(3) The Department of Education may adopt such rules as are necessary to carry out this section.~~

~~(3)(1)~~ After September 30, 1984, no person shall be employed as a nursing assistant in a nursing home unless he is certified in accordance with this section ~~s. 468.1801~~ or is enrolled or agrees to enroll in the next certification program approved by the Department of Education for nursing assistants offered in his community or in the community where the nursing home is located. However, any person employed as a nursing assistant on July 1, 1983, shall meet certification requirements by October 1, 1986. Within 724 working days hours of employing an uncertified aide or one who is not enrolled in an approved program leading to certification, the nursing home facility licensee shall submit to the district school board an application to enroll the new employee in a certification program. A copy of such application shall be retained in the employee's file

~~(4)(2)~~ The Department of Education may adopt such rules as are necessary to carry out this section.

Section 30. Section 400.23, Florida Statutes, is amended to read:

400.23 Rules; minimum standards; evaluation and rating system; fee for review of plans.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this part chapter shall include standards by which a reasonable and consistent quality of resident patient care may be insured and the results of such resident patient care can be measured and by which safe and sanitary nursing homes can be provided. It is further intended that a minimum amount of the time of professionals providing nursing home care be required to insure compliance with the reporting requirements of these rules.

(2) Pursuant to the intention of the Legislature, the department shall publish and enforce rules to implement the provisions of this part chapter, which shall include reasonable and fair minimum standards in relation to:

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, lighting, ventilation, and other housing conditions which will insure the health, safety, and comfort of residents,

including an adequate call system. In making such rules, the department shall be guided by standards recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The department shall update or revise such standards as the need arises. All nursing homes must comply with those life safety code requirements and building code standards applicable at the time of their construction plan approval. The department may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health or safety. The department shall promulgate fair and reasonable rules setting forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards. ~~Separate standards shall be provided for physical plant of new and existing facilities. The department shall enforce the applicable uniform firesafety standards established by the State Fire Marshal pursuant to s. 633.05(8).~~

(b) The number and qualifications of all personnel, including management, medical, and nursing personnel, and aides, orderlies and support personnel, having responsibility for any part of the care given residents.

(c) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene which will insure the health and comfort of residents.

(d) The equipment essential to the health and welfare of the residents.

(e) A uniform accounting system.

(f) The care, treatment, and maintenance of residents and measurement of the quality and adequacy thereof.

(3) The department shall, at least annually, evaluate all nursing home facilities and make a determination as to the degree of compliance by each licensee facility with minimum standards under this part and the rules promulgated thereunder as a basis for assigning a rating to that facility. The department shall base its evaluation on the most recent annual inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(a) A facility shall be assigned a superior rating if the department determines that the licensee facility is in compliance with the minimum standards under this part and the rules promulgated thereunder and the licensee facility exceeds minimum standards in the following areas as provided for in paragraph (b):

1. Nursing service;
2. Staffing ratio of aides and orderlies;
3. Preservice training of aides and orderlies;
4. Inservice training of aides and orderlies;
5. Dietary or nutritional services;
6. Physical environment;
7. Housekeeping and maintenance;
8. Physical and restorative therapy;
9. Recreational therapy;
10. Social services;
11. Self-help activities;
12. Professional consultant services;
13. Activities and volunteer services; and
14. Notification and monitoring of visitation by physicians.

(b) The department shall categorize areas listed in paragraph (a) into two levels. Areas designated by the department as "Level I" shall be those areas which are essential to maintaining the health, safety, or security of residents patients. Areas designated by the department as "Level II" shall be those areas which are less directly related to the health, safety, or security of residents patients but which are important to the overall quality of care and services provided by nursing home facilities. In promulgating any rules pursuant to the provisions of this section, the department

may divide the areas listed in paragraph (a) into subareas for the purpose of appropriate categorization according to Levels I and II. In order to achieve a superior rating, a *licensee facility* shall exceed minimum standards established for all Level I areas and a majority of Level II areas and shall comply with minimum standards for the remaining Level II areas. Within a reasonable period specified by the department, deficient Level II areas shall be corrected by a *licensee facility* in order to qualify for a superior rating. The department's assessment of the degree of compliance by a *licensee facility* with this paragraph shall take into consideration the needs and limitations of *residents patients* residing in the facility. *Residents' Patients' needs and limitations* shall be determined by the department after consultation with the *licensee nursing-home facility*.

(c) In making its determination as to the degree of compliance with the areas specified in paragraph (a) and the overall quality of care and services, the department shall consider the results of interviews and surveys of a representative sampling of *residents patients*, families of *residents patients*, ombudsman council committee members in the district in which the facility is located, guardians of *residents patients*, and staff of the nursing home facility.

(d) A *licensee facility* receiving a superior rating for a facility shall have the words "superior facility" marked in block letters not less than 1 inch in height on its license. A *licensee for a facility* which meets, but does not exceed, minimum standards in all areas prescribed by the department shall receive a standard ~~an~~ *unrated* license. A *licensee for a facility* which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than 1 inch in height on its license. A list of the deficiencies of the facility in terms of not meeting minimum standards shall be posted in a prominent place that is in clear and unobstructed public view at or near the place where *residents patients* are being admitted to that facility. *Licensees Facilities* receiving a conditional rating for a facility shall prepare, within 10 working days of rating, a plan for correction of all deficiencies and shall submit the plan to the department for approval. Correction of all deficiencies, within the period approved by the department, shall result in termination of the conditional rating. Failure to correct the deficiencies, within a reasonable period approved by the department, shall be grounds for the imposition of sanctions pursuant to this part.

(e) Each *licensee facility* shall post its license in a prominent place that is in clear and unobstructed public view at or near the place where *residents patients* are being admitted to the facility. A *licensee facility* with a superior rating may advertise its rating in any nonpermanent medium and in accordance with rules adopted by the department. A list of the facilities receiving a superior rating shall be distributed to the state and district ombudsman councils committees.

(f) Not later than January 1, 1981, the department shall adopt rules which:

1. Establish uniform procedures for the evaluation of facilities;
2. Provide minimum standards in the areas referenced in paragraph (a);
3. Provide criteria for determining when a *licensee facility* has exceeded minimum standards for a facility; and
4. Address other areas necessary for carrying out the intent of this section.

(g) A superior rating shall automatically expire after 1 year from date of issuance. A superior rating may be revoked at any time for failure to exceed minimum standards specified for any Level I area. Deficient Level II areas shall be corrected to the point of meeting or exceeding minimum standards as provided for in paragraph (b) within a reasonable period determined by the department, or the superior rating shall be revoked.

(h) A superior rating is not transferable to another license.

(4) ~~Not later than December 1, 1976,~~ The department shall promulgate rules to provide that, when the minimum standards established under subsection (2) are not met, such deficiencies shall be classified according to the nature of the deficiency. The department shall indicate the classification on the face of the notice of deficiencies as follows:

(a) Class I deficiencies are those which the department determines present an imminent danger to the *residents patients* or guests of the nursing home facility or a substantial probability that death or serious

physical harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the department, is required for correction. Notwithstanding the provisions of s. 400.121(2) ~~400.121(8)~~, a class I deficiency is subject to a civil penalty in an amount not less than \$1,000 and not exceeding \$5,000 for each and every deficiency. A fine may be levied notwithstanding the correction of the deficiency.

(b) Class II deficiencies are those which the department determines have a direct or immediate relationship to the health, safety, or security of the nursing home facility *residents patients*, other than class I deficiencies. A class II deficiency is subject to a civil penalty in an amount not less than \$500 and not exceeding \$1,000 for each and every deficiency. A citation for a class II deficiency shall specify the time within which the deficiency is required to be corrected. If a class II deficiency is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(c) Class III deficiencies are those which the department determines to have an indirect or potential relationship to the health, safety, or security of the nursing home facility *residents patients*, other than class I or II deficiencies. A class III deficiency shall be subject to a civil penalty of not less than \$100 and not exceeding \$500 for each and every deficiency. A citation for a class III deficiency shall specify the time within which the deficiency is required to be corrected. If a class III deficiency is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(5) Civil penalties paid by any *licensee nursing-home facility* under the provisions of subsection (4) shall be deposited in the Resident Patient Protection Trust Fund and expended as provided in s. 400.063.

(6) The department shall approve or disapprove the plans and specifications within 60 days after receipt of the *final plans and specifications review fee payment*, ~~as required in subsection (7)~~. The department may be granted one 15-day extension for the review period, if the secretary of the department so approves. If the department fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the department disapproves plans and specifications, it shall set forth in writing the reasons for disapproval. Necessary conferences and consultations may be provided as necessary.

(7) The department is authorized to charge a fee, not to exceed 0.5 percent of the estimated construction cost or the actual cost of review, whichever is less, for services rendered in conducting the review of plans and specifications for each new project, in an amount sufficient to cover the costs of purchasing necessary additional architectural and engineering services to meet the requirements of this section. Fee payment shall accompany the initial submission of ~~final~~ plans and specifications. Notwithstanding any other provisions of law to the contrary, all money received by the department pursuant to the provisions of this section shall be deemed to be trust funds, to be held and applied solely for the operations required under this section.

(8) When the department determines that a county or municipality is qualified to inspect and review plans and specifications, the department may delegate to that county or municipality the authority to review and approve plans and specifications based upon the statewide standards of the department. The time limits for approval or disapproval of *final* plans and specifications by the department established in subsection (6) shall apply to the county or municipality. When such county or municipal approval is used in lieu of departmental approval, the fees charged by the department for such services shall be waived.

Section 31. Section 400.241, Florida Statutes, is amended to read:

400.241 Prohibited acts; penalties for violations.—

(1) It is unlawful for any person or public body to establish, conduct, manage, or operate a home as defined in this ~~part chapter~~ without obtaining a valid current license.

(2) It is unlawful for any person or public body to offer or advertise to the public, in any way by any medium whatever, nursing home care or service or custodial services without obtaining a valid current license. It shall be unlawful for any holder of a license issued pursuant to the provisions of this ~~part chapter~~ to advertise or hold out to the public that it holds a license for a facility other than that for which it actually holds a license.

(3) Violation of any provision of this ~~part chapter~~ or of any minimum standard, rule, or regulation adopted pursuant thereto shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of a continuing violation shall be considered a separate offense.

Section 32. Section 400.29, Florida Statutes, is amended to read:

400.29 Annual report of nursing home facilities.—~~On or before January 1, 1977, and annually thereafter,~~ The department shall publish an annual report on or before January 1 of each year, which shall be available to the public, and which shall include, but not be limited to:

- (1) A list by name and address of all nursing home facilities in this state.
- (2) Whether such nursing home facilities are proprietary or nonproprietary.
- (3) The rating of each nursing home facility.
- (4) The name of the owner or owners.
- (5) The total number of beds.
- (6) The number of private and semiprivate rooms.
- (7) The religious affiliation, if any, of such nursing home facility.
- (8) The languages spoken by the administrator and staff of such nursing home facility.

~~(9) The number of full-time employees and their professions.~~

~~(9)(10) Whether or not such nursing home facility accepts recipients of Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act Medicare or Medicaid patients.~~

~~(10)(11) Recreational and other programs available.~~

Section 33. Section 400.301, Florida Statutes, 1982 Supplement, is amended to read:

400.301 Legislative intent.—

(1) The Legislature finds and declares that conditions in nursing homes in Florida are such that the personal and health care needs of residents are not insured either by regulation of the Department of Health and Rehabilitative Services or the good faith of the nursing home industry. Furthermore, there is no formal mechanism whereby a nursing home resident or his representative may make a complaint against a nursing home facility or its employees. The Legislature declares further that concerned citizens are more effective advocates of the rights of others than government agencies. It is the intent of the Legislature, therefore, to provide an alternative to the present method of correcting nursing home deficiencies, by establishing voluntary citizen ombudsman *councils committees* at the state and district levels to discover, investigate, and determine the presence of abuse or neglect in nursing home facilities and to receive, investigate, and resolve complaints against nursing home facilities. To ensure that the effectiveness and efficiency of such investigations are not impeded by advance notice or delay, the Legislature intends that ombudsman *councils committees* shall not be required to obtain warrants in order to enter into or to conduct administrative inspections of nursing home facilities. It is the intent of the Legislature that the environment in nursing home facilities should be conducive to the dignity and independence of residents and that investigations by ombudsman *councils committees* should further the enforcement of laws and regulations that safeguard the health, safety, and welfare of residents.

(2) The Legislature further finds that procedures for discovering and investigating the presence of abuse or neglect and for receiving and investigating complaints through the mechanism of the state and district ombudsman *councils committees* should be extended to include complaints relating to adult congregate living facilities and adult foster homes. These facilities shall hereinafter be referred to as "long-term care facilities."

Section 34. Section 400.304, Florida Statutes, 1982 Supplement, is amended to read:

400.304 Establishment of a State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee*; duties; membership.—

(1) There is hereby created in the office of the Governor a State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee*.

(2) The duties of the state ombudsman *council committee* shall be to:

(a) Help establish and coordinate the district ombudsman *councils committees* throughout the state.

(b) Serve as an appellate body in receiving from the district ombudsman *councils committees* complaints not resolved at the district level. The state ombudsman *council committee* may enter any nursing home or long-term care facility involved in an appeal, pursuant to the conditions specified in s. 400.307(3). *Members associated with a nursing home or long-term care facility under investigation by a council shall not participate in the investigation or in an appeal.*

(c) Develop procedures to discover, investigate, and determine the existence of abuse or neglect in any nursing home or long-term care facility. Investigations may consist, in part, of one or more onsite administrative inspections.

(d) Develop procedures for eliciting, receiving, responding to, and resolving complaints made by, and on behalf of, nursing home and long-term care facility residents.

(e) Elicit and coordinate state, local, and voluntary organizational assistance for the purpose of improving the care received by residents of a nursing home or long-term care facility.

(f) Prepare an annual report to the President of the Senate, the Speaker of the House, and the Governor containing an appraisal of the problems of nursing home and long-term care facility residents and recommendations for improving nursing home and long-term care facility care and treatment.

(3) The state ombudsman *council committee* shall be composed of 12 members appointed by the Governor, to include the following: one physician who includes elderly patients in his practice; one registered nurse who has geriatric experience, if possible; one nursing home administrator; one licensed pharmacist; one dietitian; two representatives who are, or who represent, nursing home residents; one representative who is a resident of, or who represents residents of, an adult congregate living facility; one representative who is a resident of, or who represents residents of, an adult foster home; one owner or operator of an adult congregate living facility; one attorney; and one professional social worker. In no case shall an employee of the Department of Health and Rehabilitative Services serve as a member or as an ex officio member of the *council committee*. The Governor shall elicit nominations from related professional organizations. Except for the nursing home administrator, the adult congregate living facility owner or operator, the registered nurse, and the licensed pharmacist, each member of the state ombudsman *council committee* shall certify to having no association with a nursing home or long-term care facility for reward or profit.

(4) All members shall serve for 2-year terms. A member may be reappointed thereafter. Any vacancy which occurs shall be filled by the Governor. If an appointment is not made within 120 days after a vacancy occurs, the vacancy shall be filled by a majority vote of the *council committee*. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

(5) The state ombudsman *council committee* shall elect from its second-year members a chairman for a term of 1 year. ~~Effective November 1, 1980,~~ In no case shall a person who is an owner, administrator, operator, or employee of a nursing home or long-term care facility, as defined in s. 400.301(2), be elected as chairman of the *council committee*. The chairman shall select a secretary from among the members. The secretary shall chair the *council committee* in the absence of the chairman.

(6) The state ombudsman *council committee* shall meet upon the call of the chairman, at least quarterly or more frequently as needed.

(7)(a) Members shall receive no compensation but shall be reimbursed for per diem and travel expenses as provided for in s. 112.061.

(b) The department shall make a separate and distinct request for an appropriation for all expenses for the *council committee*. Such request may be combined into a specific appropriation for *council committee* expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a

legislative appropriation for such expenses is made, the department shall reimburse expenses for individual advisory councils and committees in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council and committee expenses.

(8) The state ombudsman *council committee* is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties, including assistance from any adult protective services programs of the department as provided for under ss. 409.026 and 827.09 828.043.

(9) The state ombudsman *council committee* shall enter into a cooperative agreement with the statewide and district human rights advocacy committees, as defined in s. 20.19(6) and (7), for the purpose of coordinating advocacy services provided to residents of nursing home and long-term care facilities.

Section 35. Section 400.307, Florida Statutes, 1982 Supplement, is amended to read:

400.307 District nursing home and long-term care facility ombudsman *councils committees*; duties; membership.—

(1) There shall be at least one nursing home and long-term care facility ombudsman *council committee* in each of the districts of the department.

(2) The duties of the district ombudsman *council committee* are:

(a) To serve as a third-party mechanism for protecting the health, safety, welfare, and civil and human rights of residents of a nursing home or long-term care facility.

(b) To discover, investigate, and determine the existence of abuse or neglect in any nursing home or long-term care facility and to use the procedures provided for in s. 827.09 when applicable. Investigations may consist, in part, of one or more onsite administrative inspections.

(c) To elicit, receive, respond to, and resolve complaints made by, or on behalf of, nursing home or long-term care facility residents.

(d) To review, for their effect on the rights of nursing home or long-term care facility residents, all existing or proposed rules and regulations relating to nursing home or long-term care facilities.

(e) To review Medicaid *residents' patients'* personal property and money accounts pursuant to an investigation to obtain information regarding a specific complaint or problem.

(3) In order to carry out the duties specified in subsection (2), the district ombudsman *council committee* is authorized, pursuant to ss. 400.19(1) and 400.434, to enter any nursing home or long-term care facility without notice or first obtaining a warrant, subject to the provisions of s. 400.314(5).

(4) Each district ombudsman *council committee* shall be composed of 15 members from the district, to include the following: one physician licensed pursuant to chapter 458 or chapter 459 whose practice includes a substantial number of geriatric patients; one registered nurse *who has geriatric experience, if possible*; one nursing home administrator; one owner or operator of an adult congregate living facility; one licensed pharmacist; one dietitian; five nursing home residents or representative consumer advocates for nursing home residents; two long-term care facility residents or representative consumer advocates for long-term care facility residents; one attorney; and one professional social worker. In no case shall an employee of the Department of Health and Rehabilitative Services serve as a member or as an ex officio member of a *council committee*. Except for the nursing home administrator, adult congregate living facility owner or operator, pharmacist, and nurse, each member of the *council committee* shall certify to having no association with a nursing home or long-term care facility for reward or profit. *Those members having an affiliation with a nursing home, adult congregate living facility or adult foster home shall not participate in any investigation or inspection of any facility with which they have such affiliation.*

(5) All members shall serve 2-year terms. A member may be reappointed thereafter. Upon expiration of a term and in case of any other vacancy, the *council committee* shall appoint a replacement by majority vote of the *council committee*, subject to the approval of the Governor. If no action is taken by the Governor to approve or disapprove the replace-

ment of a member within 30 days after the *council committee* has notified the Governor of the appointment, the appointment of the replacement shall be considered approved. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

(6) The district ombudsman *council committee* shall elect from its second-year members a chairman for a term of 1 year. In no case shall a person who is an owner, administrator, operator, or employee of a nursing home or long-term care facility, as defined in s. 400.301(2), be elected as chairman of the *council committee*. The chairman shall select a secretary from among the members of the *council committee*. The secretary shall chair the *council committee* in the absence of the chairman.

(7) The district ombudsman *council committee* shall meet upon the call of the chairman, at least once a month or more frequently as needed to handle emergency situations.

(8)(a) A member of a district ombudsman *council committee* shall receive no compensation but shall be reimbursed for travel expenses both within and outside the county of residence in accordance with the provisions of s. 112.061.

(b) The department shall make a separate and distinct request for an appropriation for all expenses for each *council committee* which shall indicate the proposed distribution of such expenses among districts. Such request may be combined into a specific appropriation for *council committee* expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a legislative appropriation for such expenses is made, the department shall reimburse expenses for individual advisory councils and committees in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council and committee expenses.

(9) The district ombudsman *councils committees* are authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of their duties. All state agencies shall cooperate with the district ombudsman *councils committees* in providing requested information and agency representatives at *council committee* meetings.

Section 36. Section 400.311, Florida Statutes, is amended to read:

400.311 Procedures for receiving complaints.—

(1) The State Ombudsman *Council Committee* shall establish state and district procedures for receiving complaints against a nursing home or long-term care facility or its employee.

(2) These procedures shall be posted in full view in every nursing home or long-term care facility. Every resident or representative of a resident shall receive, upon admission to a nursing home or long-term care facility, a printed copy of the procedures of the state and the district ombudsman *councils committees*.

Section 37. Section 400.314, Florida Statutes, 1982 Supplement, is amended to read:

400.314 Investigations by state and district nursing home and long-term care facility ombudsman *councils committees*.—

(1) A district ombudsman *council committee* shall investigate any complaint of a resident or resident's representative based on an action by an administrator or employee of a nursing home or long-term care facility which might be:

(a) Contrary to law.

(b) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law.

(c) Based on a mistake of fact.

(d) Based on improper or irrelevant grounds.

(e) Unaccompanied by an adequate statement of reasons.

(f) Performed in an inefficient manner.

(g) Otherwise erroneous.

(2) In an investigation, both the state and district ombudsman *councils committees* have the authority to hold hearings.

(3) Subsequent to an appeal from a district ombudsman *council committee*, the state ombudsman *council committee* may investigate any nursing home or long-term care facility.

(4) In addition to any specific investigation made pursuant to a complaint, the district ombudsman *council committee* shall conduct, at least annually, an investigation, which shall consist, in part, of an onsite administrative inspection, of each nursing home or long-term care facility within its jurisdiction.

(5) Any onsite administrative inspection conducted by an ombudsman *council committee* shall be subject to the following:

(a) All inspections shall be at times and for durations necessary to produce the information required to carry out the duties of the *council committee*.

(b) No advance notice of an inspection shall be provided to any nursing home or long-term care facility, except that notice of follow-up inspections on specific problems may be provided.

(c) Inspections shall be conducted in a manner which will impose no unreasonable burden on nursing homes or long-term care facilities, consistent with the underlying purposes of this part. Unnecessary duplication of efforts among *council committee* members or the *councils committees* shall be reduced to the extent possible.

(d) Any ombudsman *council committee* member physically present for the inspection shall identify himself and the statutory authority for his inspection of the facility.

(e) Inspections shall not unreasonably interfere with the programs and activities of clients within the facility. Ombudsman *council committee* members shall respect the rights of residents.

(f) All inspections shall be limited to compliance with parts I and II of *this chapter 400* and 42 U.S.C. s. 1396(a) et seq. and any rules or regulations promulgated pursuant to such laws.

(g) No ombudsman *council committee* member shall enter a single-family residential unit within a long-term care facility without the permission of the resident or the resident's representative.

(h) Any inspection resulting from a specific complaint made to an ombudsman *council committee* concerning a facility shall be conducted within a reasonable time after the complaint is made.

(6) An inspection may not be accomplished by forcible entry. Refusal of a nursing home or long-term care facility to allow entry of any ombudsman *council committee* member constitutes a violation of part I or part II of this chapter.

Section 38. Section 400.317, Florida Statutes, 1982 Supplement, is amended to read:

400.317 Procedures for resolving a complaint.—

(1) Any complaint, including any problem identified by an ombudsman *council committee* as a result of an investigation, deemed valid and requiring remedial action by the district ombudsman *council committee* shall be identified and brought to the attention of the nursing home or long-term care facility administrator in writing. Upon receipt of such document, the administrator, in concurrence with the district ombudsman *council committee* chairman, shall establish target dates for taking appropriate remedial action. If, by the target date, the remedial action is not completed or forthcoming, the district ombudsman *council committee* may:

(a) Extend the target date if the *council committee* has reason to believe such action would facilitate the resolution of the complaint.

(b) Make public the complaint, the *council's committee's* recommendations, and the response of the nursing home or long-term care facility; however, in no case shall the names of individuals involved in the complaint be disclosed.

(c) Refer the complaint to the state ombudsman *council committee*.

(2) Upon referral from the district ombudsman *council committee*, the state ombudsman *council committee* shall assume the responsibility for the disposition of the complaint. If a nursing home or long-term care facility fails to take action on a complaint found valid by the state ombudsman *council committee*, the state *council committee* may:

(a) Make public the complaint, the *council's committee's* recommendations, and the response of the nursing home or long-term care facility; however, in no case shall the names of the individuals involved in the complaint be disclosed.

(b) Recommend to the department a series of facility reviews pursuant to s. 400.19(4) to assure correction and nonrecurrence of conditions that give rise to complaints against a nursing home facility.

(c) Recommend to the department changes in rules and regulations for inspecting and licensing or certifying nursing home or long-term care facilities.

(d) Refer the complaint to the state attorney for prosecution if there is reason to believe the nursing home or long-term care facility or its employee is guilty of a criminal act.

(e) Recommend to the department that the nursing home no longer receive payments under the State Medical Assistance Program (Medicaid).

(f) Recommend that the Department of Health and Rehabilitative Services initiate procedures for revocation of license in accordance with chapter 120.

Section 39. Section 400.321, Florida Statutes, is amended to read:

400.321 Confidentiality.—

(1) All matters before the state or a district ombudsman *council committee* concerning abuse or denial of rights of an individual client of a nursing home or long-term care facility shall be confidential and exempt from the provisions of chapter 119. All other matters before the *council committee* shall be open to the public and subject to chapter 119.

(2) Members of any state or district ombudsman *council committee* shall not be required to testify in any court with respect to matters held to be confidential under s. 400.414 except as may be necessary to enforce the provisions of this act.

Section 40. Section 5 of chapter 81-152, Laws of Florida, is hereby repealed, and section 400.322, Florida Statutes, is reenacted and amended to read:

400.322 Emergency medication kits.—

(1) Other provisions of this chapter or of chapter 465, chapter 499 500, or chapter 893 to the contrary notwithstanding, each *nursing home long-term care facility* operating pursuant to a license issued by the Department of Health and Rehabilitative Services may maintain an emergency medication kit for the purpose of storing medicinal drugs to be administered under emergency conditions to *residents patients* residing in such facility.

(2) The Department of Health and Rehabilitative Services shall adopt such rules as it may deem appropriate to the effective implementation of this act, including, but not limited to, rules which:

(a) Define "emergency medication kit."

(b) Describe the medicinal drugs eligible to be placed in emergency medication kits.

(c) Establish requirements for the storing of medicinal drugs in emergency medication kits and the maintenance of records with respect thereto.

(d) Establish requirements for the administration of medicinal drugs to *residents patients* under emergency conditions from emergency medication kits.

PART II ADULT CONGREGATE LIVING FACILITIES

Section 41. Subsections (1), (5), (7), (8), (10), and (11) of section 400.402, Florida Statutes, 1982 Supplement, are amended, and subsection (13) is added to said section, to read:

400.402 Definitions.—When used in this part, unless the context otherwise requires:

(1) "Adult congregate living facility," hereinafter referred to as "facility," means any building or buildings, *section of a building, or distinct*

part of a building, residence, private home, boarding home, home for the aged, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator operator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

(5) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a person who has been legally adjudged an incompetent.

(7) "Administrator Operator" means an individual who has general administrative charge of an adult congregate living facility.

(8) "Personal services" include includes, but are is not limited to, such services as: Individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, and ambulation, and housekeeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; arrangement for appropriate medical, dental, nursing, or mental health services; and other similar services which the department may define. "Personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services by the staff of a facility, except as provided in subsection (11). "Assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping" shall not be construed to mean that any resident must be able to perform any of these functions unassisted.

(10) "Resident's representative or designee" means a person other than the owner, or an agent or employee of the facility, designated in writing by the resident, if legally competent, to receive notice of changes in the contract executed pursuant to s. 400.424; to receive notice of and to participate in meetings between the resident and the facility owner, administrator operator, or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman committee if the resident has a complaint against the facility; or to bring legal action on behalf of the resident pursuant to s. 400.429; or to participate in meetings of the ad hoc committee on adult congregate living facilities pursuant to s. 400.437(1).

(11) "Supervision of self-administered medication" means reminding residents to take medication, opening bottle caps for residents, reading the medication label to residents, observing residents while they take medication, checking the self-administered dosage against the label of the container, reassuring residents that they have obtained and are taking the correct dosage as prescribed, keeping daily records of when residents receive supervision pursuant to this subsection, and immediately reporting noticeable changes in a resident's condition effects and side effects of medication to the resident's physician. Supervision of self-administered medication shall not be construed to mean that a facility staff shall provide such supervision to residents who are capable of administering their own medication. Persons under contract to the facility, facility staff, or volunteers, who are licensed according to chapter 464, or those persons exempted under s. 464.022(1), are limited in their practice in an adult congregate living facility to the administration of medication to residents. This subsection does not prohibit the administration of medication by qualified licensed staff or other qualified personnel licensed according to the provisions of chapter 464 to residents who are not in need of any other nursing intervention from facility staff.

(13) "Supervision of activities of daily living" means reminding residents to engage in personal hygiene and other self-care activities, and, when necessary, observing or assisting residents while they attend to activities such as bathing or shaving to assure their health, safety, or welfare.

Section 42. Paragraph (e) and (f) are added to subsection (2) of section 400.404, Florida Statutes, to read:

400.404 Facilities to be licensed; exemptions.—

(2) The following shall be exempt from the provisions of this part:

(e) Any home or facility approved by the Veterans Administration as a residential care home wherein care is provided exclusively to three or fewer veterans.

(f) Any facility which has been incorporated in the State of Florida for 50 years or more on or before July 1, 1983 and whose board of directors is elected by the residents shall be exempt from the provisions of this part until such time as the facility is sold or ownership transferred.

Section 43. Subsection (8) is added to section 400.407, Florida Statutes, to read:

400.407 License required; fee, display.—

(1) It is unlawful to operate or maintain a facility without first obtaining from the department a license authorizing such operation.

(8) Any person found guilty of violating subsection (1) who, upon notification by the department, fails to apply for a license shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 44. Section 400.411, Florida Statutes, 1982 Supplement, is amended to read:

400.411 Initial application for license.—

(1) Application for license shall be made to the department on forms furnished by it and shall be accompanied by the appropriate license fee. The application shall contain sufficient information, as required by rules of the department, to establish that the applicant facility can provide adequate care. If during the period for which a license is issued, the facility changes operators, the owner shall notify the department of the change within 30 days. In addition, any facility which employs or contracts for the services of personnel licensed under chapter 464 shall notify the department within 7 days of such action.

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

(a) The name and address of the applicant and the name by which the facility is to be known. Pursuant thereto:

1. If the applicant is a firm, partnership, or association, the application shall contain the name and address of every member thereof.

2. If the applicant is a corporation, the application shall contain its name and address, the names and addresses of its director and officers, and the name and address of each person having at least a 10-percent interest in the corporation.

(b)(c) Information which provides a source to establish the suitable character and competency establishes the moral character of the applicant and, if applicable, of the administrator, including the name and address of any long-term care facility with which the applicant or administrator has been affiliated through ownership or employment within 5 years of the date of the application for a license.

(c)(d) The names and addresses of other persons of whom the department may inquire as to the character and, reputation, and financial responsibility of the applicant and, if applicable, of the administrator.

(d)(e) Information relating to the applicant or, if applicable, to the administrator pertaining to any arrest for, or adjudication or conviction of, a crime which relates to providing care in a facility or the ability to operate a facility.

(e) The names and addresses of other persons of whom the department may inquire as to the financial responsibility of the applicant.

(f) Such other reasonable information as may be required by the department to evaluate the applicant's ability to meet the responsibilities entailed under this part.

(3) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part. An applicant applying for an initial license shall submit a balance sheet setting forth assets and liabilities of the owner and a statement of operation of the facility projecting revenues, expenses, taxes, extraordinary items, and other credits or charges for the first 6 months of operation.

(4) If the applicant offers continuing care agreements as defined in chapter 651, proof shall be furnished that such applicant has obtained a certificate of authority as required for operation under that chapter.

(5) The applicant shall provide proof of liability insurance.

(6) If, during the period for which a license is issued, the owner changes administrators, the owner shall notify the department of the change within 30 days thereof. In addition, any owner who enters into any contract for services with, employs, or otherwise utilizes any person licensed under chapter 464, including volunteers, for the purpose of administering drugs shall notify the department within 30 days of such action.

Section 45. Section 400.412, Florida Statutes, is created to read:

400.412 Sale or transfer of ownership of a facility.—It is the intent of the Legislature to protect the rights of the residents of an adult congregate living facility when the facility is sold or the ownership thereof is transferred. Therefore, whenever a facility is sold or the ownership thereof is transferred, including leasing:

(1) The transferee shall make application to the department for a new license at least 30 days prior to the date of transfer of ownership.

(2) The transferor shall notify the department in writing at least 30 days prior to the date of transfer of ownership.

(3) The transferor shall be responsible and liable for:

(a) The lawful operation of the facility and the welfare of the residents domiciled in the facility until the date the transferee is licensed by the department.

(b) Any and all penalties imposed against the facility for violations occurring prior to the date of transfer of ownership; provided that, if the penalty imposed is a moratorium on admissions, and there is a threat to the health, safety, or welfare of the residents which continues unabated, the moratorium shall remain in full force and effect after the transfer of ownership, or it may be grounds for denial of license to the transferee in accordance with chapter 120.

(c) Any outstanding liability to the state, unless the transferee has agreed, as a condition of sale or transfer, to accept the outstanding liabilities and to guarantee payment therefor; provided that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability.

(4) The transferor shall, prior to transfer of ownership, pay or make arrangements to pay to the department any amounts owed to the department prior to the transfer of ownership, and the issuance of a license to the transferee shall be delayed until such payment or arrangements for payment have been made.

Section 46. Paragraph (b) of subsection (2) of section 400.414, Florida Statutes, is amended, and subsection (3) is added to said section, to read:

400.414 Denial, suspension, revocation of license; grounds.—

(2) Any of the following actions by a facility or its employee shall be grounds for action by the department against a facility:

(b) The determination by the department that the facility owner or administrator ~~operator~~ is not of suitable ~~of questionable moral~~ character and competency or that the owner lacks the financial ability to provide continuing adequate care to residents, pursuant to the information obtained through s. 400.411, s. 400.417, or s. 400.434.

(3) The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a potential threat to the health, safety, or welfare of the residents in the facility.

Section 47. Section 400.417, Florida Statutes, 1982 Supplement, is amended to read:

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

(1) Annual licenses issued for the operation of a facility, unless sooner suspended or revoked, shall expire automatically 1 year from the date of issuance. The department shall notify the facility by certified mail 120 days prior to the expiration of the license that relicensure is necessary to continue operation. Ninety days prior to the expiration date, an application for renewal shall be submitted to the department. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this part and all rules promulgated hereunder. The failure to file a timely application shall result in a late fee charged to the

facility in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date or \$100, whichever is greater. Late fees shall be deposited into the trust fund established by s. 400.418. The facility shall file with the application satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part. An applicant for renewal of a license who has complied on the initial license application with the provisions of s. 400.411 with respect to proof of financial ability to operate shall not be required to provide proof of financial ability on a renewal ~~applications application~~ unless the facility has demonstrated financial instability as evidenced by bad checks, delinquent accounts, or nonpayment of withholding taxes, utility expenses, or ~~and~~ other essential services. ~~However~~ ~~In addition~~, the department shall have access to books, records, and any other financial documents maintained by the facility to the extent necessary to carry out the purpose of this section.

(2) A licensee against whom a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the department of such proceeding. If judicial relief is sought from the final disposition, the court having jurisdiction may issue a conditional license ~~permit~~ for the duration of the judicial proceeding.

(3) A conditional license shall be issued to a facility which has changed ownership pending final license approval, if the facility is occupied by residents and, in such instance, conditions in the facility do not present a direct or indirect threat to the health, safety, or welfare of residents. A The conditional license issued under this subsection shall be for a single period not to exceed 90 days.

(4) A conditional license may be issued to an applicant for license renewal when the applicant fails to meet all standards and requirements for licensure. A conditional license issued under this subsection shall be limited in duration to a specific period of time not to exceed six months as determined by the department and shall be accompanied by an approved plan of correction.

(5) A provisional license may be issued to an applicant making initial application for licensure for a newly constructed or renovated facility which fails to meet all standards and requirements for licensure. A provisional license shall be limited in duration to a specific period of time not to exceed six months as determined by the department and shall be accompanied by an approved plan of correction.

Section 48. Subsection (1) of section 400.418, Florida Statutes, 1982 Supplement, is amended to read:

400.418 Disposition of fees and administrative fines.—

(1) The office of the Comptroller shall establish an *Aging and Adult Licensure Congregate Living Facilities* Trust Fund for the purpose of collecting and disbursing funds generated pursuant to ss. 400.407, 400.417, and 400.419. Income from license fees, late fees, and administrative fines authorized herein shall be deposited in the trust fund. Such funds shall be directed to and used by the department for the following purposes:

(a) Up to 50 percent of the trust funds accrued each fiscal year may be used to offset the expenses of receivership, pursuant to s. 400.422, if the court determines that the income and assets of the facility are insufficient to provide for adequate management and operation.

(b) Up to \$5,000 of the trust funds accrued each year may be used to pay for inspection-related physical examinations requested by the department pursuant to s. 400.426 for residents who are either recipients of supplemental security income or have monthly incomes not in excess of the maximum combined federal and state cash subsidies available to supplemental security income recipients, as provided for in s. 409.212.

(c) The balance of trust funds accrued each year may be used to offset the costs of the licensure program, including the costs of conducting background investigations, verifying information submitted, and defraying the costs of processing the names of applicants.

Section 49. Paragraphs (a), (b), and (d) of subsection (1), paragraph (b) of subsection (2), subsection (3), and subsection (5) of section 400.419, Florida Statutes, are amended to read:

400.419 Violations; penalties.—

(1)(a) If the department determines that a facility is not in compliance with standards promulgated pursuant to the provisions of this part,

including the operation of a facility without a license, the department, as an alternative to or in conjunction with an administrative action against a facility, shall make a reasonable attempt to discuss each violation and recommended corrective action with the owner or *administrator operator* of the facility, prior to written notification thereof. The department, instead of fixing a period within which the facility shall enter into compliance with standards, may request a plan of corrective action from the facility which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the department.

(b) Any facility owner or *administrator operator* found to be in violation of this part shall be liable to a fine, set and levied by the department.

(d) Any action taken to correct a violation shall be documented in writing by the *administrator operator* of the facility and verified through follow-up visits by licensing personnel of the department.

(2) In determining if a penalty is to be imposed and in fixing the amount of the penalty to be imposed, if any, for a violation, the department shall consider the following factors:

(b) Actions taken by the owner or *administrator operator* to correct violations.

(3) Each violation shall be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The department shall indicate the classification of each violation on the face of the notice of the violation as follows:

(a) Class "I" violations ~~are those conditions or occurrences include overt resident abuse and negligence~~ related to the operation and maintenance of a facility or to the personal care of residents which the department determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the department, is required for correction. A class I violation is subject to a civil penalty in an amount not less than \$1,000 and not exceeding \$5,000 for each violation. A fine may be levied notwithstanding the correction of the violation.

(b) Class "II" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the department determines directly threaten the physical or emotional health, safety, or security of the facility residents, other than class I violations. A class II violation is subject to a civil penalty in an amount not less than \$500 and not exceeding \$1,000 for each violation. A citation for a class II violation shall specify the time within which the violation is required to be corrected. If a class II violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(c) Class "III" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the department determines indirectly or potentially threaten the physical or emotional health, safety, or security of facility residents, other than class I or II violations. A class III violation shall be subject to a civil penalty of not less than \$100 and not exceeding \$500 for each violation. A citation for a class III violation shall specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(5) Civil penalties paid by any facility under the provisions of subsection (3) shall be deposited into the *Aging and Adult Licensure Congregate Living Facilities Trust Fund*, and expended as provided in s. 400.418.

Section 50. Section 400.420, Florida Statutes, is created to read:

400.420 *Certain solicitation prohibited.*—

(1) *No person shall, in connection with the solicitation of contributions by or on behalf of an adult congregate living facility or facilities, misrepresent or mislead any person, by any manner, means, practice, or device whatsoever, to believe that the receipts of such solicitation will be used for charitable purposes, if such is not the fact.*

(2) *Solicitation of contributions of any kind in a threatening, coercive, or unduly forceful manner by or on behalf of an adult congregate living facility or facilities by any agent, employee, owner, or representa-*

tive of any adult congregate living facility or facilities shall be grounds for denial, suspension, or revocation of the license of the adult congregate living facility or facilities by or on behalf of which such contributions were solicited.

(3) *The admission or maintenance of adult congregate living facility residents whose care is supported, in whole or in part, by state funds shall not be conditioned upon the receipt of any manner of contribution or donation from any person. The solicitation or receipt of contributions in violation of this subsection shall be grounds for denial, suspension, or revocation of license, as provided in s. 400.414, for any adult congregate living facility by or on behalf of which such contributions were solicited.*

Section 51. Subsections (2) and (9) of section 400.422, Florida Statutes, are amended to read:

400.422 *Receivership proceedings.*—

(2) *Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days of the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The department shall notify the owner or administrator operator of the facility named in the petition of its filing and the date set for the hearing. The court shall grant the petition only upon finding that the health, safety, or welfare of facility residents would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver shall not be appointed ex parte unless the court determines that one or more of the conditions in subsection (1) exist; that the facility owner or administrator operator cannot be found; that all reasonable means of locating the owner or administrator operator and notifying him of the petition and hearing have been exhausted; or that the owner or administrator operator after notification of the hearing chooses not to attend. After such findings, the court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership. The receiver may be selected from a list of persons qualified to act as receivers developed by the department and presented to the court with each petition for receivership. Under no circumstances shall the department or designated departmental employee be appointed as a receiver for more than 60 days; however, the receiver may petition the court, one time only, for a 30-day extension. The court shall grant the extension upon a showing of good cause.*

(9) *The court may direct the department to allocate funds from the Aging and Adult Licensure Congregate Living Facilities Trust Fund to the receiver, subject to the provisions of s. 400.418(1)(a).*

Section 52. Subsections (1) and (2) of section 400.424, Florida Statutes, are amended to read:

400.424 *Contracts.*—

(1) *The presence of each resident in a facility shall be covered by a contract, executed at the time of admission or prior thereto, between the facility and the resident or his designee or legal representative. Each party to the contract shall be provided with a duplicate original thereof, and the facility shall keep on file in the facility all such contracts. The facility shall not destroy or otherwise dispose of any such contract until 5 years after its expiration, or such longer period as may be provided in the rules of the department.*

(2) *Each contract shall contain express provisions specifically setting forth the services and accommodations to be provided by the facility; the rates or charges; provision for at least 30 days' notice of rate increase; the rights, duties, and obligations of the residents, other than those specified in s. 400.428; and other matters which the parties deem appropriate. The purpose of any advance payment and a refund policy for such payment, including any advance payment for meals, lodging, or personal services, shall be covered in the contract.*

Section 53. Section 400.426, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 400.426, F.S., for present text.)

400.426 *Examination of residents.*—

(1) *The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility.*

(2) No physician employed by an adult congregate living facility to provide initial examination for admission purposes shall have any financial interest in said facility.

(3) Where possible, each resident shall have been examined by a licensed physician or a licensed nurse practitioner within 60 days prior to admission to a facility. The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall utilize the information contained therein to assist in the determination of the appropriateness of admission of the resident to the facility. The medical examination report shall become a permanent part of the resident's record at the facility and shall be made available to the department during inspection or upon request.

(4) If a medical examination has not been completed within 60 days prior to the resident's admission to the facility, a licensed physician or licensed nurse practitioner shall examine the resident and complete a medical examination form provided by the department within 30 days following the resident's admission to the facility to enable the facility owner or administrator to determine the appropriateness of the admission. The medical examination form shall become a permanent part of the resident's record at the facility and shall be made available to the department during inspection by the department or upon request.

(5) Any resident accepted in a facility upon discharge from a state institution shall have been examined by medical personnel of the institution within 30 days prior to discharge from the state institution, and findings pursuant to such examination shall be recorded on the medical examination form provided by the department. The completed form shall be submitted to the facility owner or administrator and a copy thereof shall be provided to the department's district licensure office.

(6) The department may require an annual physical examination for supplemental security income recipients residing in facilities.

(7) If, at any time after admission to a facility, a resident appears to need care beyond that which the facility is licensed to provide, the department shall direct the facility owner or administrator to require the resident to be physically examined by a licensed physician or licensed nurse practitioner, which physical examination shall be paid for by the resident with personal funds, except as provided in s. 400.418(1)(b). Pursuant to such examination, the examining physician or licensed nurse practitioner shall complete and sign a medical form provided by the department. The completed medical form shall be submitted to the department within 30 days from the date the facility owner or administrator is notified by the department that the physical examination is required. After consultation with the physician or licensed nurse practitioner who performed the examination, the medical review team designated by the department shall then determine whether the resident is appropriately residing in the facility, and the determination shall be final and binding upon the facility and the resident. Any resident who is determined by the medical review team to be inappropriately residing in a facility shall be given 30 days' written notice to relocate by the owner or administrator unless the resident's continued residence in the facility presents an imminent danger to the health, safety, or welfare of the resident or a substantial probability exists that death or serious physical harm would result to the resident if allowed to remain in the facility.

Section 54. Subsections (1), (2), (5), and (7) of section 400.427, Florida Statutes, 1982 Supplement, are amended to read:

400.427 Property and personal affairs of residents.—

(1) The admission of a resident to a facility and his presence therein shall not confer on the facility or its owner, *administrator operator*, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident, except that which may be necessary for the safe and orderly management of the facility or for the safety of the resident.

(2) A facility, or an owner, *administrator operator*, employee, or representative thereof, may not act as the court-appointed guardian, trustee, or conservator for any resident of the facility or any of such resident's property. Any facility whose owner, *administrator*, or *operator*, staff, or representative thereof, serves as representative payee or is granted power of attorney for any resident of the facility shall file a surety bond with the department in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for their account, which are received by a facility. The bond shall be executed by

the facility as principal and a surety company authorized and licensed to do business in the state as surety. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the department for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation by a facility of funds held pursuant to this subsection. Any surety company which cancels or does not renew the bond of any licensee shall notify the department in writing, not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. The department, in cooperation with insurance companies, associations, and organizations representing facilities licensed under this part and the Department of Insurance shall develop procedures to implement the bonding requirements of this subsection.

(5) Any personal funds available to facility residents shall be used by residents as they choose to obtain clothing, personal items, leisure activities, and other supplies and services for their personal use when these services and supplies are not otherwise provided by the facility. A facility shall not demand, require, or contract for payment of all or any part of the personal funds in satisfaction of the facility rate for supplies and services and shall not charge the individual or the account for any supplies or services that the facility is by law, rule, or agreement with the individual required to provide. Any service or supplies provided by the facility, which are charged to the individual or the account, shall be provided only with the specific *written* consent of the individual, who shall be furnished in advance of the provision of the services or supplies with an itemized written statement to be attached to the contract setting forth the charges for the services or supplies.

(7) In the event of a resident's death, the facility shall place all funds belonging to the resident in an interest-bearing account until such time as the funds are disbursed pursuant to the Florida Probate Code. Such funds shall be kept separate from the funds and property of the facility and other residents of the facility. In the event the funds of the deceased resident are not disbursed pursuant to the provisions of the Florida Probate Code within 2 years of the resident's death, the funds shall be deposited in the *Aging and Adult Licensure Congregate Living Facilities Trust Fund* as provided in s. 400.418.

Section 55. Paragraphs (d) and (f) of subsection (1) and subsection (2) of section 400.428, Florida Statutes, are amended to read:

400.428 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States solely by reason of status as a resident of a facility. Every resident of a facility shall have the right to:

(d) Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his choice, at any time between the hours of 9 a.m. and 9 p.m., *at minimum*.

(f) Manage his own financial affairs unless he or his guardian authorizes the *administrator operator* of the facility to provide safekeeping for funds as provided in s. 400.427.

(2) The *administrator operator* of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. This notice shall include the name, address, and telephone numbers of the district ombudsman committee and adult abuse register where complaints may be lodged.

Section 56. Subsection (1) of section 400.429, Florida Statutes, is amended to read:

400.429 Civil actions to enforce rights.—

(1) Any person or resident whose rights as specified in this part are violated shall have a cause of action against any facility owner, *administrator operator*, or staff responsible for the violation. The action may be brought by the resident or his guardian, or by a person or organization acting on behalf of a resident with the consent of the resident or his guardian, to enforce such rights. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages when malicious, wanton, or willful disregard of the rights of others can be shown. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff

has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident or to the department.

Section 57. Subsection (3) of section 400.431, Florida Statutes, is amended to read:

400.431 Closing of facility.—

(3) All charges shall be prorated as of the date on which the facility discontinues operation, and if any payments have been made in advance, the payments for services not received shall be refunded to the resident or the resident's guardian *within 7 days of voluntary or involuntary closure of the facility, whether or not such refund is requested by the resident or guardian.*

Section 58. Section 400.434, Florida Statutes, 1982 Supplement, is amended to read:

400.434 Right of entry and inspection; ~~random sample auditing.~~—

(4) Any duly designated officer or employee of the department, the state or local fire marshal, or a member of the state or district nursing home and long-term care facility ombudsman ~~council committee~~ shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe ~~is~~ ~~are~~ being operated or maintained as a facility without a license; but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same. Any application for a ~~facility~~ license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints.

~~(2) The provisions of this section or of any other section in this part shall not be deemed to permit random sample auditing of persons licensed pursuant to this part unless the solvency of the facility has been questioned or the Legislature requests cost-of-care data.~~

Section 59. Paragraph (f) of subsection (1) of section 400.441, Florida Statutes, is amended, and paragraph (g) is added to said subsection, to read:

400.441 Rules establishing minimum standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities, the department shall promulgate, publish, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards in relation to:

(f) The care and maintenance of residents *which shall include, but not be limited to:*

1. *The provision of personal services;*
2. *The provision of, or arrangement for, social and leisure activities; and*
3. *The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents.*

(g) *The establishment of specific criteria to define appropriateness of admission and continued residency.*

Section 60. Subsection (1) of section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs.—

(1) The department may provide, or cause to be provided, training and educational programs for the ~~administrators operators~~ and staff of facilities to better enable them to appropriately respond to the needs of residents and to meet licensure requirements. Such programs may be

available to facility staff at least annually. Facility ~~administrators operators~~ and their staff shall participate in training and educational opportunities developed by or in cooperation with the department.

PART III HOME HEALTH AGENCIES

Section 61. Subsection (2) of section 400.461, Florida Statutes, is amended, and subsection (3) is added to said section to read:

400.461 Short title; purpose.—

(2) The purpose of this act is to provide for the *licensure of every home health agency which is certified or seeks certification as a Medicare home health service provider and to provide for development, establishment, and enforcement of basic standards which will insure the safe and adequate care of persons receiving Medicare health services in their own homes.*

(3) *It is the intent of the Legislature to create a task force to study the certificate of need process, specifically with respect to health care cost containment in the areas of home health agencies and other agencies providing home health services. The task force will be composed of three members each from the House and the Senate, to be appointed by the Speaker of the House and the President of the Senate, respectively. The task force shall report its findings to the Speaker of the House and to the President of the Senate by March 1, 1984.*

Section 62. Subsection (2) of section 400.462, Florida Statutes, is amended to read:

400.462 Definitions.—When used in this part, unless the context otherwise requires:

(2) "Home health agency," hereinafter referred to as "agency," means any public agency or private organization, or a subdivision of such an agency or organization, whether operated for profit or not, which provides home health services *and which is certified or seeks certification as a Medicare home health service provider. Any agency having a license on October 1, 1983, shall not be denied a renewal of such license on the basis of not being certified as a Medicare home health service provider.*

Section 63. Subsection (2) of section 400.467, Florida Statutes, is amended to read:

400.467 License required; fee; display.—

(2) The annual license fee required of an agency shall be in an amount determined by the department but shall not exceed \$500 ~~\$100~~. However, counties or municipalities applying for licenses under this part shall be exempt from the payment of license fees.

PART IV ADULT DAY CARE CENTERS

Section 64. Section 400.5565, Florida Statutes, is created to read:

400.5565 Administrative fines.—

(1)(a) If the department determines that a center is not in compliance with rules adopted under this part, including the operation of a center without a license, the department, notwithstanding any other administrative action it takes, shall make a reasonable attempt to discuss each violation and recommended corrective action with the owner of the center prior to written notification thereof. The department may request a corrective action plan from the center which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the department.

(b) A center or employee found in violation of rules adopted under this part may be fined by the department. A fine shall not exceed \$500 for each violation. In no event, however, shall such fine in the aggregate exceed \$5,000.

(c) Failure to correct a violation by the date set by the department or failure to comply with an approved corrective action plan is a separate violation for each day such failure continues, unless the department approves an extension to a specific date.

(d) If a center desires to appeal any departmental action under this section and the fine is upheld, the violator shall pay the fine, plus interest at the legal rate as specified in s. 687.01, for each day beyond the date set by the department for payment of the fine.

(2) In determining if a fine is to be imposed and in fixing the amount of any fine, the department shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the owner or operator to correct violations.

(c) Any previous violations.

(d) The financial benefit to the center of committing or continuing the violation.

Section 65. Section 400.5575, Florida Statutes, is created to read:

400.5575 Disposition of fees and administrative fines.—Fees and fines received by the department under this part shall be deposited in the Aging and Adult Licensure Trust Fund. These funds may be used to offset the costs of the licensure program, including the costs of conducting background investigations, verifying information submitted, and defraying the costs of processing applications.

PART V HOSPICES

Section 66. Section 400.602, Florida Statutes, is amended to read:

400.602 Licensure required; display, transferability of license; exemptions.—

(1) ~~It is unlawful to operate or maintain No public or private agency or person shall establish, conduct, or maintain a hospice or hold itself out to the public as a hospice without first obtaining a license therefor from the department.~~

(2) The license shall be displayed in a conspicuous place inside the hospice program office; shall be valid only in the possession of the ~~person or public agency individual, firm, partnership, association, or corporation~~ to whom it is issued; ~~and shall not be subject to sale, assignment, or other transfer, voluntary or involuntary; and shall not, nor shall a license be valid for any hospice other than that for which originally issued.~~

(3) *The following groups and services shall be exempt from the provisions of this part:*

(a) *Services provided by a hospital, nursing home, or other health care facility, health care provider, or care giver, or under the Community Care for the Elderly Act, shall not be considered to constitute a hospice program of care unless such facility, health care provider, or care giver establishes a freestanding or distinct hospice unit, staff, facility, and services to provide hospice home care, homelike inpatient hospice care, and outpatient hospice care under the separate and distinct administrative authority of a hospice program.*

(b) *Any existing organization incorporated as a hospice or as a research center offering hospice services, which, with the exception of a volunteer coordinator and secretary, is staffed only by volunteers and does not charge for its services or receive third-party reimbursement for those services, and which was operational prior to December 31, 1979, shall be exempt from the provisions of this act. In the event that such an organization initiates a system of charges or receives third-party reimbursement, or if any services described by this act as integral to hospice care are provided through such organization by contract, or written affiliation, or by acting as an agent for an entity licensed pursuant to chapter 395 or parts I and III of this chapter which receives third-party reimbursement or charges for those services, the organization shall immediately be required to comply with the provisions of this act. The department shall monitor any organization seeking an exemption under this subsection to ensure that criteria for an exemption, as stated herein, are met.*

Section 67. Section 400.603, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 400.603, F.S., for present text.)

400.603 Certificate of need required; exemption.—

(1) The department shall not issue a license to a hospice which fails to receive a certificate of need under the provisions of ss. 381.493-381.499.

(2) Any existing organization incorporated as a hospice which has not obtained a certificate of need on or before May 25, 1981, shall not be required to obtain a certificate of need for those services provided prior to that date. However, any hospice exempt under this subsection shall be subject to the requirements for a certificate of need if such hospice increases its service capacity or engages in the building, acquisition, or expansion of a freestanding hospice facility.

Section 68. Section 400.612, Florida Statutes, is renumbered as section 400.6045, Florida Statutes, and amended to read:

~~400.6045~~ ~~400.612~~ Right of inspection.—Any duly authorized officer or employee of the department shall have the right to make such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of this act and of rules or standards in force pursuant hereto. The right of inspection shall also extend to any hospice program which the department has reason to believe is *offering or advertising itself being operated* as a hospice without a license, but no such inspection of any hospice shall be made without the permission of the owner or person in charge thereof unless a warrant is first obtained from a circuit court authorizing same. Any application for a license or renewal thereof made pursuant to this act shall constitute permission for any inspection of the hospice for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.

Section 69. Section 400.605, Florida Statutes, is amended to read:

400.605 Administration; forms; fees; rules; *inspections*; fines.—The administration of this act is vested in the Department of Health and Rehabilitative Services, which shall:

(1) Prepare and furnish all forms necessary under the provisions of this act in relation to applications for licensure or renewals thereof.

(2) Collect in advance (and the applicant so served shall pay to it in advance) at the time of filing an application for a license or at the time of renewal of a license a fee of \$100.

(3) ~~Adopt rules, within the standards of this act, necessary to effect the purposes of this act. Promulgate applicable rules and standards in furtherance of the purpose of this act and may amend such rules as may be necessary. The rules shall include, but not be limited to, the following:~~

(a) *The qualifications of professional and ancillary personnel in order to adequately furnish hospice care;*

(b) *Standards for the organization and quality of patient care;*

(c) *Procedures for maintaining records; and*

(d) *Provision for contractual arrangements for the inpatient component of hospice care and for other professional and ancillary hospice services.*

(4) *Conduct annual licensure inspections of all licensees.*

(5)(4) Impose administrative fines pursuant to this act, not to exceed \$1,000 per fine, for any violation of the provisions of this act.

Section 70. Subsections (1) and (4) of section 400.606, Florida Statutes, are amended to read:

400.606 License; application; renewal; conditional license or permit.—

(1) An application shall be filed on a form prescribed by the department and shall be accompanied by the appropriate license fee as well as satisfactory proof that the hospice is in compliance with this act and any rules and minimum standards promulgated hereunder and proof of financial ability to operate and conduct the hospice in accordance with the requirements of this act. The initial application shall be accompanied by a plan for the delivery of home, outpatient, and inpatient hospice care to terminally ill persons and their families. Such plan shall contain, but not be limited to:

(a) The estimated average number of terminally ill persons to be served monthly;

(b) The geographic area in which hospice services will be available;

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers;

(d) Provisions for the implementation of hospice home care within 3 months of licensure;

(e) Provisions for the implementation of hospice outpatient and homelike inpatient care within 12 months of licensure;

(f)(d) The name and qualifications of any existing or potential contractee;

(g)(e) The projected annual operating cost of the hospice; and

(h)(f) A statement of financial resources and personnel available to the applicant to deliver hospice care.

If the applicant is an existing health care provider, the application shall be accompanied by a copy of the most recent profit-loss statement and, if applicable, the most recent licensure inspection report.

(4) The department shall not issue a license to a hospice which fails to receive a certificate of need under the provisions of ss. 381.493-381.499 ~~381.497, as amended by ch. 79-186, Laws of Florida.~~

Section 71. Subsections (3) and (4) are added to section 400.607, Florida Statutes, to read:

400.607 Denial, suspension, or revocation of license; grounds.—

(3) If, 3 months after the date of obtaining a license pursuant to s. 400.606, or at any time thereafter, a hospice does not have in operation the home-care component of hospice care, the department shall immediately revoke the license of such hospice.

(4) If, 12 months after the date of obtaining a license pursuant to s. 400.606, or at any time thereafter, a hospice does not have in operation the outpatient and homelike inpatient components of hospice care, the department shall immediately revoke the license of such hospice.

Section 72. Subsection (2) of section 400.608, Florida Statutes, is amended and renumbered as subsections (2), (3), and (4), present subsections (3) through (14) of said section are renumbered as subsections (5) through (16), respectively, and present subsection (15) is amended and renumbered, to read:

400.608 General requirements for hospice programs.—

(2) A hospice shall coordinate its services with professional and non-professional services already in the community. A hospice program may contract out for some elements of its services for a patient and family; however, direct patient care must be maintained with the patient and the hospice care team so that overall coordination of services, which is responsive and appropriate to the patient and family needs, can be maintained by the hospice care team. A majority of hospice services available through an individual hospice shall be provided directly by the licensee. Any contract entered into between a hospice and a health care facility or service provider shall specify that the hospice retain the responsibility for planning, coordinating, and prescribing hospice services and care on behalf of a hospice patient and his family. No hospice which contracts for any hospice service shall charge fees for services provided directly by the hospice care team which are duplicative of contractual services provided to the individual patient or his family.

(3) With respect to contractual arrangements for inpatient hospice care:

(a) Contractual arrangements which designate existing licensed health care facility beds for hospice inpatient care shall not be approved if the monthly average number of contracted beds used exceeds 20 percent of the monthly average number of terminally ill persons receiving hospice care within the individual hospice.

(b) The designation of a specific room or rooms for inpatient hospice care shall not be required if beds are available through contract between an existing health care facility and a hospice.

(c) Licensed beds designated for inpatient hospice care through contract between an existing health care facility and a hospice shall not be required to be delicensed from one type of health care in order to enter into a contract with a hospice, nor shall the physical plant of any facility licensed pursuant to chapter 395 or part I of this chapter be required to be altered, except that a homelike atmosphere may be required.

(d) Hospices contracting for inpatient hospice care shall not be required to obtain an additional certificate of need for the number of such designated beds. Such beds shall remain licensed to the health care facility and be subject to the appropriate inspections.

(e) Staffing standards for inpatient hospice care provided through a contract shall not exceed the staffing standards required under the license held by the contractee.

(f) Under no circumstance shall a hospice contract for the use of a licensed bed in a health care facility or another hospice that has, or has had within the last 18 months, a conditional license, accreditation, or rating.

(4) The inpatient hospice care component of a hospice which is a free-standing facility or part of a facility, which is primarily engaged in providing inpatient care and related services, and which is not licensed as a health care facility shall also be required to obtain a certificate of need. However, a freestanding inpatient hospice facility with six or fewer beds shall not be required to comply with institutional standards such as, but not limited to, standards requiring sprinkler systems, emergency electrical systems, or special lavatory devices.

(17)(16) A professional nurse licensed pursuant to chapter 464 shall be employed on a full-time basis by the hospice as a patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice care team. No other full-time personnel shall be required.

Section 73. Subsection (2) of section 400.609, Florida Statutes, is amended to read:

400.609 Components of hospice programs of care.—Each hospice program shall consist of three components or modes of care which afford the terminally ill individual and the family of the terminally ill individual a range of service delivery which can be tailored to specific needs and preferences of the patient and family at any point in time. These three components are:

(2) INPATIENT HOSPICE CARE.—The inpatient component of care is an adjunct to hospice home care and shall primarily be used only for short-term stays. The facility or rooms within a facility used for the hospice inpatient component of care shall be arranged, administered, and managed in such a manner to provide privacy, dignity, comfort, warmth, and safety for the terminally ill patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy, and both occupants shall be hospice patients whenever possible. There shall be a continuum of care and a continuity of care givers between the hospice home program and the inpatient aspect of care to the extent practicable and compatible with the preferences of the patient and his family. Fees charged for inpatient hospice care, whether provided directly by the hospice or through contract, shall be made available upon request to the Hospital Cost Containment Board created in s. 395.503. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.

Section 74. Subsection (1) of section 400.610, Florida Statutes, is amended, and subsection (3) is added to said section, to read:

400.610 Administration and management of a hospice program.—

(1) A hospice program shall have a clearly defined organized governing body, consisting of a minimum of seven persons who are representative of the local community at large, which has autonomous authority for the conduct of the hospice program. This body shall not be required to meet more often than quarterly.

(3) A hospice program shall not be required to establish more than one committee, exclusive of a hospice care team and a governing body. No committee shall be required to meet more often than quarterly.

Section 75. Section 12 of chapter 80-198, Laws of Florida, appearing as subsection (2) of section 400.418, Florida Statutes, 1982 Supplement, and as subsection (7) of section 400.419, subsection (13) of section 400.422, subsection (2) of section 400.426, subsection (9) of section 400.428, subsection (2) of section 400.429, subsection (4) of section 400.435, subsection (2) of section 400.452, and subsection (3) of section 400.454, Florida Statutes, is hereby repealed.

Section 76. Section 400.437, Florida Statutes, as amended by chapter 80-198, Laws of Florida, is hereby repealed.

Section 77. Sections 400.261, 400.561 and 400.565, Florida Statutes, are hereby repealed.

Section 78. Section 400.604, Florida Statutes, as amended by chapters 80-64 and 81-271, Laws of Florida, section 400.6115, Florida Statutes, as created by chapter 81-271, Laws of Florida, and section 400.615, Florida Statutes, as amended by chapters 81-271 and 82-102, Laws of Florida, are hereby repealed.

Section 79. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, parts I, II, III, IV, and V of chapter 400, Florida Statutes, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended herein.

Section 80. Notwithstanding the provisions of the Sundown Act, sections 400.304 and 400.307, Florida Statutes, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended herein.

Section 81. Notwithstanding the provisions of chapter 82-182, Laws of Florida, sections 400.4175 and 400.425, Florida Statutes, 1982 Supplement, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended and transferred herein.

Section 82. Notwithstanding the provisions of chapter 82-163, Laws of Florida, section 468.1801, Florida Statutes, 1982 Supplement, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended and transferred herein.

Section 83. Parts I, II, III, IV, and V of chapter 400, Florida Statutes, are repealed on October 1, 1993, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes, the Regulatory Sunset Act.

Section 84. Sections 400.304 and 400.307, Florida Statutes, are repealed on October 1, 1993, and the State Nursing Home and Long-Term Care Facility Ombudsman Council and district nursing home and long-term care facility ombudsman councils shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 85. This act shall take effect October 1, 1983, except that section 41 shall take effect upon becoming a law.

House Amendment 1 to Senate Amendment 2—On page 1, lines 12 through page 5, line 11, strike all language and insert: A bill to be entitled An act relating to nursing homes and related facilities; amending ss. 20.19(6)(f) and (7)(g) and 159.27(16), Florida Statutes, 1982 Supplement, correcting terminology and references to conform; revising part I of chapter 400, Florida Statutes; amending ss. 400.011, 400.021, 400.023, 400.041, 400.051, 400.063, 400.102(1), 400.121, 400.125(1)(a), 400.126(1)-(3) and (9)-(11), 400.141, 400.151, 400.17(2) and (5), 400.176(1), 400.179, 400.20(2), 400.23, 400.241, 400.29, 400.311, and 400.321, Florida Statutes, amending s. 400.071(3)-(6), Florida Statutes, and adding new subsections thereto, and amending ss. 400.022, 400.062(3) and (4), 400.111, 400.162, 400.18, 400.19, 400.191, 400.211, 400.301, 400.304, 400.307, 400.314, and 400.317, Florida Statutes, 1982 Supplement; repealing s. 400.126(12) and s. 400.261, Florida Statutes; amending and transferring ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, relating to standards for laboratory tests and X-rays, to itemized billing, and to certification of nursing assistants, to part I of chapter 400; reenacting and amending s. 400.322, Florida Statutes, relating to emergency medication kits, and repealing s. 5 of chapter 81-152, Laws of Florida, which provides for review and repeal thereof; generally revising part I of chapter 400, relating to regulation of nursing homes, to change "patient" to "resident" and "chapter" to "part" and to change certain references to "facility" to "licensee"; renaming the State Nursing Home and Long-Term Care Facility Ombudsman Committee and the district nursing home and long-term care facility ombudsman committees as the State Nursing Home and Long-Term Care Facility Ombudsman Council and the district nursing home and long-term care facility ombudsman councils, respectively; revising definitions; revising rights of residents with respect to transfer or discharge when the source of payment for care changes, providing rights with respect to bed reservation policy for hospitalization; revising license fees and disposition thereof; establishing the Nursing Homes and Related Facilities Licensure Trust Fund and providing for disposition thereof; authorizing use of certain self-testing procedures; revising provisions relating to establishment of the Resident Protection Trust Fund, deposits therein and use of such funds; authorizing the Department of Health and Rehabilitative Services

to establish, without advance approval, a separate bank account for each facility, subject to its intervention, for the deposit of moneys received from the trust fund; authorizing the department to requisition moneys from the trust fund in advance of need; providing for security and accounting; removing provisions relating to return of patients placed in alternate placement and termination of expenditure of funds on their behalf; directing the department to establish standards with respect to an applicant's financial ability to operate a nursing home; providing that certain requirements relating to Medicaid recipients apply to all licensees other than those offering continuing care agreements; requiring a certificate of need; providing that certain license renewal applications received after the filing date shall not be subject to a fine; providing for issuance of a conditional license when certain judicial proceedings are pending against an applicant for renewal; revising provisions relating to conditions for appointment and qualifications of a receiver, and accounting to the court after termination; providing that failure of the department to relocate certain residents of certain facilities which are closing is not in and of itself grounds to petition for appointment of a receiver; authorizing certain reimbursement; establishing prima facie evidence that a facility cannot meet its financial obligations; providing financial liability of licensees placed in receivership; revising terminology with respect to relationships of certain outpatient clinics and nursing homes; providing that microfilms of contracts may be retained in lieu of original records; directing the department to specify an alternative method for notification to parties to the contract of changes in cost of supplies; revising provisions relating to trust funds and other property of deceased residents; providing for distribution of rules to nursing homes; modifying provisions relating to unannounced onsite facility reviews; specifying additional persons who are exempt from nursing assistant certification requirements, modifying said requirements, and revising time limitation for enrolling an uncertified employee in a certification program; providing additional time limitations; providing for construction standards; authorizing the department to require alterations; providing for standard, rather than "unrated," licenses; revising provisions relating to review of plans and specifications for new projects and fees therefor; deleting certain information relating to nursing home employees from annual report requirements; providing that ombudsman council members who are affiliated with a nursing home or long-term care facility shall not participate in investigation or inspection of that facility or in an appeal associated therewith; modifying council-member qualifications; correcting cross references; removing obsolete provisions and timetables; revising part II of chapter 400, Florida Statutes; amending s. 400.402(1), (5), (7), (8), (10), and (11), Florida Statutes, 1982 Supplement, and adding subsection (13) thereto, modifying and adding definitions; adding paragraph (e) and (f) to s. 400.404(2), Florida Statutes, exempting certain facilities from the part; adding subsection (8) to s. 400.407, Florida Statutes, providing a penalty; amending s. 400.411, Florida Statutes, 1982 Supplement; modifying provisions relating to initial application for license; requiring proof of liability insurance; requiring notice of changed ACLF administration; requiring notice of employment or utilization of any nurse for the purpose of administering drugs; creating s. 400.412, Florida Statutes, relating to sale or transfer, including lease, of the ownership of a facility; providing for new license; providing for notice; providing for liability; providing for payment of certain debts; amending s. 400.414(2)(b), Florida Statutes, and adding subsection (3) thereto; modifying grounds for denial, suspension, or revocation of license; providing for a moratorium on admissions under certain circumstances; amending s. 400.417, Florida Statutes, 1982 Supplement; requiring notice by certified mail prior to expiration of license; limiting late renewal fees; authorizing the issuance of conditional or provisional licenses under certain circumstances; amending s. 400.418(1), Florida Statutes, 1982 Supplement, renaming the "Adult Congregate Living Facilities Trust Fund" as the "Aging and Adult Licensure Trust Fund"; amending s. 400.419, Florida Statutes, relating to violations and penalties, to conform; creating s. 400.420, Florida Statutes, prohibiting solicitation of contributions by or on behalf of one or more ACLF's under certain circumstances and providing a penalty for violation; amending s. 400.422(2) and (9), Florida Statutes, relating to receivership, to conform; amending s. 400.424(1) and (2), Florida Statutes, requiring facilities to maintain resident contracts on the premises and modifying requirements as to contract contents; amending s. 400.426, Florida Statutes, relating to examination of ACLF residents; providing responsibility of owner or administrator; providing a restriction upon the employment of physicians; modifying provisions relating to physical examination of admittees; providing for medical records; authorizing annual examination of supplemental security income recipients; providing for examination of certain residents at their own expense; providing for determination of appropriateness of residency; providing for mandatory relocation of resi-

dents deemed to be inappropriately in residence; amending s. 400.427(1), (2), (5) and (7), Florida Statutes, 1982 Supplement, relating to property and personal affairs of residents, to conform; amending s. 400.428(1)(d) and (f) and (2), Florida Statutes, providing for ACLF visiting rights between 9 a.m. and 9 p.m., at minimum; amending s. 400.429(1), Florida Statutes, relating to civil actions, to conform; amending s. 400.431(3), Florida Statutes, providing for refund of advance payments within 7 days of closure; amending s. 400.434, Florida Statutes, 1982 Supplement, conforming terminology and removing a restriction upon random-sample auditing; amending s. 400.441(1)(f), Florida Statutes, and adding paragraph (g) thereto, providing for standards relating to provision of, or arrangement for, certain activities and services and relating to establishment of criteria defining appropriateness of admission and continued residency; amending s. 400.452(1), Florida Statutes, relating to staff training and educational programs, to conform; revising part III of chapter 400, Florida Statutes; amending s. 400.461(2), Florida Statutes, and adding subsection (3) thereto; clarifying purpose; providing for creation of a task force; providing for a report; amending s. 400.462(2), Florida Statutes, modifying definition of "home health agencies" to limit application to Medicare providers only; allowing an exception for currently licensed agencies; amending s. 400.467(2), Florida Statutes, raising agency fee cap to \$500; revising part IV of chapter 400, Florida Statutes; creating ss. 400.5565 and 400.5575, Florida Statutes; providing for the imposition of administrative fines; providing limits; specifying factors to be considered; providing for disposition of fees and fines; revising part V of chapter 400, Florida Statutes; amending s. 400.602, Florida Statutes, modifying licensure requirements and providing for exemptions; amending s. 400.603, Florida Statutes, providing certificate-of-need requirements and exemptions therefrom; amending and renumbering s. 400.612, Florida Statutes, authorizing inspection of hospices by the Department of Health and Rehabilitative Services; amending s. 400.605, Florida Statutes; providing rulemaking authority; requiring annual inspections; amending s. 400.606(1) and (4), Florida Statutes; requiring plans for implementation of home, outpatient, and inpatient care within specified time periods; correcting a cross-reference; adding subsections (3) and (4) to s. 400.607, Florida Statutes, providing for revocation of license upon violation of timetables; amending s. 400.608(2) and (15), Florida Statutes; prescribing certain contractual arrangements; limiting requirements related to designation of specific rooms, alterations of certain physical plants, staffing standards, institutional standards for inpatient facilities, and full-time personnel; amending s. 400.609(2), providing for certain requirements when possible; amending s. 400.610(1), Florida Statutes, and adding subsection (3) thereto, limiting requirements which may be made with respect to number of committees which must be established and number of meetings which must be held thereby; repealing s. 400.418(2), Florida Statutes, 1982 Supplement, and ss. 400.419(7), 400.422(13), 400.426(2), 400.428(9), 400.429(2), 400.435(4), 400.452(2), and 400.454(3), Florida Statutes, relating to sunset repeals, to remove obsolete timetables; repealing s. 400.437, Florida Statutes, relating to the establishment of an ad hoc committee on congregate living facilities; repealing ss. 400.261, 400.561 and 400.565, Florida Statutes, abolishing an ad hoc committee and removing obsolete compliance timetables; repealing ss. 400.604 and 400.6115, Florida Statutes, and s. 400.615, Florida Statutes, 1982 Supplement, relating to exemptions from the act, the establishment of a hospice task force and the rights of inspection thereof, and requirements and restrictions with respect to rulemaking authority; saving ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, from sunset review and repeal scheduled October 1, 1983; saving parts I, II, III, IV, and V of chapter 400, Florida Statutes, from sunset review and repeal scheduled October 1, 1983; saving ss. 400.304 and 400.307, Florida Statutes, relating to state and district nursing home and long-term care facility ombudsman councils, from sundown review and repeal scheduled October 1, 1983; providing for sunset review and repeal of parts I, II, III, IV, and V of chapter 400, Florida Statutes, and for sundown review and repeal of ss. 400.304 and 400.307, Florida Statutes, on October 1, 1993; providing effective dates.

On motions by Senator D. Childers, the Senate concurred in the House amendments to the Senate amendments.

CS for HB 434 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Barron	Carlucci	Childers, D.	Crawford
Beard	Castor	Childers, W. D.	Dunn

Fox	Henderson	Malchon	Rehm
Frank	Hill	Mann	Scott
Gersten	Jenne	Maxwell	Stuart
Girardeau	Jennings	McPherson	Thurman
Grant	Johnston	Meek	Vogt
Grizzle	Kirkpatrick	Myers	Weinstein
Hair	Langley	Plummer	

Nays—None

FIRST READING

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed CS/HB 282, CS for HB 133, HB 45, CS for HB 700, HB 503, HB 1108, HB 1095, CS for HB 845, CS for HB 157, CS for HB 262, HB 1332, HB 541, HB 327, CS for HB 149, HB 364, HB 1078, HB 849, HB 1256, HB 1153 and CS for HB 821 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Finance & Taxation and Representative Wetherell—

CS for HB 282—A bill to be entitled An act relating to ad valorem tax exemption; adding new subsection (8) to s. 196.1975, Florida Statutes, 1982 Supplement; specifying that homes for the aged or life care communities financed through sale of health facilities authority or other public-entity bonds or without public-entity bonds shall be exempt from ad valorem taxation only in accordance with said section; repealing s. 154.233, Florida Statutes, relating to tax exemption for certain health facilities; providing an effective date.

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

By the Committee on Criminal Justice and Representative Hill and others—

CS for HB 133—A bill to be entitled An act relating to obstruction of justice; creating s. 843.025, Florida Statutes; prohibiting any person from depriving a law enforcement officer of his or her weapon or radio or otherwise preventing the officer from summoning assistance or defending himself or herself; providing penalties; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Representative Grant and others—

HB 45—A bill to be entitled An act relating to security of communications; amending s. 934.07, Florida Statutes, providing for the interception of wire or oral communications with respect to a violation or a conspiracy to violate the Florida RICO Act; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Health & Rehabilitative Services and Representative Lippman—

CS for HB 700—A bill to be entitled An act relating to health facilities and health services planning; amending s. 381.493(3)(b) and (m)-(s), Florida Statutes, 1982 Supplement, and adding a new paragraph (m) and paragraph (u), providing definitions; amending s. 381.494(1)(g), (i), and (m), (5), (6)(b) and (c), and (8)(f) and (g), and adding a paragraph to subsection (1), Florida Statutes, 1982 Supplement, expanding the types of project cost increases which may be reviewed by the Department of Health and Rehabilitative Services; requiring review of certificate of need transfers; exempting expedited projects from certain requirements; changing certain project review procedures; changing the circumstances in which public hearings are required; changing review criteria; requiring certain certificates of need to disclose information relating to beds; creating s. 381.4951, Florida Statutes, providing for competitive bid procedures for certificates of need for an ICF/MR; amending s. 395.003(4), Florida Statutes, 1982 Supplement, requiring certain information relating to number of beds on hospital licenses; adding a paragraph to s. 395.005(1), Florida Statutes, 1982 Supplement, requiring hospitals to submit certain data to the Department of Health and Rehabilitative Services; requiring the Statewide Health Council to study hospital bed usage and report to the Legislature; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services, and Appropriations.

By Representative Peoples—

HB 503—A bill to be entitled An act relating to personnel of the district school system; amending ss. 231.40(2)(b) and 231.41(2), Florida Statutes, 1982 Supplement, adjusting the filing time requirement for a written certificate of absence; providing an effective date.

—was referred to the Committees on Education; and Personnel, Retirement and Collective Bargaining.

By the Committee on Health & Rehabilitative Services—

HB 1108—A bill to be entitled An act relating to school health services; amending s. 402.32, Florida Statutes, defining "school health services plan"; changing the responsibilities of the Department of Health and Rehabilitative Services with respect to school health services; requiring local health units to develop a health services plan and specifies the minimum components thereof; changing duties of district school boards and of nonpublic schools which voluntarily participate in the program; requiring scoliosis screening in all public and nonpublic schools; providing an effective date.

—was referred to the Committees on Education, Health and Rehabilitative Services, and Appropriations.

By the Committee on Health & Rehabilitative Services—

HB 1095—A bill to be entitled An act relating to medical assistance; amending s. 409.266(2), Florida Statutes, 1982 Supplement, deleting reference to demonstration projects on evaluation of certain health care services contracts between the Department of Health and Rehabilitative Services and county health departments; authorizing the department to contract with certain health care organizations and health insuring organizations for the provision of health care services to persons eligible for Medicaid services; providing an exemption from regulation as health maintenance organizations; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services, and Appropriations.

By the Committee on Health & Rehabilitative Services and Representative R. C. Johnson—

CS for HB 845—A bill to be entitled An act relating to facilities for the developmentally disabled; creating s. 393.0671, Florida Statutes; authorizing the Department of Health and Rehabilitative Services to deny, suspend or revoke licenses and impose fines; providing for deposit of fines in the Patient Protection Trust Fund; creating s. 393.0672, Florida Statutes; authorizing the department to institute injunction proceedings for certain purposes; creating s. 393.0673, Florida Statutes; authorizing the department to petition for the appointment of a receiver for an intermediate care facility for the mentally retarded, residential habilitation center, or group home when certain conditions exist; providing for hearings and notice; providing qualifications of a receiver and time limitations; providing duties of the department; providing powers and duties of the receiver with respect to the facility and related contracts and the residents and their property; specifying liability of certain persons to pay a receiver for goods or services provided; providing that the receiver may petition to avoid certain contracts and specifying liabilities associated therewith; providing for compensation and liability of the receiver; providing for bond; providing conditions for termination of receivership; requiring an accounting to the court; providing liabilities of the owner, operator and employees of a facility placed in receivership; providing applicability of the Patient Protection Trust Fund; amending s. 400.063(1), Florida Statutes, relating to the Patient Protection Trust Fund; changing references to nursing homes to include certain other facilities; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services, Judiciary-Civil, and Appropriations.

By the Committee on Ethics & Elections and Representative Woodruff—

CS for HB 157—A bill to be entitled An act relating to initiative petition; amending s. 100.371(2), (3), (4), and (5), Florida Statutes, requiring that signatures on initiative petitions proposing constitutional amendments be individually dated and providing that such dated signatures shall be valid for a period of 2 years following said date; requiring retention of forms for a specified period; providing for petitions in circu-

lation on or before the effective date of the act; providing an effective date.

—was referred to the Committees on Judiciary-Civil, and Rules and Calendar.

By the Committee on Governmental Operations and Representative Clements—

CS for HB 262—A bill to be entitled An act relating to soil and water conservation; amending s. 582.01(2), Florida Statutes, 1982 Supplement, redefining the term "supervisor" to refer to supervisors who are appointed; amending s. 582.18, Florida Statutes, providing that supervisors shall be elected at the time of the general election; creating s. 582.185, Florida Statutes, providing that soil and water conservation districts may opt to have appointed rather than elected supervisors; providing the procedure for such appointments; amending s. 582.19(1) and (2), Florida Statutes, conforming language to the act; providing an effective date.

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

By the Committee on Ethics & Elections—

HB 1332—A bill to be entitled An act relating to a special election to be held on March 13, 1984, pursuant to Section 5 of Article XI of the State Constitution for the approval or rejection by the electors of Florida of House Joint Resolution No. 1081 amending Section 15 of Article III and creating Section 20 of Article XII of the State Constitution, relating to residency requirements for legislators; providing for publication of notice and for procedures; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative C. F. Jones—

HB 541—A bill to be entitled An act relating to the Department of Law Enforcement; amending s. 943.25(4), Florida Statutes, relating to certain fees assessed by courts in the state to be utilized by the department for specified programs; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Veterans Affairs and Representative L. R. Hawkins—

HB 327—A bill to be entitled An act relating to veterans; amending s. 295.124, Florida Statutes, providing that the Division of Veterans' Affairs of the Department of Administration shall act as the state approving agency for purposes of veterans' education and training pursuant to federal law; providing for the administrative transfer of certain existing powers, duties, personnel, funds, and functions of the Department of Education to the division; providing an effective date.

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

By the Committee on Regulatory Reform and Representative Carlton and others—

CS for HB 149—A bill to be entitled An act relating to private investigators; amending s. 493.30(2), (4), and (5), Florida Statutes, modifying definitions; amending s. 493.301(1)(c) and (d), Florida Statutes, limiting exemptions; amending s. 493.304(3) and (6), Florida Statutes; requiring self-employed private investigators to hold a Class "A" license; requiring certain process servers to hold a Class "C" license and a Class "A" license; requiring repossessors to hold a Class "E" license and meet requirements for a Class "C" license; amending s. 493.305(1), Florida Statutes, and adding subsections (3) and (4) thereto; requiring application from agency and branch managers; providing for employment as a private investigator intern or a repossessor intern; adding paragraph (d) to s. 493.306(2), Florida Statutes, and amending subsections (3) and (4) of said section; limiting eligibility to reapply for license; increasing experience requirement for private investigators and agency or branch managers; creating s. 493.3065, Florida Statutes, requiring examination for Class "C" or Class "E" license; amending s. 493.307, Florida Statutes, correcting terminology; amending s. 493.308(1)(b), Florida Statutes, and adding paragraphs (h) and (i) thereto, correcting terminology and specifying fees for intern licenses; amending s. 493.31, Florida Statutes, expanding insurance requirements; amending s. 493.311(1), Florida Statutes, and adding subsection (6) thereto; providing for biennial licensing of interns; requiring display of company name and license number on cards, stationery, and

advertising; amending s. 493.313(1), Florida Statutes, prohibiting limits on renewability of license; amending s. 493.318, Florida Statutes, authorizing repossessors to dispose of certain property after notice; amending s. 493.319, Florida Statutes, providing additional grounds for discipline; amending s. 493.322, Florida Statutes; authorizing investigation of unlicensed practice; deleting provisions authorizing administrative sanctions for failure or refusal to testify when under investigation; creating s. 493.327, Florida Statutes, providing for confidentiality of certain information about licensees; reenacting ss. 493.574 and 493.575, Florida Statutes, to incorporate the amendments to ss. 493.313 and 493.319, Florida Statutes, in references thereto; providing for review and repeal; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Representative Bronson—

HB 364—A bill to be entitled An act relating to drainage and water control; amending s. 298.14, Florida Statutes; increasing the maximum compensation allowable to a member of the water control district board of supervisors; providing an effective date.

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

By the Committee on Governmental Operations—

HB 1078—A bill to be entitled An act relating to fixed capital outlay projects; amending s. 255.30, Florida Statutes; providing for delegation of accounting records to agencies for whom any fixed capital outlay appropriation is made; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Representative Cosgrove—

HB 849—A bill to be entitled An act relating to local government; amending s. 125.012(25), Florida Statutes, 1982 Supplement, relating to the promotion of projects operated by certain charter counties under the provisions of ss. 125.011-125.021, Florida Statutes; authorizing such counties to make expenditures for reimbursement for travel and entertainment expenses in connection with such promotion; providing that limitations, penalties and rules applicable to similar reimbursement authority of the Department of Commerce shall apply; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Governmental Operations—

HB 1256—A bill to be entitled An act relating to state-owned tangible personal property; amending s. 273.055(2), Florida Statutes; providing for the disposition of certain unencumbered funds; providing an effective date.

—was referred to the Committee on Appropriations.

By the Committee on Higher Education—

HB 1153—A bill to be entitled An act relating to mental health; creating s. 240.514, Florida Statutes; establishing the Florida Mental Health Institute within the University of South Florida; providing purpose; providing for a director; authorizing the institute to utilize the pay plan of the State University System; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Criminal Justice and Representative Crotty—

CS for HB 821—A bill to be entitled An act relating to carts, cases, baskets, and boxes; creating chapter 813, Florida Statutes, consisting of ss. 813.10-813.23, Florida Statutes, to be known as the "Carts, Cases, Baskets, and Boxes Act"; providing definitions; providing for the registration of names or marks for identification of shopping carts, laundry carts, dairy cases, egg baskets, and poultry boxes; providing for the illegal use of dairy cases, egg baskets, and poultry boxes; providing a penalty for unlawful possession of lost shopping carts, laundry carts, dairy cases, egg baskets, and poultry boxes; requiring bills of lading when transporting dairy cases, egg baskets, and poultry boxes; providing criteria for the unlawful removal of dairy cases; providing for designation of owners of egg baskets and poultry boxes; providing for the unlawful removal of egg baskets and poultry boxes; providing criteria for the illegal use of shopping carts and laundry carts; providing for the effect of deposits; provid-

ing a penalty; providing for the scope of the chapter; repealing s. 506.46, Florida Statutes, relating to the registration of brand names with respect to egg containers; repealing s. 506.47, Florida Statutes, relating to filing fees and issuance of certificates of recordation; repealing s. 506.48, Florida Statutes, relating to the illegal use of egg containers; repealing s. 506.49, Florida Statutes, relating to the possession of an egg container and required notice; repealing s. 506.50, Florida Statutes, relating to required bills of lading for transporting egg containers; repealing s. 506.51, Florida Statutes, relating to deposits upon egg containers; repealing s. 506.52, Florida Statutes, relating to penalties for offenses concerning egg containers; providing an effective date.

—was referred to the Committees on Agriculture and Judiciary-Criminal.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1277, HB 23, HB 1138, HB 594, HB 647, HB 502, HB 870, HB 398, HB 175, CS for HB 84, HB 371, HB 637, HB 967, HB 624, CS for CS for HB 841, HB 1166, HB 538, HB 911, HB 815, HB 822, HB 1094, CS for HB 246, CS for HB 238, CS for HB 1228, HB 302, CS for HB 70, CS for HB 602, HB 348, HB 1331, HB 1026, HB 105, HB 611, HB 928, HB 678, HB 1305, HB 1219, CS for HB 588 and HB 1317 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce—

HB 1277—A bill to be entitled An act relating to workers' compensation; amending s. 440.02(1)(c) and (2)(d), Florida Statutes, redefining "employment" and "volunteer"; amending s. 440.021, Florida Statutes, changing the types of communications exempt from administrative procedures; amending s. 440.11(3), Florida Statutes, reiterating the exclusiveness of liability provisions of workers' compensation laws; amending s. 440.13, Florida Statutes, 1982 Supplement, transferring certain definitions and defining "medically necessary"; requiring treatment and care for employees to be medically necessary; requiring health care providers and facilities to provide certain treatment information; restricting the payment of services provided by such providers and facilities; providing for a payment schedule; abolishing an advisory committee; amending s. 440.15(3)(b), (9), and (10)(b), Florida Statutes, 1982 Supplement, changing employee entitlement to wage-loss benefit to employees receiving certain retirement benefits; providing for the effect of wage-loss benefit reductions upon certain minimum compensation provisions and upon temporary partial benefits; amending s. 440.185(2), (4), and (5), Florida Statutes, changing certain notice of claims procedures; providing for obtaining medical records; amending s. 440.19, Florida Statutes, including claims for rehabilitative services within claims procedures; providing for amended claims; amending s. 440.20(7), (9), (12), and (13)(c), Florida Statutes, changing late compensation payment penalties; changing the persons who may approve certain advance payments; authorizing lump sum future medical expense payments under certain circumstances; providing for certain reports of lump sum settlements; increasing the discount factor of lump sum payments; amending s. 440.25(3)(b) and (d) and (4)(b), Florida Statutes, transferring certain claims duties to the Chief Commissioner; changing provisions relating to claims costs of indigents; amending s. 440.29(2), Florida Statutes, changing procedures relating to the reporting of hearings; amending s. 440.33(1), Florida Statutes, providing the effect of certain orders of deputy commissioners; amending s. 440.34(5), Florida Statutes, clarifying judicial authority to award attorney's fees on appeal; amending s. 440.38(5), Florida Statutes, 1982 Supplement, deleting a restriction upon the issuance of policies not containing a coinsurance provision; amending s. 440.39(3)(a), Florida Statutes, imposing a pro rata share of certain costs upon employers and carriers recovering from third party payments; amending s. 440.45(3)(b), (c), (e), (g), and (j), Florida Statutes, providing for recommendations of removal of deputy commissioners from office; amending s. 440.49(1)(b) and (e) and (2)(c) and (f), Florida Statutes, authorizing the Division of Workers' Compensation to approve rehabilitation service providers used by carriers; providing standards and exceptions; providing fees for certain listing; providing for certain employer reimbursement with respect to liability for certain permanent injuries; amending s. 440.57(1), Florida Statutes, increasing the maximum liability for employer participants under liability pooling agreements; repealing s. 440.02(19), Florida Statutes, which defines "registered mail"; repealing s. 440.56(7), Florida Statutes, which provides for a full-time administrator of industrial safety; providing an effective date.

—was referred to the Committee on Commerce.

By Representative M. E. Hawkins—

HB 23—A bill to be entitled An act relating to local occupational licenses; amending s. 205.053(1), Florida Statutes, clarifying the due date for local occupational license taxes; providing a statutory restatement and interpretation of s. 11(a)(21), Article III of the State Constitution; prohibiting special laws or general laws of local application pertaining to establishment, amendment or repeal of prohibited subjects; providing an effective date.

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

By the Committee on Governmental Operations—

HB 1138—A bill to be entitled An act relating to student records; amending s. 228.093(3)(d), Florida Statutes; authorizing the release of certain student records to credit bureaus; authorizing the release of certain student records in compliance with judicial order or lawfully issued subpoena upon notice to students and parents; amending s. 240.323, Florida Statutes; providing that student records at community colleges shall be open to inspection only as provided in s. 228.093; providing an effective date.

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

By Representatives Messersmith and Lewis—

HB 594—A bill to be entitled An act relating to sexual battery; amending s. 794.011(4), Florida Statutes, and creating s. 794.012, Florida Statutes, providing that persons who stand in a familial, custodial, or official authority to a child over 11 years of age but under age 18 and who solicits the child for sexual activity shall be guilty of a third degree felony, and who engages in sexual activity with the child shall be guilty of a first degree felony; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Veterans Affairs and Representative L. R. Hawkins and others—

HB 647—A bill to be entitled An act relating to veterans; directing the Secretary of Administration to apply to the Veterans Administration for federal funds for a certain purpose; providing an appropriation; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Representative Crady—

HB 502—A bill to be entitled An act relating to the Department of Corrections; adding a paragraph to s. 944.516(1), Florida Statutes; providing for the replacement of any inmate funds which have been stolen, lost, or misappropriated, under certain circumstances; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By Representative Messersmith and others—

HB 870—A bill to be entitled An act relating to the Florida Right to Farm Act; amending s. 823.14(2), (3)(d), (4), and (5), Florida Statutes, 1982 Supplement, and adding paragraph (e) to subsection (3) thereof, defining the term "auxiliary agricultural activity" and providing that the act shall apply to such activities; providing an effective date.

—was referred to the Committee on Agriculture.

By Representative Armstrong—

HB 398—A bill to be entitled An act relating to conveyances of land and declarations of trust; repealing s. 689.09, Florida Statutes, relating to deeds and the statute of uses; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Representatives Simon and Dunbar—

HB 175—A bill to be entitled An act relating to ad valorem tax assessment; creating s. 193.0755, Florida Statutes; providing for uniform assessment of property owned by a mandatory membership homeowners' association; providing a definition; providing an effective date.

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

By the Committee on Transportation and Representative Danson—

CS for HB 84—A bill to be entitled An act relating to a unique highway median; designating the grassed and landscaped median of U.S. Highway 41, including all decorative artwork, statuary, and sculpture contained therein, in the City of Sarasota as a unique highway median; providing definitions; prohibiting the use of Department of Transportation funds for certain landscape changes or landscape replacements in such median without certain local government approval; providing for maintenance funding; authorizing the department to erect markers; providing an effective date.

—was referred to the Committee on Transportation.

By Representatives Wallace and Reynolds—

HB 371—A bill to be entitled An act relating to insurance; amending s. 627.7286, Florida Statutes, 1982 Supplement, prohibiting motor vehicle liability insurers from refusing to issue policies to certain persons based solely upon specified employment experience; providing that the section shall not preclude the consideration of the experience of any insured who is guilty of certain offenses; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Hanson—

HB 637—A bill to be entitled An act relating to transportation of school children; amending ss. 230.33(10) and 234.061, Florida Statutes; providing for the designation of bus routes and nontransportation zones by each district school board by rule; providing an effective date.

—was referred to the Committee on Education.

By Representatives Combee and Dunbar—

HB 967—A bill to be entitled An act relating to environmental control; providing definitions; limiting the liability of persons who voluntarily provide uncompensated assistance in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous materials; providing exceptions; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation, and Judiciary-Civil.

By Representative Davis—

HB 624—A bill to be entitled An act relating to public officers, employees, and agents; amending s. 111.07, Florida Statutes, providing for the recovery of public funds paid for attorney's fees to defend any public officer, employee, or agent of the state or a political subdivision thereof in a civil action against him if found personally liable; amending s. 240.375, Florida Statutes, conforming provisions relating to providing attorneys for community college district officers, employees, and agents; providing an effective date.

—was referred to the Committee on Personnel, Retirement and Collective Bargaining.

By the Committees on Appropriations and Transportation and Representative Deutsch and others—

CS for CS for HB 841—A bill to be entitled An act relating to expressway authorities; creating part VI of chapter 348, Florida Statutes; creating the Broward County Expressway Authority Law; providing definitions; providing for the creation of the Broward County Expressway Authority; providing for the purposes and powers of the authority; providing for bonds; providing for a lease-purchase agreement between the authority and the Department of Transportation; providing that the department may be appointed by the Division of Bond Finance of the Department of General Services as the division's agent for certain purposes; providing for the acquisition of land and property; providing the power of eminent domain; providing for cooperation; providing for the covenant of the state; providing an effective date.

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

By the Committee on Health & Rehabilitative Services—

HB 1166—A bill to be entitled An act relating to dependent children; amending s. 39.01(1), (8), (9), and (26), Florida Statutes, redefining the terms "abandoned," "child who is found to be dependent," and "neglect";

amending s. 39.40(2), Florida Statutes, clarifying jurisdiction of the court in judicial reviews; amending s. 39.402(7) and (9)(a), Florida Statutes, and adding subsection (10); changing time requirements for shelter care; providing for hearing on continued placement at the request of the parent, guardian or custodian of the child; providing for determination of parental visitation; requiring filing of petition within specified period; providing for preliminary hearing; adding guardian ad litem to those able to request a continuance; requiring court to review continued placement in shelter prior to granting of delay or when there is a violation of certain time requirements; adding subsection (6) to s. 39.404, Florida Statutes, requiring dependency petitions to be filed within certain time frames; amending s. 39.407, Florida Statutes; providing for educational assessment upon order of the court; defining educational needs assessment; prohibiting placement of dependent children in certain programs and facilities for the purposes of evaluation, examination, or receipt of treatment; amending s. 39.408, Florida Statutes; providing for preliminary hearing; stating that time limitations provided in other sections apply in adjudicatory hearing time requirements; amending s. 39.41(1)(c), (d), and (f), (4), and (6), Florida Statutes; relating certain dependency dispositions to judicial reviews; adding the 6-month requirement for abandonment to the permanent commitment determination; adding plan for permanent placement to permanent commitment section; clarifying jurisdiction of the court in cases of children permanently committed; reordering of language to clarify; amending s. 39.413(1), Florida Statutes, adding guardian ad litem to those who may appeal; creating s. 39.415, Florida Statutes, providing limitations on compensation for counsel; adding subsection (13) to s. 49.011, Florida Statutes, adding permanent commitment pursuant to chapter 39 to the service of process by publication provision; amending s. 409.168, Florida Statutes; reordering existing language to clarify section; providing intent; providing definitions; specifying requirements for performance agreements and permanent placement plans; stating jurisdiction of the court in judicial reviews; requiring judicial reviews in all cases; specifying frequency of review hearings and requirements for scheduling of hearings; providing for petition and notice; requiring a social study report to include specified items; requiring the court to make certain determinations in its deliberation; providing for dispositions by the court; providing for initiation of permanent commitment proceedings under certain circumstances; providing immunity from liability; providing exemptions; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services, and Judiciary-Civil.

By Representative Richmond—

HB 538—A bill to be entitled An act relating to alcoholic beverages; adding a paragraph to s. 565.02(1), Florida Statutes; providing for outdoor service, portable or temporary bars at theme park entertainment complexes; providing an additional license tax; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By Representative Thompson—

HB 911—A bill to be entitled An act relating to partnerships; amending s. 620.31, Florida Statutes, providing criteria for the Department of State to revoke the authority of a limited partnership to transact business; providing required procedures for revocation; providing notice; providing that limited partnerships who are not authorized to transact business may not maintain any action, suit, or proceeding in any court of this state; providing for validity of contracts; providing liability; providing for reinstatement; providing an effective date.

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

By Representative Clark—

HB 815—A bill to be entitled An act relating to fire prevention and control; adding a new paragraph (d) to s. 633.021(13), Florida Statutes, 1982 Supplement, defining the term "contractor IV"; adding paragraph (d) to s. 633.524(1), Florida Statutes, providing renewal fees for such contractors; amending s. 633.557(1), Florida Statutes, removing an exemption from the requirement of obtaining a certificate from the State Fire Marshal for owners of property who are building or improving one-family or two-family residences which are for the occupancy or use of the owner and not offered for sale; creating s. 633.60, Florida Statutes, requiring persons who act as contractors of automatic fire sprinkler systems for

one-family and two-family dwellings and mobile homes to be certified; providing rulemaking authority; providing a penalty; providing for review and repeal; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representative Crotty—

HB 822—A bill to be entitled An act relating to motor vehicles; adding s. 316.003(70), Florida Statutes, 1982 Supplement; providing definitions; creating s. 316.212, Florida Statutes; providing for operation of golf carts on certain roadways; adding s. 320.01(29), Florida Statutes, 1982 Supplement, providing definitions; creating s. 320.105, Florida Statutes; providing certain exemptions for golf carts; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Health & Rehabilitative Services—

HB 1094—A bill to be entitled An act relating to mentally retarded defendants and inmates; amending s. 916.11(2), Florida Statutes, 1982 Supplement, requiring the Department of Health and Rehabilitative Services' diagnosis and evaluation team to examine defendants suspected of being mentally retarded; amending s. 916.13(1), Florida Statutes, and adding subsection (3) thereto, providing for the placement of a defendant adjudicated incompetent to stand trial due to mental retardation; amending s. 916.16, Florida Statutes, including admission to retardation residential services within the jurisdiction of the committing court; creating s. 945.085, Florida Statutes, requiring Department of Corrections to notify Department of Health and Rehabilitative Services prior to the release of mentally retarded inmates; creating s. 947.185, Florida Statutes, allowing the Parole and Probation Commission to require as a condition of parole that mentally retarded inmates apply for services from Department of Health and Rehabilitative Services; providing an effective date.

—was referred to the Committees on Judiciary-Criminal, Health and Rehabilitative Services, and Appropriations.

By the Committee on Tourism & Economic Development and Representative Silver—

CS for HB 246—A bill to be entitled An act relating to public lodging and public food service establishments; amending s. 509.211(1), Florida Statutes, relating to safety regulations, providing a means for fulfilling certain filing requirements by an architect, contractor, or owner for new construction or remodeling, if the building official so desires; amending s. 509.221(3), Florida Statutes, 1982 Supplement, relating to sanitary regulations, providing for use in sleeping rooms of a mechanical ventilation system in lieu of natural ventilation, within certain limits; adding paragraph (c) to s. 509.261(4), Florida Statutes, 1982 Supplement, to authorize the Division of Hotels and Restaurants of the Department of Business Regulation to suspend or revoke the license of any public lodging establishment or public food service establishment when a public nuisance, as described, is knowingly maintained on the licensed premises; amending s. 559.925, Florida Statutes, 1982 Supplement; modifying the definition of "receptive tour operator" and providing additional definitions; providing additional duties and requirements of receptive tour operators; providing exceptions; providing the Division of Hotels and Restaurants of the Department of Business Regulation and the department with additional powers; lowering bonding requirements; providing an alternative to purchase of a performance bond; providing for claims; providing a criminal penalty; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Health & Rehabilitative Services and Representatives Burnsed and Richmond—

CS for HB 238—A bill to be entitled An act relating to public health units; amending s. 20.19(3)(b), Florida Statutes, 1982 Supplement, to provide for the establishment of a public health unit subcouncil within the advisory council to the Health Program Office of the Department of Health and Rehabilitative Services and to provide for duties thereof and other matters relative thereto; amending s. 110.205(2)(p), Florida Statutes, 1982 Supplement, exempting public health unit directors and public health unit administrators from provisions of law relating to career service positions; creating s. 154.001, Florida Statutes, providing intent; amending s. 154.01, Florida Statutes; providing for a public health unit delivery system and providing for funding of same; distinguishing

between "public health services," "personal health services," "primary care services," and "public health unit services," for purposes of the act; requiring certain contractual agreements and specifying component parts of the agreements; providing for use of facilities; providing for funding of construction and expansion projects; amending s. 154.02, Florida Statutes; creating the Public Health Unit Trust Fund and providing for its administration; requiring the submission of certain financial statements with respect thereto; amending s. 154.03(1), Florida Statutes, conforming terminology; amending s. 154.04, Florida Statutes, modifying provisions relating to the personnel of public health units; amending s. 154.05, Florida Statutes, conforming terminology; amending s. 154.06, Florida Statutes; providing for the establishment of fee schedules and for the collection of fees for certain services; providing for disposition of fees; amending s. 458.316(1)(a), Florida Statutes, to conform to the act; providing for review and repeal of s. 20.19(3)(b)3.f., Florida Statutes, in accordance with the Sundown Act; relating to the Health Program Office of the Department of Health and Rehabilitative Services; providing effective dates.

—was referred to the Committees on Health and Rehabilitative Services, Rules and Calendar, and Appropriations.

By the Committees on Commerce and Transportation and Representative Bailey—

CS for HB 1228—A bill to be entitled An act relating to motor vehicle registration; amending s. 320.02(5)(a) and (b), Florida Statutes, to modify provisions authorizing proof of personal injury protection or liability coverage by affidavit; reenacting s. 324.021(1), Florida Statutes, 1982 Supplement, to incorporate the amendment to s. 320.02, Florida Statutes, in a reference thereto; providing an effective date.

—was referred to the Committee on Transportation.

By Representative Lipman and others—

HB 302—A bill to be entitled An act relating to public employers; amending s. 447.403(2), Florida Statutes, authorizing public employers and employee bargaining agents to jointly waive the appointment of a special master for the resolution of impasses; providing for resolution by the appropriate legislative body; providing an effective date.

—was referred to the Committee on Personnel, Retirement and Collective Bargaining.

By the Committee on Ethics & Elections and Representative Armstrong and others—

CS for HB 70—A bill to be entitled An act relating to elections; amending s. 99.012(2) and (3), Florida Statutes, and adding a new subsection (4) thereto; providing that the resignation of an individual from public office under the resign-to-run law shall take effect no later than the day of qualifying for office; providing for filling of vacancies; providing that violators shall not be entitled to have their names printed on the ballot; creating section 99.013, Florida Statutes, defining residency; amending s. 106.18(1), Florida Statutes, providing for omission of a candidate's name from the ballot; adding a new subsection (2) to s. 106.25, Florida Statutes, empowering the Florida Elections Commission to investigate violations of the resign-to-run law; amending s. 106.26(12), Florida Statutes, providing duties of the commission with respect to enforcement of the resign-to-run law; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Ethics & Elections and Representative Press—

CS for HB 602—A bill to be entitled An act relating to elections; amending s. 99.092(1), Florida Statutes, relating to party assessments; amending s. 103.121(1) and (5), Florida Statutes, 1982 Supplement, and adding a subsection thereto, relating to powers and duties of state and county executive committees with respect to party assessments; repealing s. 103.091(4) and (7), Florida Statutes, relating to endorsement of candidates in primary elections by political party executive committees; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Representative Gordon and others—

HB 348—A bill to be entitled An act relating to sexual battery; amending s. 794.022, Florida Statutes; deleting the authority of a judge to give certain jury instructions; providing that evidence of specific

instances of prior consensual sexual activity may be admitted in certain circumstances; limiting the admissibility of certain evidence; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Select Committee on Growth Management—

HB 1331—A bill to be entitled An act relating to state and regional planning; providing a short title; amending s. 11.60, Florida Statutes, increasing the membership of the Administrative Procedures Committee and requiring the committee to review the state comprehensive plan, and changes therein, and to make recommendations to the Legislature; creating s. 23.01, Florida Statutes, providing legislative findings and intent; amending s. 23.0112, Florida Statutes, providing definitions; creating s. 23.01131, Florida Statutes, granting certain powers and responsibilities relating to state and regional planning to the Executive Office of the Governor; amending s. 23.0114(1), Florida Statutes, transferring subsection (4) thereof, and adding new subsections thereto; providing for the preparation of the state comprehensive plan and providing certain content thereof; providing restrictions upon capital outlay recommendations to the Legislature; amending s. 23.013, Florida Statutes, requiring the Executive Office of the Governor to prepare a proposed state comprehensive plan and providing for its adoption; providing for legislative review; providing for implementation of the plan; creating s. 23.0131, Florida Statutes, requiring state agencies to adopt state agency functional plans; creating s. 23.0132, Florida Statutes, requiring state agencies to prepare state agency functional plans consistent with the state comprehensive plan; providing for review thereof; amending s. 23.015, Florida Statutes, changing the purposes of the Governor's annual report of the state's economic condition; amending s. 160.01(4), Florida Statutes, requiring county membership in regional planning councils; amending s. 160.07, Florida Statutes, changing requirements and adoption procedures for comprehensive regional policy plans; creating s. 160.072, Florida Statutes, requiring certain review of such plans prior to adoption; creating s. 160.076, Florida Statutes, providing for periodic evaluation of such plans; creating the Growth Management Trust Fund and providing its purposes; repealing ss. 23.0115, 23.012, 23.0125, 23.014, 23.016, 23.0161, and 23.017, Florida Statutes, deleting provisions relating to the specification of data in the state comprehensive plan, to certain general powers and duties of the Executive Office of the Governor, to the development of certain environmental data, and to the preparation of the annual development program; deleting provisions relating to certain special reports of the Executive Office of the Governor and to required annual progress reports on state and regional planning; deleting authority to contract for assistance in preparation of reports; repealing s. 160.003(6), Florida Statutes, deleting the definition of the Department of Community Affairs in provisions relating to regional planning councils; providing an effective date.

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

By Representative Gordon and others—

HB 1026—A bill to be entitled An act relating to insurance; amending s. 627.461, Florida Statutes, 1982 Supplement, eliminating interest payments with respect to death claims under certain insurance contracts; creating s. 627.4615, Florida Statutes, providing for payment of interest on claims under life insurance policies; amending s. 627.4035, Florida Statutes, 1982 Supplement, requiring that all payments made in this state in satisfaction of insurance claims be made in cash; creating s. 627.4265, Florida Statutes, providing procedures for the payment of settlements; creating ss. 627.6411, 627.6577, Florida Statutes; requiring any health insurance policy that covers maternity care to cover the services of certified nurse-midwives and licensed midwives; prohibiting insurers who are controlled or owned by any government or governmental agency to transact insurance business in this state; providing an effective date.

—was referred to the Committee on Commerce.

By Representatives M. E. Hawkins and Sanderson—

HB 105—A bill to be entitled An act relating to engineering; amending s. 471.003(2)(i), Florida Statutes, 1982 Supplement, changing the types of construction projects upon which certain electrical, plumbing, air-conditioning, or mechanical contractors may work without being registered engineers; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Representative Deratany—

HB 611—A bill to be entitled An act relating to bingo; amending s. 849.093, Florida Statutes; providing definitions; providing rules for the conduct of bingo games; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Representatives Armstrong and Gordon—

HB 928—A bill to be entitled An act relating to sales representatives; providing definitions; requiring written contracts between sales representatives and principals when commissions are involved; requiring the principal to furnish the representative with a signed copy of the contract; providing for the payment of commissions upon termination of certain agreements; providing for civil damages; providing an effective date.

—was referred to the Committee on Commerce.

By Representative D. L. Jones—

HB 678—A bill to be entitled An act relating to unemployment compensation; amending s. 443.036(31), Florida Statutes, 1982 Supplement; excluding certain meals and lodging from the definition of "wages"; providing retroactivity; amending s. 443.131(3)(a), Florida Statutes; providing conditions under which benefits will not be charged to the account of an employer because of refusal of an individual to accept suitable employment; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Ethics & Elections—

HB 1305—A bill to be entitled An act relating to elections; amending s. 99.061(1), (2), (3), and (4), Florida Statutes, as amended, relating to the qualifying period for candidates; amending s. 99.103(2), Florida Statutes, relating to the remitting of fees to the state executive committees by the Department of State; amending s. 100.021, Florida Statutes, relating to the notice of general election; amending s. 100.061, Florida Statutes, changing the date of the first primary election; amending s. 100.091(1), Florida Statutes, changing the date of the second primary election; amending s. 101.62, Florida Statutes; providing time period for delivery or mailing of absentee ballots; authorizing the Department of State to prescribe certain rules for a ballot to be sent to absent electors overseas under certain circumstances; amending s. 101.65, Florida Statutes, 1982 Supplement; providing instructions to absent electors; amending ss. 103.021(3) and 103.022, Florida Statutes, relating to candidates for President and Vice President; amending s. 105.031(1), Florida Statutes, relating to the qualifying period for judicial candidates; amending s. 106.07(1), Florida Statutes, 1982 Supplement, relating to campaign reports; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Finance and Taxation, and Representatives Logan and Hollingsworth—

HB 1219—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08(7)(c)1., Florida Statutes, 1982 Supplement, expanding the sales tax exemption granted to religious institutions to include nonprofit corporations providing free church-related transportation services; adding subsection (23) to s. 212.02, Florida Statutes, 1982 Supplement, as amended; defining "coin-operated amusement machine"; adding paragraph (h) to s. 212.05(1), Florida Statutes, 1982 Supplement, as amended; imposing said tax on the gross receipts derived from said machines; providing liability of owner or lessor, and of operator or lessee; creating s. 212.0515, Florida Statutes; requiring owners or lessors of such machines to obtain a registration license for each machine; providing for issuance by the Department of Revenue; providing a registration fee; providing procedures upon sale or transfer of a machine; prohibiting issuance of a local occupational license until such registration is obtained; providing penalties; providing that machines operated in violation are deemed contraband; providing for review and repeal; providing effective dates.

—was referred to the Committees on Judiciary-Civil; Finance, Taxation and Claims; and Appropriations.

By the Committee on Natural Resources and Representative D. L. Jones and others—

CS for HB 588—A bill to be entitled An act relating to Pinellas County; providing for the issuance of licenses for gill net fishing in the county by the Department of Natural Resources; providing a permit fee and providing for the use of funds derived therefrom; requiring the display of permit numbers; providing a penalty; providing for the use of similar licenses; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Commerce—

HB 1317—A bill to be entitled An act relating to insurance; amending s. 624.317, Florida Statutes, 1982 Supplement; providing for the examination of administrators; creating s. 624.330, Florida Statutes; providing that entities which provide coverage for life and health insurance benefits are subject to the jurisdiction of the department, except to the extent regulated by federal law; providing exceptions; creating ss. 624.436-624.440, Florida Statutes; establishing the Florida Nonprofit Multiple Employer Welfare Arrangement Act; creating ss. 626.879-626.890, Florida Statutes; providing for the regulation of insurance administrators; defining administrator; requiring a certificate of authority; providing for a deposit of securities; requiring a written agreement, maintenance of records, and certain accounting procedures; providing grounds for suspension and other penalties; providing for the regulation of service companies; defining "service company"; requiring service for self-insurers; providing for application; providing requirements for recertification; providing grounds for withdrawal of authorization; amending ss. 627.551(6) and 627.651(5), Florida Statutes, 1982 Supplement; providing applicability of group requirements; providing an effective date.

—was referred to the Committee on Rules and Calendar.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1334 and HCR 1346 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gardner—

HCR 1334—A concurrent resolution designating October 1, 1983, the "Twenty-fifth Anniversary of the National Aeronautics and Space Administration" and extending congratulations and appreciation to NASA.

—was referred to the Committee on Rules and Calendar.

By Representative Friedman and others—

HCR 1346—A resolution expressing concern over the abduction of Antonio F. Penate Melara in El Salvador.

—was referred to the Committee on Rules and Calendar.

LOCAL CALENDAR

HB 819—A bill to be entitled An act relating to Escambia County; providing for and continuing a Civil Service Board for merit system protection; providing for compensation, tenure, appointments, qualifications, officers, and meetings of the Civil Service Board; providing responsibility of the Board of County Commissioners, District School Board, and all other elected County and School District officers to annually establish or adjust base pay ranges, pay longevity pay, and authority to make discretionary merit adjustments; providing voting procedures; providing for Civil Service Rules governing administration of the pay plan; providing for holidays and days of mourning; providing for funding of the civil service system; establishing a percentage funding level for operating budgets; providing a funding allocation and procedure; providing for facilities; providing for classification and wage surveys; providing for applicability and for exemptions; providing Civil Service Board duties and responsibilities, providing for appeals, classification and assignment of classes to pay grades, recruiting and examination, records, and legal counsel; providing effect of Civil Service Board decisions; establishing employee rights; providing for employee leave of absence to seek elective office; establishing nondiscriminatory policy; providing for investigations; providing for process and penalties for disobedience; establishing review

procedures; providing for sole system; providing exemption from Administrative Procedures Act; establishing definitions; providing for severability; providing for Civil Service Rules; providing for notice; providing for public hearings; establishing voting procedures; providing for continuance of all Rules in effect and not in conflict with this act; providing a repealer clause; providing an effective date and providing a transition provision.

—was read the second time by title.

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

Amendment 1—On page 18, lines 5-13, after the period (.), strike all of said lines and insert: *Those classified employees represented as a group by a certified collective bargaining agent shall not be subject to or protected by the provisions of this Act or the Civil Service Rules; provided however, that such classified employees shall have the option of utilizing the Civil Service grievance and appeal procedures or a grievance procedure established under the applicable collective bargaining agreement, but such classified employees cannot use both a Civil Service grievance or appeal procedure and a collective bargaining agreement grievance procedure. The Civil Service Board shall also have the exclusive authority to recruit, examine and refer eligibles for employment and promotion, and to classify the positions involved, which matters shall not be subject to collective bargaining negotiation.*

On motion by Senator W. D. Childers, by two-thirds vote HB 819 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 820—A bill to be entitled An act relating to Escambia County; providing certain restrictions on the use of fishing nets; providing a penalty; 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 1, line 21, strike “June 1, 1983” and insert: upon becoming a law

Senator Meek moved that HB 820 be deferred. The motion failed.

On motion by Senator W. D. Childers, by two-thirds vote HB 820 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Barron	Hair	Langley	Plummer
Beard	Henderson	Mann	Rehm
Childers, D.	Hill	Margolis	Scott
Childers, W. D.	Jenne	Maxwell	Stuart
Crawford	Jennings	McPherson	Thomas
Girardeau	Johnston	Myers	Thurman
Grant	Kirkpatrick	Neal	Vogt

Nays—11

Carlucci	Fox	Gordon	Meek
Castor	Frank	Grizzle	Weinstein
Dunn	Gersten	Malchon	

HB 1048—A bill to be entitled An act relating to the City of Sanibel, Lee County; prohibiting the taking of saltwater fish, except by hook and line or hand-held cast net or with no more than five blue crab traps within any saltwater canal in the City of Sanibel during certain hours; providing a penalty; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 1048 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 682—A bill to be entitled An act relating to Manatee County; amending Chapter 78-555, Laws of Florida, to empower the Board of County Commissioners to sell or lease, or enter into an operating agreement with respect to, Manatee Memorial Hospital; providing for the disposition of the proceeds from the sale, lease or operating agreement; providing for the hospital care of Manatee County residents who are medically indigent or who are paupers; providing for the dissolution of the Board of Trustees of Manatee Memorial Hospital after possession of Manatee Memorial Hospital is transferred to a not for profit corporation or other entity; authorizing the Board of County Commissioners to recreate the Board of Trustees of Manatee Memorial Hospital in the event a lease of or an operating agreement with respect to Manatee Memorial Hospital is terminated; and providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 682 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 832—A bill to be entitled An act relating to Bay County; providing for a short title; establishing a solid waste disposal and resource recovery system within the territorial boundaries of Bay County; providing for the disposal of all solid waste generated or brought within the area affected by this Act; authorizing the County to finance, acquire, construct and operate or provide for the construction and operation or enter into a franchise agreement for the financing, acquisition, improvement, construction, operation, maintenance and/or ownership of solid waste disposal and resource recovery facilities; providing definitions; providing a declaration of State policy; authorizing the municipalities within the County to regulate the collection and disposal of solid waste within such municipalities; vesting exclusive powers in the County to control the disposal of solid waste within the area affected by this Act; making allowance for a Technical Management Committee; providing for the sale of resources recovered and energy generated by the facilities; authorizing the use of rights-of-way, easements and other similar property rights of the State and its local agencies; providing an exemption from Public Service Commission regulation; providing an exemption from the provisions of the Florida Antitrust Act of 1980; providing an exemption from the

provisions of the Consultants' Competitive Negotiation Act; providing for the application of the Florida Electrical Power Plant Siting Act to the constituent facilities of any solid waste disposal and resource recovery system authorized by this Act; prescribing standards with which any solid waste disposal and resource recovery system recovered by this Act must conform; providing that all other prior inconsistent laws are superseded; providing for severability; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1—In title, on page 1, line 16, after the semicolon (;) insert: providing for the county to exercise the power of eminent domain to further the purposes of this act;

On motion by Senator Thomas, by two-thirds vote HB 832 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 968—A bill to be entitled An act relating to the Lee County Mosquito Control District; amending sections 1-3 of chapter 67-1630, Laws of Florida, as amended; increasing district boundaries; providing for board member residential areas; increasing the board to seven members; providing for election, terms of office, and qualifications of board members; providing for the continuance in office of board members whose terms have not expired on the effective date of this act; abolishing the Fort Myers Beach Mosquito Control District and transferring its assets, liabilities, books, and records; relieving the Board of Commissioners of the abolished district from certain liability and responsibility; republishing section 13(1) of chapter 67-1630, Laws of Florida, as amended, relating to tax levy, for purposes of referendum approval; providing a referendum; providing an effective date.

—was read the second time by title.

Senator Mann moved the following amendment which was adopted:

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

Section 1. Section 1 of chapter 67-1630, Laws of Florida, is amended to read:

Section 1. Establishing a mosquito control district.—There is hereby created and established the Lee County Mosquito Control District, the boundaries of which shall include all territory of Lee County except that included within the Fort Myers Beach Mosquito Control District. However, if section 4 takes effect, the boundaries of the Lee County Mosquito Control District shall be coterminous with those of Lee County.

Section 2. Section 2 of chapter 67-1630, Laws of Florida, is amended to read:

Section 2. Division of the District into areas.—During the period December 1, 1983, to March 10, 1984, the Board of Commissioners of the Lee County Mosquito Control District shall divide the Lee County Mosquito Control District into seven residential areas for the purpose of selecting members of the Board of Commissioners. The areas shall be as nearly equal in population as practicable, using official 1980 Census data. Prior to final designation of area boundaries, the Board shall hold not less than three (3) public hearings for the purpose of receiving public input relating to the boundaries as proposed. Within six (6) months after the date official data become available from the 1990 Federal Census and every 10 years thereafter, the Board of Commissioners shall re-establish area boundaries so that all areas are as nearly equal in population as practicable based on the most recent decennial census.

Section 3. Section 3 of chapter 67-1630, as amended by chapter 79-493, Laws of Florida, is amended to read:

Section 3. Board of Commissioners; qualifications; election; term of office.—

(1) The business and affairs of the Lee County Mosquito Control District shall be governed by a board of seven commissioners, who shall constitute the Lee County Mosquito Control Board, hereinafter referred to as the board.

(2) Each board member shall be a qualified elector residing within the area from which elected; shall serve staggered terms of four years, unless removed for cause by the Governor of Florida; and shall be entitled to receive per diem and mileage as provided by general law for expenses incurred while performing official duties.

(3) One member of the board shall be elected from each of the seven areas provided in section 2 of this act. Each member shall be elected at large by a plurality vote of the qualified electors of the district voting in a nonpartisan election to be held on the date of the general election. Candidates for the office of commissioner shall qualify in accordance with general law. If the vote in the general election results in a tie, the outcome shall be determined by lot. The term of office shall commence on the second Tuesday following the election, but before assuming office, each commissioner shall make and execute to the Governor of the state a good and sufficient surety bond in the amount of not less than \$2,000 conditioned upon the faithful performance of the duties of his office, which bond shall be approved by and filed with the clerk of the circuit court of Lee County. The expense of the bonds shall be borne by the district.

(4) Vacancies created by resignation, death, or removal from office shall be filled by appointment of the Governor for the remainder of the term of office.

(5) This act shall not affect the terms of the members serving on the board when this act takes effect except that the term of each member shall expire in November of the year in which his successor is to be elected. Any such members whose terms do not expire in November, 1984, shall serve for the remainder of their terms, as shortened by this act, and shall represent the area in which they reside.

Section 4. Dissolution of existing district.—

(1) The existing mosquito control district in Lee County created under the provisions of chapter 388, Florida Statutes, and known as the Fort Myers Beach Mosquito Control District is hereby abolished and dissolved.

(2) All assets, including equipment, moneys on hand, easements and rights of any kind and nature belonging to the Fort Myers Beach Mosquito Control District, together with all of the liabilities incurred by said district are hereby assigned to and made the property and obligations of the Lee County Mosquito Control District.

(3) All books and records of the Fort Myers Beach Mosquito Control District shall be deposited and filed in the office of the Lee County Mosquito Control District.

(4) The board of commissioners and all other officers of the Fort Myers Beach Mosquito Control District, together with their sureties, are hereby discharged and relieved of all further liability and responsibility for the performance of any future duties incident to the operation or management of the affairs of said district.

(5) The Board of Commissioners of the Fort Myers Beach Mosquito Control District shall designate one member of that Board as the seventh commissioner of the Lee County Mosquito Control District. The term of the member so designated shall begin with the effective date of this act, and shall extend to the second Tuesday following the general election of 1986, at which election a successor shall be elected for a four (4) year term.

Section 5. Section 13 of chapter 67-1630, Laws of Florida, as amended by chapters 72-598 and 79-493, Laws of Florida, reads:

Section 13. Tax levy.—

(1) The board of commissioners of the mosquito control district may levy upon all of the taxable property in said district a special tax not exceeding one (1) mill on the dollar during each year solely for the purposes authorized and prescribed by this act. Said levy shall be made each

year not later than July 12 by resolution of the board or a majority thereof, duly entered upon its minutes. Certified copies of such resolution executed in the name of the board by the chairman and secretary and under its corporate seal shall be made and delivered to the board of county commissioners of Lee County and to the Department of Revenue, not later than July 15 of such year. The board of county commissioners shall order the assessor of the county to assess and the collector of the county to collect the amount of taxes so assessed and levied by the board of commissioners of said mosquito control district upon all of the taxable property in the district at the rate of taxation adopted by the board for the year and included in the resolution, and the levy shall be included in the warrants of the tax assessor, and attached to the assessment roll of taxes for the county each year. Fees shall be paid to the property appraiser and to the tax collector in accordance with law. The tax collector shall collect such taxes so levied by the board in the same manner as other taxes are collected and shall pay the same within the time and in the manner prescribed by law to the treasurer of the board. The Department of Revenue shall assess and levy on all the railroad lines and railroad property and telegraph and telephone lines and telegraph and telephone property situated in the county in the amount of each such levy as in the case of other state and county taxes, and collect the taxes thereon in the same manner as he is required by law to assess and collect taxes for state and county purposes, and remit the same to the treasurer of the board. All such taxes shall be held by the treasurer for the credit of the board and paid out as ordered by the board.

Section 6. This act shall take effect upon becoming a law, except that section 4 shall take effect only upon approval:

(1) By a majority vote of the electors of Lee County, other than those electors of the Fort Myers Beach Mosquito Control District, voting in a referendum; and

(2) By majority vote of the electors of the Fort Myers Beach Mosquito Control District voting in a referendum.

The referendum election shall be called by the Board of Commissioners of the Lee County Mosquito Control District and held either at the same time as the county election in November, 1983, or at a special election held within 8 months after the date this act is filed with the Secretary of State. There shall be at least 30 days' notice of the election as provided by s. 100.342, Florida Statutes. The election shall be paid for by the Lee County Mosquito Control District, and the expenditure of funds for this purpose is a proper district expense.

On motion by Senator Mann, by two-thirds vote HB 968 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 1126—A bill to be entitled An act relating to Hospital Board of Directors of Lee County; amending s. 18, chapter 63-1552, Laws of Florida; deleting a 1-year limitation on borrowing and a limitation on borrowing of 5 percent of gross revenues in the preceding calendar year; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 1126 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Barron	Carlucci	Childers, D.	Crawford
Beard	Castor	Childers, W. D.	Dunn

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

Nays—1

Gersten

HB 1010—A bill to be entitled An act relating to the Sarasota County Public Hospital Board, Sarasota County; amending ss. 1, 3, 7, 8(a) and (j), 8A(1), and 12, chapter 26468, Laws of Florida, Acts of Extraordinary Session, 1949, as amended, relating to the Sarasota County Public Hospital Board; providing that the term of office of all hospital board members elected in 1976 and subsequent years shall commence on the same date that the County Commissioners of Sarasota County commence their terms of office, as provided by general law; eliminating the power of the hospital board to appoint and remove assistant directors; providing for an assistant secretary, providing that the director, assistant directors, business office manager, and controller may be designated signatories on refund account, empowering the hospital board to provide certain hospital services within the boundaries of the hospital district but outside of the hospital facilities of the board, after adoption of resolution of the hospital board defining the scope of such hospital services; providing with particularity the power of the hospital board to expend funds and make payments for employees for purposes other than wages or salary; authorizing membership by dentists on the hospital medical staff and providing requirements therefor; providing for the payment of hospital funds without an order from said hospital board, for general operating expenses, drugs, food, linens, supplies, laundry, medicines, salaries, wages, utilities, and for items of equipment, and authorizing the hospital board by resolution or bylaws to establish procedures mandating the hospital board approval of certain expenses; authorizing membership by osteopathic physicians on hospital medical staff and providing requirements therefor; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1010 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 396—A bill to be entitled An act relating to Anna Maria Island Fire Control District; adding subsection (2) to Section 4 of Chapter 27696, Laws of Florida, 1951, as amended; providing for impact fees on new construction within the district to defray the cost of improvements required to provide fire and emergency service to such new construction; amending the second unnumbered paragraph of Section 8 of Chapter 27696, Laws of Florida, 1951, as amended, relating to the power and authority of the district commissioners of the Anna Maria Fire Control District to borrow money for district purposes; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 396 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Barron	Carlucci	Childers, D.	Crawford
Beard	Castor	Childers, W. D.	Dunn

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

Nays—1

Gersten

HB 683—A bill to be entitled An act relating to the Ellenton Fire Control District, Manatee County; amending section 4 and adding section 20 to chapter 59-1539, Laws of Florida, as amended; establishing a maximum annual assessment that may be levied against vacant subdivided lots, unsubdivided acreage, single family residences, duplex residences, triplex residences, rental spaces or lots for mobile homes, recreational vehicles, or travel trailer rental spaces or lots, commercial buildings, motels, apartments, and condominium units; providing for an additional charge that may be assessed for hazardous conditions; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 683 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 931—A bill to be entitled An act relating to the Cities of Oakland Park, Fort Lauderdale, and Wilton Manors, Broward County; contracting the corporate limits of the Cities of Fort Lauderdale and Wilton Manors; extending and enlarging the corporate limits of the City of Oakland Park; apportioning the existing indebtedness with respect to such property; prescribing the liability of the property for municipal taxes; apportioning municipal taxes due on the property; providing for the preservation of contractual rights; providing for zoning in the territory embraced in the extension; providing an effective date.

—was read the second time by title. On motion by Senator McPherson, by two-thirds vote HB 931 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 516—A bill to be entitled An act relating to Marco Island or Isles of Capri, Collier County; prohibiting the use of motor-powered vessels for the setting of fishing nets within 100 feet of a man-made seawall on Marco Island or the Isles of Capri during certain hours; providing an effective date.

—was read the second time by title. On motion by Senator Mann, by two-thirds vote HB 516 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 574—A bill to be entitled An act relating to Santa Rosa County; creating the Munson Fire Protection District within the county; providing definitions; providing for the election, membership, terms, compensation, and duties of the board of commissioners of the district; providing for the filling of vacancies on the board; authorizing the board to employ necessary personnel; authorizing the board to levy special tax millage on the property within the district; providing the maximum rate of tax millage; authorizing the property appraiser and tax collector of the county to take certain actions to assist the board; providing that assessments by the board shall be enforced as are tax assessments by the county; authorizing the board to borrow money to issue revenue anticipation certificates and to pledge certain liens; exempting the commissioners from certain liability; restricting the use of funds of the district by the board; authorizing the board to purchase or lease certain fire equipment and a fire department; authorizing the board to adopt rules and regulations; requiring the board to make annual reports; authorizing the board to enact and enforce a fire prevention ordinance; requiring approval by the Santa Rosa County Commission of the district budget; providing for a referendum.

—was read the second time by title.

Senator W. D. Childers moved the following amendments which were adopted:

Amendment 1—On page 6, line 24, strike “real estate” and insert: property

Amendment 2—On page 7, lines 28 and 29, strike “land” and insert: property

Amendment 3—On page 11, line 31, strike “1980” and insert: 1983

On motion by Senator W. D. Childers, by two-thirds vote HB 574 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 448—A bill to be entitled An act relating to Whitfield Fire Control District, Manatee County; amending section 2 of chapter 67-914, Laws of Florida, as amended, and adding section 21 thereto; providing that the salary of the Secretary-Treasurer shall be determined by the District Board of Commissioners; providing for Impact Fees on new construction within the District to defray the cost of improvements required to provide fire and emergency service to such new construction; providing an effective date.

—was read the second time by title.

Senator Neal moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of line 21 and insert:

Section 2. This act, except for this section which shall take effect upon becoming a law, shall take effect on January 1, 1984, provided it is approved by a majority vote of the electors of the Whitfield Fire Control District voting in a referendum election which shall be called and held by the Board of Commissioners of the Whitfield Fire Control District at a special election to be called and held by said Board of Commissioners before January 1, 1984. There shall be at least 30 days' notice of the election as provided by s. 100.342, Florida Statutes.

Amendment 2—In title, on page 1, strike all of lines 4-11 and insert: chapter 67-914, Laws of Florida, as amended; providing that the salary of the Secretary-Treasurer shall be determined by the District Board of Commissioners;

Amendment 3—On page 1, strike line 18 and insert: amended to read:

On motion by Senator Neal, by two-thirds vote HB 448 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 1027—A bill to be entitled An act relating to the Alva Fire Protection and Rescue Service District, Lee County; amending sections 5(2) and 10(2), of chapter 76-413, Laws of Florida; increasing the millage cap of the district; authorizing the district to operate first aid and rescue services; providing a referendum; providing an effective date.

—was read the second time by title.

Senator Mann moved the following amendment which was adopted:

Amendment 1—On page 1, strike all of lines 30 and 31 and insert:

Section 3. This act, except for this section which shall take effect upon becoming a law, shall take effect only upon the

On motion by Senator Mann, by two-thirds vote HB 1027 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 1097—A bill to be entitled An act relating to Clay and Bradford Counties; repealing chapter 65-1274, Laws of Florida, relating to the Key-stone-Starke Airport Authority Act; providing an effective date.

—was read the second time by title.

Senator Carlucci moved the following amendments which were adopted:

Amendment 1—In title, on page 1, line 5, after the semicolon (;) insert: providing a referendum;

Amendment 2—On page 1, strike all of lines 11 and 12 and insert:

Section 2. This act, except for this section which shall take effect upon becoming a law, shall take effect only upon approval by a majority vote of the electors voting in a referendum election to be held in Clay and Bradford Counties. Any person who is a resident and an elector of Clay County or a resident and an elector of Bradford County may vote in such election.

The election shall be held in conjunction with presidential preference primary election in March 1984 or at an earlier date agreed to by resolution of the Board of County Commissioners of Clay County and the Board of County Commissioners of Bradford County. There shall be at least 30 days notice of the election as provided by s. 100.342, Florida Statutes.

On motion by Senator Carlucci, by two-thirds vote HB 1097 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 741—A bill to be entitled An act relating to the Palm Beach County Law Library; amending section 3 of chapter 24775, Laws of Florida, 1947, as amended, empowering the Board of County Commissioners of Palm Beach County to set filing fees pursuant to this act by ordinance of said board of county commissioners; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 741 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

HB 782—A bill to be entitled An act relating to St. Lucie County; amending section 2 of chapter 57-1790, Laws of Florida, relating to the St. Lucie County Law Library; providing for increased fees and otherwise modifying the manner of raising funds for said library; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 782 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Gersten

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote HB 708 was withdrawn from the Committee on Rules and Calendar and by unanimous consent taken up instanter.

HB 708—A bill to be entitled An act relating to Santa Rosa County; providing certain restrictions on the use of fishing nets; providing a penalty; 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 1, line 21, strike “June 1, 1983” and insert: upon becoming a law

On motion by Senator W. D. Childers, by two-thirds vote HB 708 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—4

Dunn	Gersten	Gordon	Weinstein
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CONSENT CALENDAR

HB 825—A bill to be entitled An act relating to the naming of state buildings; authorizing and directing the Board of Regents of the Division of Universities of the Department of Education to name the expanded business building at Florida State University the “Charles A. Rovetta Building”; providing an effective date.

—was read the second time by title.

Senators Grant, Barron and Thomas offered the following amendments which were moved by Senator Grant and adopted:

Amendment 1—On page 1, lines 23 and 24, strike “NOW, THEREFORE,” and insert: and

WHEREAS, Coyle E. Moore has devoted 42 years of his adult life to the cause of higher education in this nation and this state through his work at the Florida State University, and

WHEREAS, Coyle E. Moore founded the School of Social Welfare, serving as Dean for 21 years, and was instrumental in the emergence of today’s nationally recognized School of Social Work and School of Criminology, and

WHEREAS, Dean Moore’s deep and abiding concern to promote educational opportunity led to the establishment of the nation’s first undergraduate social work internship program, as well as the establishment of faculty awards for teaching excellence and student scholarships from the Coyle E. Moore, Jr. Memorial Foundation, and

WHEREAS, since the inception of the Florida State University in 1947, and until his retirement in 1970, Dean Moore served as a vital member of the FSU Intercollegiate Athletic Committee and is considered an architect of one of the most successful intercollegiate athletic programs in the nation, and

WHEREAS, Dean Moore made loyal and unselfish contributions to the intercollegiate athletic program as counselor to student-athletes, coaches, and administrators; fund-raiser, contributor, and as a builder of tradition and pride at the Florida State University, and

WHEREAS, Dean Moore’s promotion of excellence in both academics and athletics has been an inspiration to the students, faculty, administrators, and friends of the Florida State University, and

WHEREAS, the Florida State University, this state, and higher education have greatly benefited from the leadership and dedication demonstrated by Dean Coyle E. Moore, NOW THEREFORE,

Amendment 2—On page 1, line 31, before the period (.) insert: “, and the athletic administration and fieldhouse building at Florida State University the” Coyle E. Moore Athletic Center

Amendment 3—In title, on page 1, line 7, after the semicolon (;) insert: and to name the athletic administration and fieldhouse building at Florida State University the “Coyle E. Moore Athletic Center”;

On motion by Senator Grant, by two-thirds vote HB 825 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

On motions by Senator Beard, the rules were waived and by two-thirds vote HB 599 was withdrawn from the Committees on Transportation and Judiciary-Civil.

On motion by Senator Beard—

HB 599—A bill to be entitled An act relating to eminent domain; creating s. 337.271, Florida Statutes; providing a precondemnation negotiation procedure for the Department of Transportation; providing for submission by the property owner of an appraisal and estimate of business damages if claimed; specifying responsibilities of property owners and the department; providing for payment by the department of reasonable costs of appraisals and estimates of business damages; providing an effective date.

—a companion measure, was substituted for CS for SB 317 and read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—On page 4, strike line 3, and insert:

Section 3. Except for this section and section 2 which shall take effect upon becoming a law, this act shall take effect October 1, 1983.

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

Section 2. Section 361.025, Florida Statutes, 1982 Supplement, is amended to read:

361.025 Right of eminent domain to railroad companies.—Any railroad company organized under the laws of this state, or under the laws of any other state and qualified to do business in this state, shall have the right of eminent domain to enter upon, for survey purposes, any land necessary for the construction, operation, and maintenance of its roads and required facilities and to appropriate the same or any part thereof upon making due compensation according to the procedures set forth in chapters 73 and 74; however, no such company shall have the right of eminent

domain with respect to property belonging to the state or any agency thereof. Any railroad company may construct, operate, and maintain its roads and required facilities on such property, subject only to the permitting requirements and reasonable regulations that may be imposed by the public authorities having jurisdiction over such property. The right of eminent domain for the purpose of securing terminal facilities on any waters of this state, including a sufficient amount of land for such facilities, shall be subordinate to the right of the governmental entity wherein the property is located to condemn such property through the exercise of its powers of eminent domain for a public purpose.

(Renumber subsequent sections.)

Senator Castor moved the following amendments which were adopted:

Amendment 3—On page 1, between lines 15 and 16, insert:

Section 1. Section 74.011, Florida Statutes, is amended to read:

74.011 Scope.—In any eminent domain action, properly instituted by and in the name of the state, the Division of Road Operations of the Department of Transportation, or any county, school board, municipality, expressway authority, regional water supply authority, *transportation authority*, flood control district, drainage or subdrainage district, the ship canal authority, any lawfully constituted housing, port or aviation authority, rural electric cooperative, telephone cooperative corporation, or public utility corporation, the petitioner may avail itself of the provisions of this chapter to take possession and title in advance of the entry of final judgment.

(Renumber subsequent section.)

Amendment 4—In title, on page 1, line 2, after the semicolon (;) insert: amending s. 74.011, Florida Statutes; authorizing transportation authorities in any eminent domain action properly instituted by and in the name of the state to use the provisions of chapter 74, Florida Statutes, to take possession and title in advance of entry of final judgment;

Senator Stuart moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 12, after the semicolon (;) insert: amending s. 361.025, Florida Statutes, 1982 Supplement, authorizing railroad companies organized under the laws of any other state to exercise the right of eminent domain;

On motion by Senator Beard, by two-thirds vote HB 599 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Frank	Jennings	Plummer
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
Fox	Jenne	Myers	

Nays—None

CS for SB 317 was laid on the table.

SB 113—A bill to be entitled An act relating to shrimp fishing in Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties; adding s. 370.153(3)(f), (i0), 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; 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 Carlucci and adopted:

Amendment 1—On page 1, line 24, after the word “the” insert: *inland waters of the*

On motion by Senator Carlucci, by two-thirds vote SB 113 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

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

Nays—None

Vote after roll call:

Yea—Plummer

SB 514—A bill to be entitled An act relating to proceedings supplemental to eminent domain; amending s. 74.011, Florida Statutes; authorizing regional transportation authorities in any eminent domain action properly instituted by and in the name of the state to use the provisions of chapter 74, Florida Statutes, to take possession and title in advance of entry of final judgment; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 1, line 21, after “*authority*” insert: ,

Senator Castor moved the following amendments which were adopted:

Amendment 2—On page 1, line 20, strike “*regional*”

Amendment 3—In title, on page 1, line 4, strike “*regional*”

On motion by Senator Castor, by two-thirds vote SB 514 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

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

Nays—None

SB 98—A bill to be entitled An act relating to the Florida Governor’s Council on Physical Fitness and Sports; requiring the council to conduct a study of boxing, wrestling, other martial arts, and similar sports and to make recommendations about the regulation of such sports when participants receive compensation; requiring the council to report to the Legislature; providing an appropriation; allocating positions; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator D. Childers and adopted:

Amendment 1—On page 2, line 3, strike “\$50,000” and insert: \$25,000

The Committee on Governmental Operations recommended the following amendments which were moved by Senator D. Childers and adopted:

Amendment 2—On page 1, line 18, strike “wrestling,” and before the period (.) insert: except professional wrestling

Amendment 3—On page 1, line 20, strike “and wrestling”

Amendment 4—In title, on page 1, line 5, strike “wrestling,”

On motion by Senator D. Childers, by two-thirds vote SB 98 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

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

Nays—2

Beard Neal

Vote after roll call:

Yea—Frank

SB 1029—A bill to be entitled An act relating to participation in group insurance programs for retired public officers and employees; amending s. 110.123(4)(e), Florida Statutes; authorizing the payment of premiums by the state for group insurance coverage for retired state officers and employees; providing that no state contribution shall be made for certain surviving spouses and dependents; amending s. 112.0801, Florida Statutes; requiring local governments which provide certain types of group insurance coverage to their officers and employees to also provide such coverage to retired officers and employees; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendments which were moved by Senator Jennings and adopted:

Amendment 1—On page 1, strike all of lines 19-30 and renumber subsequent sections

Amendment 2—In title, on page 1, lines 4-10, beginning with “amending” on line 4, strike all of said lines down through the semicolon (;) after “dependents” on line 10.

On motion by Senator Jennings, by two-thirds vote SB 1029 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

SB 925—A bill to be entitled An act relating to security required by the Florida Automobile Repairs Reform Act; creating s. 316.647, Florida Statutes; prohibiting the operation of certain motor vehicles by certain persons without proof of security and display thereof; providing exceptions; providing for dismissal of prosecution upon display of proof of security; providing a penalty; amending s. 320.02(5)(a), (b), Florida Statutes; deleting the provision for proof of Personal Injury Protection benefits by affidavit; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 1, line 18, strike everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (b) of subsection (5) of section 320.02, Florida Statutes, are amended to read:

320.02 Application for registration; forms.—

(5)(a) Proof that personal injury protection benefits have been purchased when required under s. 627.733 shall be made by the applicant at the time of application for registration of any motor vehicle owned as defined in s. 627.732. The issuing agent shall refuse to issue registration if such proof of purchase is not made. Insurers shall furnish uniform proof of purchase cards in such form as prescribed by the Department of Highway Safety and Motor Vehicles, and such card, or an insurance policy, an insurance policy binder, a certificate of insurance, a photocopy of any of these, an ~~a~~ notarized affidavit containing the insured's insurance company name, policy number, and the make and year of the vehicle insured, in substantially the following form:

Under penalty of perjury, I . . . (Name of Insured) . . . do hereby certify that I have . . . (Personal Injury Protection or Liability) . . . Insurance currently in effect with . . . (Name of insurance company) . . . under . . . (policy number) . . . covering . . . (make and year of vehicle) (Signature of Insured) . . .

or such proof as may be prescribed by the Department of Highway Safety and Motor Vehicles shall be accepted as such proof. *Said affidavit shall include the following warning:*

WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS SUBJECT TO PROSECUTION.

When applications are made through a licensed motor vehicle dealer as required in s. 319.23, the original or a photostatic copy of such card, insurance policy, insurance policy binder, certificate of insurance, or the original ~~notarized~~ affidavit from the insured shall be forwarded by the dealer to the tax collector of the county or the Department of Highway Safety and Motor Vehicles for processing. By executing ~~and notarizing~~ aforesaid affidavit, no licensed motor vehicle dealer shall be liable in damages for any inadequacy, insufficiency, or falsification of any statement contained therein. Such cards shall also indicate the existence of any bodily injury liability insurance voluntarily purchased. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers providing such benefits. Any person altering such card or duplicating or counterfeiting such card or making a false affidavit in order to furnish such false proof or to knowingly permit another person to furnish such false proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) When an operator owning a motor vehicle or motor vehicles comes under the operation of the financial responsibility requirements of chapter 324, such operator shall provide proof of compliance with such financial responsibility requirements at the time of registration of any such motor vehicle, through the use of a uniform proof of purchase of insurance card specifying such coverage, an insurance policy, an insurance policy binder, a certificate of insurance, an ~~a~~ notarized affidavit as provided in this section, or by such other method of furnishing such proof as may be required by the Department of Highway Safety and Motor Vehicles. The issuing agent shall refuse to issue registration of a motor vehicle if such proof of purchase is not made. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers writing motor vehicle liability insurance in this state. Any person altering such card or counterfeiting such card in order to furnish such false proof or to knowingly permit another person to furnish such false proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. For the purpose of incorporating the amendment to section 320.02, Florida Statutes, in reference thereto, subsection (1) of section 324.021, Florida Statutes, 1982 Supplement, is reenacted to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except trac-

tion engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or moped, as defined in s. 316.003(2). However, the term "motor vehicle" shall not include any motor vehicle as defined in s. 627.732(1), when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and in such case, until January 1, 1978, such owner shall establish proof of compliance with such sections in the manner provided for evidence of insurance as set forth in s. 325.19(7) at the time of inspection of any such motor vehicle, and after such date the applicable proof of insurance provisions of s. 320.02 shall apply.

Section 3. This act shall take effect on July 1, 1983.

Amendment 2—On page 1, strike lines 2-14 and insert: An act relating to motor vehicle registration; amending s. 320.02(5)(a) and (b), Florida Statutes, to modify provisions authorizing proof of personal injury protection or liability coverage by affidavit; reenacting s. 324.021(1), Florida Statutes, 1982 Supplement, to incorporate the amendment to s. 320.02, Florida Statutes, in a reference thereto; providing an effective date.

Pending further consideration of SB 925 as amended, on motion by Senator Crawford, by two-thirds vote CS for HB 1228 was withdrawn from the Committee on Transportation.

On motions by Senator Crawford—

CS for HB 1228—A bill to be entitled An act relating to motor vehicle registration; amending s. 320.02(5)(a) and (b), Florida Statutes, to modify provisions authorizing proof of personal injury protection or liability coverage by affidavit; reenacting s. 324.021(1), Florida Statutes, 1982 Supplement, to incorporate the amendment to s. 320.02, Florida Statutes, in a reference thereto; providing an effective date.

—a companion measure, was substituted for SB 925 and by two-thirds vote read the second time by title. On motion by Senator Crawford, by two-thirds vote CS for HB 1228 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 925 was laid on the table.

The Senate recessed at 12:03 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—40:

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

EXECUTIVE BUSINESS—Executive Orders of Suspension

Special Master D. Stephen Kahn, to whom was referred the Executive Order of Suspension and the Amended Executive Order of Suspension of Daniel H. Bennett, submitted the following report:

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: SUSPENSION OF
DANIEL H. BENNETT

SHERIFF OF FLAGLER COUNTY

Executive Order 83-1
Executive Order 83-40

REPORT AND RECOMMENDATION
OF SPECIAL MASTER

BACKGROUND

Daniel H. Bennett, duly elected and commissioned Sheriff of Flagler County, Florida, was suspended by the Governor's Executive Order 83-1 effective January 6, 1983. On March 23, 1983, the Governor filed superseding Executive Order 83-40 which enlarged the grounds upon which the suspension was initially based. The subsequent Order upon which hearings were held alleged nine "acts and violations of the law" which the Governor concluded and alleged constituted the offenses of malfeasance, misfeasance, neglect of duty, incompetence, and/or commission of a felony as such offenses are used in Article IV, s.7(a), Florida Constitution.

Pursuant to my appointment as Special Master by the Senate President on January 13, 1983, and with notice to all parties, I held a pre-hearing conference in March and earlier this month listened to over 32 hours of testimony during a three-day evidentiary hearing held in St. Augustine.

Sworn testimony was taken from 30 witnesses and numerous exhibits were introduced into evidence. Witnesses were examined and cross-examined in a thorough, meticulous, professional manner by counsel for both parties.

The Governor appointed and was ably represented by R. Baker King and Ralph N. Greene, Assistant State Attorneys of Jacksonville. Mr. Bennett retained and was equally ably represented by Dean Bunch, Esquire of Tallahassee. A certified stenographic transcript was prepared consisting of 968 pages and is available for the Senate's review. References to the volume and page numbers in that transcript are indicated in brackets.

FINDINGS OF FACT

CHARGE 1.

1. On or about August 22, 1981, DANIEL H. BENNETT did unlawfully enter the dwelling or curtilage of one Pete Lisicki and directed or allowed one or several of his deputies to unlawfully enter the premises of Pete Lisicki and to search said premises. That subsequent to said search said DANIEL H. BENNETT did direct or allow deputy sheriffs Bass and Terrell to procure a search warrant from Judge Kim Hammond to search said premises knowing that said premises had already been unlawfully entered. He further directed said deputies to state that they had not been on the property of said Pete Lisicki prior to observing illegal activity on the property earlier in the day, knowing that they had in fact trespassed on said property.

For purposes of analysis, Charge 1 must be subdivided into four sub-charges:

- a) That the sheriff unlawfully entered the premises of Peter Lisicki;
- b) That he, without a warrant, directed or allowed one or more deputies to enter and search a mobile home located thereon;
- c) That he, in effect, indirectly deceived the circuit judge by allowing deputies Bass and Terrell to procure a search warrant knowing that the mobile home had already been entered by Deputy Lawrence, and
- d) That he directed the deputies to misrepresent the truth to the judge.

BACKGROUND OF CHARGES 1 AND 2

On Friday, August 21st, 1981, at 5:30 p.m., Sheriff Bennett and several of his deputies stopped at a Bunnell food store when they met a Game and Fish Officer who advised them that a person reported to him that her across-the-road neighbor was cultivating marijuana on a five-acre parcel behind his mobile home. The sheiff instructed his SWAT team chief to go out there and locate the general area in preparation for the next day's operation.

At sun-up on Saturday, August 22nd, 1981, the five-man SWAT team assembled and in camouflage uniform, went to the area of the suspect property. They parked their vehicle in the neighbor's yard across the road and entered the subject property from the southeastern corner. They fanned out generally westward until they ran directly into a stand of seven to eight-foot high marijuana plants. The SWAT chief, Deputy Lawrence, snapped a leaf off of one of the plants and directed his team to retreat to the vehicle. At that point, they did not know for sure whose property they were on or where the property line was located in relation to the marijuana patch.

Once in the vehicle with the leaf for evidence, they were off to the sheriff's home to report in and to get further instructions.

Coincidentally, near the I-95 overpass, they passed the circuit judge who was taking his son to a morning ballgame. They flagged him down and told him their story. He asked them if they had a search warrant and whether they had secured the area.

The team, in addition to Rocky Lawrence, its chief, included Deputies Terrell, Brock, Bass and Dempsey. They arrived at Sheriff Bennett's house in Palm Coast and he listened to their story and told them to go directly to Assistant State Attorney Nelson's house to start the paperwork for a search warrant. The sheriff said that he would meet several of them later at the Sheriff's Department in Bunnell.

Team leader Lawrence ordered Dempsey, Terrell and Bass back to the property to guard and secure it until further orders.

The advance party again entered the property from the same general direction that they had done earlier. At about 10:00 a.m., while Lawrence and the sheriff were at the jail, an emergency call came in over the radio from Terrell. Bass, who was hiding in the brush, saw a young man and two dogs walking in the area of the marijuana plants. Bass jumped up, weapon drawn, and shouted to the man, who turned out to be the owner's brother, that he was under arrest. Dempsey heard the shouting and came running. They "dropped" and handcuffed Paul Lisicki and sat him down on the bank of a nearby fire ditch.

All hell broke loose—all the deputies within radio call came screaming toward the scene from all points. The sheriff was in the second vehicle to arrive. He tried to run his four-wheel drive Bronco through a metal gate at the dirt road to the property and when it proved too substantial to push over, he tied a cable around it, and with full four-wheel power, pulled it over.

Many deputies, under Sheriff Bennett's direction, reconnoitered the entire five acres to estimate the extent of the marijuana growing there and to see if there were any other persons hiding out on the property or in the mobile home. When the dust settled, they found no one else there, but seized the arrested man's truck and about a hundred pounds of marijuana harvested from 75 plants.

At this point, the picture becomes blurry. There were nine witnesses who testified against the sheriff on this charge. Four had been granted immunity by the State Attorney; two for lying under oath to the circuit judge, two others for their testimony in general; three admitted that they had lied under oath on a total of at least *nine* occasions at their depositions, and even directly to the circuit judge at the evidence suppression hearing in the Lisicki criminal case. Job security, department factionalization, and personal friendships appear to be at the root of much of the perjury, and although several witnesses attempted to convince me that they had recanted and were *now* telling the truth, I found most of their testimony on this charge not worthy of belief, or at its best, of very limited credibility.

I found only several witnesses to be worthy of belief, and based on their testimony, and the judge's and the sheriff's version of the facts, do find the following:

- a) Sheriff Bennett *did not personally* enter the mobile home until 2:00 a.m. on Sunday, August 23rd, 1981, when he had a valid search warrant in his possession authorizing his entry. Sheriff Bennett twice denied his personal entry on Saturday [1-123], [7-164], and no *credible* witness testified that he ever saw the sheriff go into or remain inside the mobile home on Saturday, August 22nd.

THE GOVERNOR HAS FAILED TO SUSTAIN THIS SUBCHARGE.

- b) Sheriff Bennett, prior to having a warrant in hand, allowed or condoned one of his deputies to enter and search the Lisicki mobile home. The preponderance of the evidence shows that notwithstanding his denials, Sheriff Bennett saw and knew that Deputy Lawrence entered the trailer through a window, that Lawrence did a quick reconnaissance of the trailer and exited through the side door. Additionally, the sheriff's main defense witness on the point, Deputy Brock, was not able to corroborate the sheriff's denial because Brock had been told to go to the field area to help gather the marijuana [6-96] and Brock wasn't with Sheriff Bennett or Deputy Lawrence at the mobile home at the material times [6-64].

Although not necessary to sustain this point for the Governor, the prosecution case was weakly and marginally corroborated by Deputy Terrell's testimony that he heard Sheriff Bennett tell Deputy Lawrence to "be sure and lock the door on his way out" [6-33]. Lawrence also testified twice that the sheriff told him to "Go in and check out the trailer" [5-105, 5-88].

Thomas Brunell, a local citizen who as a hobby monitored the law enforcement channels on his scanner, testified as a defense witness. He stated that he heard and recollected 1 and 1/2 years after the event, the Sheriff's August 1981 radio instructions to his deputies "not to enter the trailer without a warrant." I don't doubt that Mr. Brunell honestly believed that that is what he heard, but that transmission was the *only specific conversation* out of thousands over the years of monitoring that he could recount. In my opinion, his recollection has probably been aided by subsequent events.

THE GOVERNOR HAS SUSTAINED THIS SUBCHARGE.

- c) Sheriff Bennett allowed Bass and Terrell to pursue procurement of a search warrant from the circuit judge knowing that Deputy Lawrence had already unlawfully entered the trailer. Sheriff Bennett admitted that he knew that it was illegal to search a trailer and then go for a warrant [7-215].

THE GOVERNOR HAS SUSTAINED THIS SUBCHARGE.

- d) Sheriff Bennett vehemently denies *ever* telling any of his deputies to say, when asked, that they were *off* the Lisicki property when Lisicki was arrested Saturday, August 22nd. His testimony was that he repeatedly advised them to say that if they didn't know where they were, that no one would hold it against the department. He admitted telling them to be sure "they had it all together" before they went to testify at the Lisicki evidence suppression hearing. The Governor's evidence against Sheriff Bennett on this subpoint comes from one of the Lisicki brothers who claims to have overheard the sheriff instructing Bass about saying that he (Bass) used binoculars; from Rocky Lawrence who claimed three times that the sheriff told him to "say you weren't on the property" [5-91, 5-92, 5-96]; from Dempsey who testified that Sheriff Bennett gave him the same advice twice [6-10, 6-12] and from Terrell, the same testimony [6-27] and that the sheriff helped Terrell come up with the story about being near the tree on the Allen (adjoining) property and breaking bushes to form a line of sight [6-39].

I have no doubt, especially because of their repeated admissions of lying under oath, that many of these deputies perjured themselves in the worst possible way; in a way that makes a mockery of the Constitution; in a way that compromises the heart of the criminal justice system; in a way that makes our government a government of men, not laws; and in a way that intentionally and willfully disregarded not only their oaths of office as sworn deputies, but also their repeated oaths to tell the truth.

It's not because I particularly believe Sheriff Bennett's version of the facts of this subcharge, but because of the hopeless pattern of lying under oath by many of his deputies on this point that I find that THE GOVERNOR HAS FAILED TO SUSTAIN subcharge (d).

CHARGE 2.

2. Prior to hearings on the defendant's Motion to Suppress in the case of *State of Florida vs. Pete Lisicki* held before Circuit Judge Kim Hammond on or about March 26, 1982, and April 20, 1982, DANIEL H. BENNETT instructed several of his deputies to testify that they had not been on the property of Pete Lisicki, or to

state they did not remember being on said property prior to observing illegal activity on the said property, knowing full well they had been on said property.

For the reasons stated above in my explanation of Charge 1(d), I find that THE GOVERNOR HAS FAILED TO SUSTAIN Charge 2.

CHARGE 3.

3. On or about June 9, 1981, an order was entered by the Circuit Court of the Seventh Judicial Circuit directing the Office of the State Attorney to turn over to DANIEL H. BENNETT several pornographic films for destruction. Among these films was a film entitled "Black Rape." Instead of destroying this film and in direct violation of a lawful court order, DANIEL H. BENNETT gave it to another person, to-wit: Mark Patrick, knowing the film to be obscene.

BACKGROUND TO CHARGE 3

In December, 1979 (before Daniel Bennett became Sheriff of Flagler County) Deputy Mark Patrick had arrested one Ellwood Horton and in the process confiscated 26 reels of 8mm pornographic film and a stack of magazines of an explicit pornographic nature [2-170]. One of those films was entitled "Black Rape" [2-175].

Shortly thereafter, Deputy Patrick turned the confiscated evidence (including that film) over to Flagler County Sheriff Department's evidence custodian, Jim Arp.

After the criminal charges against Horton were disposed of and the evidence was no longer necessary to be kept, the State Attorney's office filed a motion for destruction, and on June 4th, 1981, Circuit Judge Hammond entered an Order requiring Sheriff Bennett or an authorized deputy to destroy "each and every magazine and film as quickly as possible."

As is characteristic in this case, the stories diverge at this point.

Sheriff Bennett says that he never saw the Order when it first came in; that when he first got a reminder note from his secretary a few weeks after the Order was entered, that he told her to "have Deputy Lawrence take care of it;" that the order "laid on my desk for two weeks" and only after a phone call from the judge, did he "get back into the paperwork;" that on July 3rd, 1981, he finally asked Arp for the box of films; that he never got the projector from Arp; that he never saw a list of the films; that the Order said to burn 26 films and he burned 26 films; that the reason that it took so long to do so was that Clerk of Court Barber, who by law and the terms of the destruction Order, had to be present at the destruction, cancelled two appointments that had been set; and that he kept all this contraband evidence in his office from July 3rd, 1981 until it was burned on September 1st, 1981.

Deputy Patrick says that one day in the early part of 1982, when he was in the sheriff's private office [2-174], the sheriff closed the door, opened a file cabinet [2-196] and gave him "Black Rape," one explicit magazine and the confiscated projector saying, "Don't let anything happen to this stuff."

After carrying them around in the trunk of his car for a while, Patrick then took these items to his beach cottage where he later showed part of the film to another deputy. The projector bulb broke and that was the end of the performance. Patrick claims to have had possession of "Black Rape," the projector, and the magazine, until Jacksonville State Attorney Investigator Beasler took official custody of these items on September 9th, 1982.

Now, Sheriff Bennett admits giving an unmarked, unboxed partial role of movie film to Deputy Patrick, but denies that it was "Black Rape." There was evidence from a county prisoner that several deputies may have, late one night, entered the evidence room illegally, and thus obtained what he thought might have been a projector-sized parcel, but I find that evidence not to be convincing.

There is a related reason that I doubt Sheriff Bennett's claim of total innocence on this charge. The sheriff first claimed never to have viewed the film "Black Rape" in his office. Then he acknowledged that a pornographic film was shown in his office, but that he "didn't view it through." Then he acknowledged that the projector had been set up in his office by some unknown person and that there was a film "coming on," but that he "never saw it completely;" then he acknowledged that he was in there when it started and that, coincidentally, he came back 10 minutes or so

later just as it was finishing. Bennett admitted that three or four deputies were in the office watching the film, yet he claims to have stated to his men at the time that "I don't think that we really should be looking at this film." The deputies, for the most part, corroborated the fact of the showing of the film, but then added that the sheriff was also there for most all of the performance [2-203, 6-41]. Terrell stated that the sheriff was seated behind his desk; and Lawrence testified that Sheriff Bennett was the one who turned on the projector [2-203].

Sheriff Bennett is not charged with showing the film; neither is he charged with allowing a pornographic film to be shown in his office. His personal moral position concerning pornography is not the gravamen of this charge.

All this discussion about the showing of the film is relevant only because Daniel Bennett denied knowing whether "Black Rape" was one of the films that was burned. That film was obviously not destroyed on September 1, 1982, because the same film is now filed in evidence in the Senate case; unless however, someone had the unlikely foresight to obtain another print of it and plant it in Deputy Patrick's possession in order to frame Sheriff Bennett.

The only question at issue is whether Daniel Bennett gave "Black Rape" to Deputy Mark Patrick knowing that the film was part of the evidence confiscated in the Horton case when he knew of his duty to destroy said film as provided in Judge Hammond's Order of June 4th, 1981.

I find that he did and that THE GOVERNOR HAS SUSTAINED THIS CHARGE.

CHARGES 4. and 5.

4. On or about June 18, 1981, DANIEL H. BENNETT, while on official investigation and while in an official patrol boat, exposed his genitalia to one Jo Anne Harvey in a vulgar and indecent manner.
5. On or about June 18, 1981, DANIEL H. BENNETT, while on an official investigation, actually and intentionally touched Jo Anne Harvey against her will.

BACKGROUND OF CHARGES 4 AND 5

On June 18, 1981, in mid-afternoon, Sheriff Bennett and Deputy Robert Newberry were in the official Sheriff Department's patrol boat. They were on their way up the intracoastal waterway toward Palm Coast. They were on an official undercover mission involving a drug investigation. They were dressed in T-shirts and jeans. Near Flagler Beach in the vicinity of the Bridgetender's Inn, they spotted a young female in a bathing suit who was lying down sunning herself. The woman, Jo Anne Harvey, knew Deputy Newberry. He had dated one of her girlfriends. When Newberry offered her a quick, eight-mile boat ride up to Palm Coast, she accepted and got into the boat. All three had a beer or two, engaged in light chatter (including a mock deputizing ceremony for Mrs. Harvey) and were generally enjoying the ride and the beauty of the afternoon.

Mrs. Harvey testified that she told the sheriff and Deputy Newberry that her husband expected her to be home by 5:00 p.m.

The first leg of the trip was brief; the first stop was to pick up Deputy Rocky Lawrence. He boarded, dressed in jungle camouflage and armed with a military-type weapon.

After a short second leg, they stopped at Crosby's Cut where Deputy Lawrence went into a store for a few moments and came out with some alcoholic beverages purchased with money given him by Sheriff Bennett. For the third leg, they headed back to Flagler Beach where they dropped off Newberry. The remaining three then turned back north for the fourth leg to "the sands" where Rocky got out of the boat for some unexplained reason and took a short walk.

Then on the fifth leg they headed for Fort Matanzas where after going ashore for perhaps a little more than a half hour, the three returned to the boat. For the final leg, they went to the St. Johns County line near Marineland and stopped for gas. It was at that point that Jo Anne Harvey, after telling the sheriff and Deputy Lawrence that she had to go to the bathroom, made her break.

Mrs. Harvey told a rather consistent, although somewhat fanciful story on the three various times that she has testified in this case; twice in sworn statements and once at the Master's hearing. Her testimony is

laced with archaic and somewhat victorian references such as "they tried to press themselves upon me" [3-33], "he offered me his member as a consolation" [3-14], "he lay down upon me" [3-33], and "it was a menage-a-trois."

Sheriff Bennett's counsel attempted to discredit Jo Anne Harvey by showing that she, a local beautician who walked around the beach area all hours of the day and night in flowing gowns or in skimpy bikinis, was for many years a constant complainer at the local police department where she had lodged up to 20 complaints against casual flashers, although the local police records documented only one such recorded incident. None of these flasher complaints was ever prosecuted because Jo Anne was never able to come up with a good enough description of the suspect.

The corroborating prosecution witness on this charge, Rocky Lawrence, changed his story from time to time. He has been given immunity by the State Attorney from prosecution for any sexual battery committed upon Mrs. Harvey [5-109]. At one preliminary point during this case, he swore that the sheriff did not expose his penis to Mrs. Harvey [2-225]. At my hearing, he insisted that he saw Sheriff Bennett's exposed penis in the immediate vicinity of Mrs. Harvey's mouth.

If it were based only on the foregoing Harvey/Lawrence testimony, the Governor's evidence would have been barely sufficient to sustain this charge; but, during the course of the hearing, unexpected testimony came to light from the man who was the desk manager at the Quality Inn, Marineland, where Mrs. Harvey initially sought refuge. David Tucker testified that Jo Anne Harvey was *very upset* and *crying* when she made her contemporaneous and extemporaneous exclamation to him of her general treatment at the hands of Deputy Rocky Lawrence and Sheriff Bennett. Such declarations that characterize an incident and that are made immediately after an exciting occasion by a participant or an observer where there is no time for or evidence of reflection or deliberation, and especially when made to an unbiased, independent witness (who I called as my own witness before either side in this case had a chance to cultivate his testimony or even to know what his testimony was going to be) are very convincing.

Furthermore, in a deposition taken on March 18, 1983, and filed in the Senate file, Carl Laundrie, a newspaper reporter for the Daytona News-Journal testified that he confronted Sheriff Bennett with some rumors while the sheriff was still in office to see what Bennett's reaction would be. Reporter Laundrie testified that "Dan flatly denied being on the boat with Jo Anne Harvey." I find that that denial made to Carl Laundrie, even though it was not under oath and was relayed to me secondhand, was not true. The fact is that Daniel Bennett was on the boat that day.

Sheriff Bennett's statement to Reporter Laundrie, as indirect as it is, is the only evidence in the record from Daniel Bennett on the Jo Anne Harvey incident.

At the Master's hearing on May 12, 1983, Mr. Bennett's counsel consented to having Governor's counsel ask Mr. Bennett several questions going to the heart of Charges 4 and 5 [1.103]. Mr. Bennett, upon advice of his counsel, then refused to answer whether on or about June 18, 1981, while on an official investigation in an official patrol boat, he exposed his penis to Jo Anne Harvey in a vulgar and indecent manner and intentionally touched her against her will [1-105]. It was agreed that under the applicable case law, that once Mr. Bennett asserted the Fifth Amendment, he personally would be barred from testifying otherwise on Charges 4 and 5 [1-102].

The right to remain silent applies in proceedings which, while not criminal, are penal in nature or involve forfeiture. *State ex rel. Vining v. Fla. Real Estate Commission*, 281 So.2d 487 (1978). The suspension/removal procedure in Article II, s.7 is such a proceeding. Thus a suspended public officer properly may assert the privilege against self-incrimination before the Florida Senate and neither the Senate, nor a committee, nor the Special Master, should enter a default against a Respondent because of his assertion of this constitutional right, or try to force the suspended officer to testify in his own defense. The Senate has no power to grant immunity from subsequent criminal prosecution for any substantive crime involved or for perjury.

Additionally, federal case law makes it impermissible to penalize one's assertion of the privilege by making its exercise "costly". *Griffin v. California*, 380 U.S. 609, 85 S.Ct. 1229, 14 L.Ed. 2d 106 (1965). However, unlike in criminal proceedings, if the suspended officer takes the stand and asserts the privilege in response to questioning before the fact finder,

the other party, in this case the Governor, is entitled to the benefit of the adverse inferences from the suspended officer's responses to the unanswered questions. *Baxter v. Palmigiano*, 456 U.S. 308, 318, 96 S.Ct. 1551, 47 L.Ed. 2d 810 (1976).

Notwithstanding the allowability of my doing so, in my evaluating and weighing of the evidence presented, I completely discounted and attributed nothing to the fact that at the Master's hearing, Mr. Bennett "took the Fifth" on Charges 4 and 5. My conclusion on those counts are reached entirely without regard to the Fifth Amendment issue and Mr. Bennett's assertion of his right to remain silent.

Now it is true that Jo Anne Harvey did have inconsistencies in her testimony. For example, at one deposition she testified that the sheriff carried her on his shoulders across some sandspurs near Marineland. On another occasion, she testified that it was Rocky Lawrence who carried her. But based on all the testimony of Rocky Lawrence, Jo Anne Harvey, David Tucker, Florence Kment, Elizabeth Ann Morris and Carl Laundrie, and the evidence presented, I find that Sheriff Daniel Bennett did at some time expose his genitalia to Jo Anne Harvey on June 8th, 1981 in a vulgar and indecent manner and that he actually and intentionally touched her body against her will. While such conduct by a county's chief law enforcement officer is not to be condoned even when it occurs after hours in a private setting, the fact that this incident occurred on an official patrol boat while on an official mission where the sheriff was acting under color of his authority, does, in my opinion, aggravate the seriousness of the charges. **THE GOVERNOR HAS SUSTAINED CHARGES 4 AND 5.**

CHARGE 6.

6. During the term of his office, DANIEL H. BENNETT has failed to require each deputy to post a \$1,000 bond payable to the Governor of the State of Florida, with two or more good and sufficient sureties, to be approved by the Board of County Commissioners and filed with the Clerk of the Court as required by Section 30.09, Florida Statutes.

BACKGROUND TO CHARGE 6.

Section 30.09, Florida Statutes requires each deputy sheriff to post a faithful performance bond or for the sheriff to have a blanket bond in the amount of \$1,000 for each deputy and that the bond be approved by the Board of County Commissioners before it is filed with the Clerk of the Court.

The evidence was that the required deputies' bonds had been posted since at least 1976 but had never been formally approved by the Flagler County Board of County Commissioners.

Although Section 30.09(5), F.S. provides that violation of the bonding section shall subject the offender to removal [suspension] by the Governor, and although the Flagler County Sheriff's Office was in technical violation of the law, and although Sheriff Bennett had an affirmative obligation to read, understand and comply with section 30.09, F.S., I find that his personal verification of the existence of the bond [7-184], and his inquiry of and reliance on his predecessor's statement concerning the validity of the bond, was reasonable.

Although the GOVERNOR HAS TECHNICALLY SUSTAINED THIS CHARGE as constituting neglect of duty, IT DOES NOT, standing alone, warrant Daniel Bennett's removal from office.

CHARGES 7 AND 8

7. On or about July 31, 1981, DANIEL H. BENNETT did unlawfully obtain and appropriate to his own use the property and money of Flagler County in the amount of \$25.00 by use of a false invoice obtained from St. Johns Chrysler-Plymouth of St. Augustine, Florida.
8. On or about July 30, 1982, DANIEL H. BENNETT did unlawfully obtain and appropriate to his own use the property and money of Flagler County in the amount of \$60.00 by writing a check to St. Johns Chrysler-Plymouth of St. Augustine, Florida, in the amount of \$96.00 for the payment of an invoice in the amount of \$36.00 and that he did receive \$60.00 in cash.

BACKGROUND FOR CHARGES 7 and 8

Jack Cubbedge was the sales manager for the St. Johns Chrysler-Plymouth. Over a period of several years, he sold about \$30,000 worth

of vehicles to Sheriff Bennett's department. The salesman/customer relationship developed into a personal relationship; they would eat together when the sheriff was in town; the sheriff had his own personal vehicle serviced there from time to time; and as friends will do, they occasionally picked up each other's food and bar tabs on a reciprocating basis.

This charge started out to be a clear case of judging the relative credibility of two opposing witnesses. On the first day of the Master's hearing, Sheriff Bennett clearly and with full understanding of the question, denied under oath ever borrowing \$25 from Jack Cubbedge in July, 1981 [6-129, 6-132], or asking for a fake invoice to submit to the Flagler County Sheriff's Department bookkeeper to cover it [1-130].

Cubbedge swore the sheriff on that date asked for a \$25 loan which Cubbedge gave him out of his own pocket and stated that he (Bennett) told him that he needed a ticket to turn in [4-208] or that Cubbedge "imagined that he asked me for a ticket [4-220]." On the third day of the Master's hearing, Daniel Bennett, because of a purported misunderstanding of the prosecutor's earlier question, admitted borrowing \$25 from Cubbedge [7-188] but stated that the Sheriff's Department's check for \$25 was for work done on his department's Ford Bronco [7-190].

The sheriff then produced the original of a personal check dated August 9, 1981, in the amount of \$25 made payable to *cash* and apparently tendered for cash, and deposited in the bank by the car dealership. Bennett claims that his personal check, drawn on his personal account was to repay *Cubbedge*.

That defense is creative, but unconvincing.

This alleged \$25 debit for work done on the department's Bronco never made it to the dealer's ledger sheet on which all Sheriff's Department charges had for years been recorded. Further, the \$25 was never "invoiced;" Cubbedge gave Bennett a ticket on a "statement" form, not the ordinary way of doing business.

The preponderance of evidence is, and I find that Sheriff Daniel Bennett used Flagler County funds to repay a personal loan to him from Jack Cubbedge in the amount of \$25, and that THE GOVERNOR HAS SUSTAINED THIS CHARGE.

CHARGE 8

On or about July 21, 1982, Daniel Bennett drove to St. Augustine to pick up a muffler for one of his patrol cars. It cost \$36. Again, at the first day of the hearing he denied getting a \$60 loan [1-356], but on the third day of the hearing stated that he didn't remember [7-191]. Cubbedge's testimony was that he loaned Daniel Bennett \$60; that Daniel Bennett discussed getting a "wash, wax and detail" on the patrol car, but that the work was not done; that Shirley, the dealer's bookkeeper, noted "wash, wax and detail \$60" in pencil on a copy of the invoice [4-222] and that he told Shirley to do that because Daniel Bennett wanted a receipt for \$96. The original of Invoice 16405 (white copy) showed only the muffler charge. The yellow copy on which the Sheriff's Office check was written in payment showed an amended total of \$96.

Bill Bennett, the sheriff's bookkeeper (not related to the sheriff) testified that he had been working at the Flagler County Sheriff's Office only a short while; was not too knowledgeable in public sector bookkeeping; was quite behind in his bookkeeping work; got the yellow \$96 invoice from Daniel Bennett [3-195] as was the custom; wrote the check out; and sent it back in to Daniel Bennett to sign.

I find that Daniel Bennett did, in effect, unlawfully obtain \$60 of the funds of Flagler County Sheriff's Department by paying \$96 on what properly should have been a \$36 invoice; and that THE GOVERNOR HAS SUSTAINED THIS CHARGE.

CHARGE 9.

9. Between May 27, 1981, and January 5, 1983, DANIEL H. BENNETT did unlawfully obtain and appropriate to his own use the property and money of Flagler County in the amount of \$1,800 by obtaining gas for use in his personal automobile, while at all times during this period having assigned to him and having used a vehicle furnished by Flagler County.

BACKGROUND FOR CHARGE 9

Daniel Bennett described himself as a "working sheriff." In his two years as Sheriff of Flagler County, he often would put in 12-16 hour days. Flagler County, basically rural, with about 12,000 citizens, had about 19

sworn deputies and approximately as many sheriff's vehicles. Sheriff Bennett's officially assigned vehicle was a 1981 Ford 4-wheel drive Bronco. It was available to him on a 24-hour basis. He had three or four official credit cards always in his possession with which to keep the Bronco fully fueled. Because Sheriff Bennett spent a lot of time in a vehicle and some of it after normal duty hours, he preferred to use his more comfortable personal car, a 1980 Lincoln. The Lincoln was registered jointly with Nancy, his wife. They obtained it in June 1981 when they traded in their 1977 Chrysler and a 1978 Fiat. They kept it until November 1982, when they traded the Lincoln in for a 1983 Chevrolet van.

The first occasion that Sheriff Bennett used his official credit card to fill up his gas tank on one of his private cars was May 27, 1981, probably around the same date the Bennetts obtained their Lincoln.

Nancy Bennett worked continuously in Daytona Beach during this time. She taught at Daytona Beach Community College for nine months out of the year and also worked at Halifax hospital during the school's summer vacation. She commuted daily. The sheriff admitted that Nancy was the "primary user" of the Lincoln. The round trip road mileage between Bunnell and Daytona is 46 miles; and between Palm Coast and Daytona it is between 40 and 45, depending on the route. In the 17 months they owned the Lincoln, between them they put 35,000 miles on it.

Sheriff Bennett's defense on this charge was:

- a) That he drove the Lincoln three or four times a week for county purposes;
- b) That he "kept a running tab" of the miles he put on it for county business;
- c) That his Lincoln got about 10 miles per gallon;
- d) That for every hundred miles he drove the Lincoln, he "figured the county owed him" 10 gallons of gas [7-146];
- e) That he was "well justified by the records he kept";
- f) That he told the service station attendant to put down his personal car tag No. PEY-466 on the ticket every time he filled up the Lincoln, i.e. that he had nothing to hide.
- g) That he kept a written log of this mileage on or about his desk in his office, but that the log disappeared when his office was seized by the Governor's agents at 10:00 a.m. on January 6, 1983.

The service station attendant also testified that he had on occasion, been told by Sheriff Bennett to put gas in the Lincoln, but to use the *county vehicle* tag number on the gas invoice. When asked why he did this, the attendant, Mr. Trehy, responded: "Because he was the sheriff." That was a good enough reason to him, considering the source of the request and the relative standing in the community of the high sheriff and a gas station attendant. Mr. Trehy had applied for a job with the Flagler County Sheriff's Office but because of serious reservations concerning his ability to function as a law enforcement officer, he was not hired.

There is another gas-related issue here. During the term of his office, Sheriff Bennett took six official trips in his personal car (either the Lincoln or, after November, 1982, his Chevrolet van) for which he claimed statutory per diem and mileage at the same time he was using his county credit card to obtain gas:

Sarasota, July '81;
Tampa, Nov. '81;
Tallahassee, Jan. '82;
Tallahassee, Feb. '82;
Naples, Aug. '82;
Tallahassee, Jan. '83.

Sheriff Bennett claims to have been advised that he was not prohibited from doing so and that the 20 cents per mile allowance was for the use of the car, not for the fuel. Such a belief, if he in fact held it, was not a reasonable one, even if his novice bookkeeper told him that it was.

The Governor produced credible evidence that Daniel Bennett made 98 purchases of gasoline for his personal vehicle totaling 1,380.80 gallons using the county credit card for a total charge of \$1,849.57.

I find that Daniel Bennett's cavalier method of keeping track of mileage and gallonage falls below the standard required of those who choose to record their mileage in this way for reimbursement or tax purposes. If Daniel Bennett had kept meticulous mileage records, such as a log book in the glove compartment of the car, and if the record corresponded even generally to the total gas he figured that the county "owed him," I might have been able to accept his defense on this charge; however, under the circumstances shown here, I find that Daniel Bennett did obtain county paid for gasoline for use in his personal automobile for personal, nonbusiness use.

Mr. Bennett did produce some very credible witnesses who corroborated his testimony that he used his Lincoln on official business. The witnesses varied on the frequency of use, as might be expected, although none of them testified that it was quite the frequency that Mr. Bennett did. I believe Mr. Bennett's testimony that he did use his personal vehicle on official sheriff's business from time to time, and possibly even as much as three times per week.

The Governor has charged that Daniel Bennett used county funds to pay for gasoline for his personal vehicle that his wife drove back and forth from the Bunnell area to Daytona every day. The fact that Sheriff Bennett had a county vehicle assigned to him is not relevant. The Governor failed to prove that this or any other sheriff was or is prohibited from using a personal vehicle *as long as appropriate mileage records are kept for reimbursement at the statutory rate.*

In fact Mr. Bennett testified that there are sheriffs who do just that.

In my opinion, it was primarily Sheriff Bennett's method (or lack thereof) of computing what the "county owed him" for the use of his Lincoln on official business that constituted his misfeasance and neglect of duty. Sheriff Bennett's conduct was, in effect, a "lesser included offense" of that conduct charged in Charge 9. I am not able to agree with the Governor that the dollar value of the gas used for private purposes necessarily was as high as \$1800.

THE GOVERNOR HAS SUSTAINED THIS CHARGE.

CONCLUSIONS OF LAW

The Governor charged Sheriff Bennett with certain "acts and violations of the law" which the Governor alleges constitute malfeasance, misfeasance, neglect of duty, commission of a felony and/or incompetence.

The Florida Supreme Court has provided the following definitions:

Malfeasance has reference to evil conduct or an illegal deed, the doing of that which one ought not to do, the performance of an act by an officer in his official capacity that is wholly illegal and wrongful, which he has no right to perform or which he has contracted not to do.

Misfeasance is the performance by an officer in his official capacity of a legal act in an improper or illegal manner.

Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect be willful, through malice, ignorance, or oversight.

The commission of a felony as ground for removal from office has reference to a felony as distinguished from a misdemeanor under our statute, and, as such, comprehends any crime punishable by death or imprisonment in the state prison.

Incompetency has reference to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his office. Incompetency may arise from gross ignorance of official duties or gross carelessness in the discharge of them. It may also arise from lack of judgment and discretion or from a serious physical or mental defect not present at the time of election.

IN SUMMARY, I FIND:

- Charge 1. a) NOT SUSTAINED
b) SUSTAINED
c) SUSTAINED
d) NOT SUSTAINED
2. NOT SUSTAINED

3. SUSTAINED
4. SUSTAINED
5. SUSTAINED
6. SUSTAINED
7. SUSTAINED
8. SUSTAINED
9. SUSTAINED

Those charges that were sustained by the Governor were done so on substantial and credible evidence.

While of course, my recommendation is advisory only, and only the Florida Senate can, as the ultimate finder of fact, determine whether Daniel Bennett's conduct warrants his removal from office, it is my view that Daniel Bennett's conduct on Charges 1(b), 1(c), 3, 4, 5, 6, 7, 8 and 9, when viewed as a whole, fell substantially below the standard that was expected of him and is sufficiently wrongful to warrant his removal from the office of sheriff to which he was elected in the General Election held on November 4, 1980 by a 237 vote majority of the electors of Flagler County, Florida.

RECOMMENDATIONS

1. That the Florida Senate confirm the President's appointment of the Special Master in this case.
2. That Daniel Bennett's Motion for Change of Venue stand denied.
3. That the President order this report to be presented to the Florida Senate in open session.
4. That the Florida Senate, pursuant to Article IV, s.7(b) Florida Constitution, s.112.45, Florida Statutes, and Senate Rule 12, do forthwith REMOVE Daniel H. Bennett from the office of Sheriff of Flagler County, Florida, which office he assumed on January 6, 1981.

Respectfully,
D. Stephen Kahn
Special Master on Executive
Suspensions

June 1, 1983

Further consideration of the foregoing report was deferred.

CONSENT CALENDAR, continued

SB 568—A bill to be entitled An act relating to sexual assault counselor-victim privilege; creating s. 90.5035, Florida Statutes; providing definitions; providing that a sexual assault victim has a privilege to refuse to disclose, and to prevent others from disclosing except with the victim's written permission, a confidential communication or record made during counseling related to sexual assault; providing who may claim the privilege; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Fox and adopted:

Amendment 1—On page 1, lines 20 and 25, after "assault" insert: or sexual battery

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Fox:

Amendment 2—On page 1, line 29, after "assault" insert: or sexual battery, or an alleged sexual assault or sexual battery

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

Amendment 2A—On page 1, strike lines 12 and 13 and insert: or sexual battery, an alleged sexual assault or sexual battery, or an attempted sexual assault or sexual battery.

Amendment 2 as amended was adopted.

The Committee on Judiciary-Civil recommended the following amendments which were moved by Senator Fox and adopted:

Amendment 3—In title, on page 1, line 5, strike "sexual assault"

Amendment 4—In title, on page 1, line 10, after “assault” insert: or sexual battery

On motion by Senator Fox, by two-thirds vote SB 568 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—2

Beard Langley

Vote after roll call:

Yea—Vogt

SB 1110—A bill to be entitled An act relating to public officers, employees, and agents; amending s. 111.07, Florida Statutes, prohibiting the expenditure of public funds for attorney’s fees to defend any public officer, employee, or agent of the state or a political subdivision thereof in a civil action against him if found personally liable; providing for civil actions to recover attorney’s fees improperly paid; providing an exception; amending s. 240.375, Florida Statutes, conforming provisions relating to providing attorneys for community college district officers, employees, and agents; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendment which was moved by Senator Frank:

Amendment 1—On page 2, strike all of lines 12 and 13, and insert: *liable in any such civil action and was acting outside the scope of his employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, and*

Senator Frank moved the following substitute amendment which was adopted:

Amendment 2—On page 2, strike all of lines 9-15 and insert: *provided by the Department of Legal Affairs. However, any attorneys’ fees paid from public funds for any officer, employee, or agent who is found to be personally liable by virtue of acting outside the scope of his employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property may be recovered by the state, county, municipality, or political subdivision in a civil action against such officer, employee or agent. If*

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendment which was moved by Senator Frank and failed:

Amendment 3—On page 3, strike all of lines 15 and 16, and insert: *and was acting outside the scope of his employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, and the district board of*

Senator Frank moved the following amendments which were adopted:

Amendment 4—On page 3, strike all of lines 12-18 and insert: *expenses. However, any attorneys’ fees paid from public funds for any officer, employee, or agent who is found to be personally liable by virtue of acting outside the scope of his employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property may be recovered by the state, county, municipality, or political subdivision in a civil action against such officer, employee or agent.*

Amendment 5—In title, on page 1, strike all of lines 4-11 and insert: Statutes, providing for the recovery of public funds for attorney’s fees to defend any public office, employee, or agent of the state or a political subdivision thereof in a civil action against him if found personally liable; amending s. 240.375, Florida

Senator Jennings moved the following amendment which was adopted:

Amendment 6—In title, on page 1, lines 8-11, strike the semicolon (;) on line 8 and the remainder of said lines through the semicolon (;) on line 11 and insert: and acting outside the scope of his employment or other conditions exist; providing for civil actions to recover attorney’s fees improperly paid;

Pending further consideration of SB 1110 as amended, on motion by Senator Frank, the rules were waived and by two-thirds vote HB 624 was withdrawn from the Committee on Personnel, Retirement and Collective Bargaining.

On motion by Senator Frank—

HB 624—A bill to be entitled An act relating to public officers, employees, and agents; amending s. 111.07, Florida Statutes, providing for the recovery of public funds paid for attorney’s fees to defend any public officer, employee, or agent of the state or a political subdivision thereof in a civil action against him if found personally liable; amending s. 240.375, Florida Statutes, conforming provisions relating to providing attorneys for community college district officers, employees, and agents; providing an effective date.

—a companion measure, was substituted for SB 1110 and by two-thirds vote read the second time by title. On motion by Senator Frank, by two-thirds vote HB 624 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Fox

SB 1110 was laid on the table.

On motions Senator Gersten, the rules were waived and by two-thirds vote HB 680 was withdrawn from the Committees on Commerce and Finance, Taxation and Claims.

On motion by Senator Gersten—

HB 680—A bill to be entitled An act relating to tax on sales, use and other transactions; adding new paragraph (b) to s. 212.06(5), Florida Statutes, 1982 Supplement; exempting sales of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration if the property is to be transported outside of the state for resale; requiring such nonresident dealers to furnish a statement declared to be true under penalty of perjury; providing duties of the seller; providing an effective date.

—a companion measure, was substituted for SB 770 and read the second time by title.

Senator Henderson moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 13 and 14, insert:

Section 2. Subsection (4) of section 267.072, Florida Statutes, is amended to read:

267.072 Museum of Florida History programs; trust fund.—

(4) The museum store of the Museum of Florida History is authorized to enter into agreements and accept credit card payments as com-

pensation for goods and products sold; however, no discount may be given and no service charge assessed. The division is further authorized to establish accounts in credit card banks for the deposit of credit card sales invoices and to pay discounts and service charges in connection with the use of credit cards.

Section 3. Section 496.285, Florida Statutes, is amended to read:

496.285 *Trust fund Registration fees; disposition.*—All moneys required to be paid under this chapter shall be collected registration fees received by the department and pursuant to s. 496.24 or s. 496.26 shall be deposited in the *Division of Licensing Solicitations Trust Fund* to be used to pay the costs incurred in administering and enforcing the provisions of this chapter ss. 496.20-496.34.

Section 4. Subsection (5) of section 496.335, Florida Statutes, is amended to read:

496.335 Contributions unlawfully solicited; remedies.—

(5) Any civil penalty, court costs, and attorney's fees recovered under this section shall be deposited into the *Division of Licensing Solicitations Trust Fund*.

Section 5. Section 5 of Chapter 81-92, Laws of Florida, is hereby repealed.

(Renumber subsequent section.)

Amendment 2—On page 2, between lines 13 and 14, insert:

Section 2. Section 212.058, Florida Statutes, is created to read:

212.058 Discretionary tax; use of proceeds; administration, collection, and disbursement.—

(1)(a) Subject to the provisions of this section, the governing authority in each county is authorized to levy, for the period January 1, 1985, through December 31, 1985, or any portion thereof, a discretionary additional 1-percent tax on all transactions occurring in the county which are subject to the state tax imposed on sales, use, rentals, admissions, and other transactions as provided in this chapter, except that the sales amount above \$1,000 on any one transaction shall not be subject to the tax imposed by this section.

(b) For the purpose of this section, a transaction subject to the tax authorized in this section shall be deemed to have occurred in such county when:

1. The dealer is located in such county and delivery occurs in such county;
2. The event for which an admission is charged is located in such county;
3. The consumer of utility, communication, or wired television services is located in such county;
4. The user of tangible personal property imported into such county for use, consumption, distribution, or storage to be used or consumed in such county is located in such county; however, it shall be presumed that tangible personal property used outside such county for 6 months or longer before being imported into such county was not purchased for use in such county. The provisions of this paragraph shall not apply in respect to the use or consumption of tangible personal property for use or consumption, upon which a like tax equal to or greater than the amount imposed by this section has been lawfully imposed and paid outside such county;
5. The real property which is leased or rented is located in such county; or
6. The delivery of tangible personal property is to a location in such county; however, the provisions of this paragraph shall not apply in respect to the use or consumption of tangible personal property upon which a like tax equal to or greater than the amount imposed by this section has been lawfully imposed and paid outside such county.

(c) For the purpose of this section, all taxable transactions occurring during the period for which any tax levied pursuant to this section is in effect shall be subject to said tax, except utility, communications, or wired television services which are billed on a regular, monthly cycle. In the case of utility, communications, or wired television services billed for

a cycle ending on or after the effective date of any tax levied pursuant to this section, the entire amount of the bill for utility, communications, or wired television services shall be subject to the tax authorized in this section. In the case of utility, communications, or wired television services billed for a cycle ending after the last day the tax authorized in this section is in effect, the entire amount of the bill for utility or wired television services shall not be subject to the tax authorized in this section. Charges for communications services which are subject to the state tax imposed pursuant to this chapter which are billed to a location in a county levying the tax authorized in this section shall be subject to the tax authorized by this section.

(d) In the case of written contracts which are signed prior to the effective date of any tax authorized by this section for the construction of improvements to real property or for remodeling of existing structures, the contractor responsible for the performance of said contract shall pay any additional tax levied pursuant to this section. However, said contractor may apply for one refund of any such additional tax paid on materials necessary for the completion of such contract. Any application for refund shall be made no later than December 31, 1986. The application for this refund shall be in the manner approved by the department by rule. A complete application shall include proof of the written contract and of payment of the additional tax paid pursuant to an ordinance authorized by this section. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days of approval of a complete application, certify to the comptroller information necessary for issuance of a refund to the applicant of said additional tax. The comptroller shall pay any refunds from funds to the credit of the county in which said tax was paid in the trust fund established pursuant to subsection (4). Any person who fraudulently obtains or attempts to obtain a refund pursuant to this paragraph shall, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The proceeds of the tax authorized in this section, and any interest accrued thereto, shall be expended within the county, or in the case of a negotiated joint county agreement, within another county, to acquire, construct, extend, enlarge, remodel, repair, or improve one or more publicly owned, separate or combined, criminal justice facilities, or for the construction or alteration of adjacent roads necessary to provide adequate access thereto. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any facility described herein.

(3)(a) The levy of such additional tax shall be implemented by ordinance of the county governing authority, only if subsequently approved by a majority vote of those qualified electors of the county voting in a referendum to be held in conjunction with the 1984 general election. Any referendum called pursuant to this section shall be advertised as provided in s. 100.342.

(b) A statement conforming to the requirements of s. 101.161, detailing the facilities that are to be financed as authorized by this section and setting out the period during which the tax authorized in this section to be levied, shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for the levy of said tax. Immediately following said statement, the governing authority of any county proposing to levy the tax authorized by this section shall place the following question on the ballot after replacing the blank space in said question with the appropriate number of months during which said tax shall be levied:

Do you favor financing criminal justice facilities with a 1-cent sales tax for . . . months only?

. . . Yes -- for financing criminal justice facilities.

. . . No -- against financing criminal justice facilities.

(4) The department shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the tax otherwise imposed under the provisions of this chapter, except as herein provided. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the tax authorized by this section. For the purposes of this section, the "proceeds" of the tax authorized in this section shall be construed to mean all funds collected and received by the department pursuant to this section, including any interest and penalties on

delinquent taxes. Notwithstanding the provisions of s. 212.20, the proceeds of the additional, discretionary 1-percent tax levied under this section, less the costs of administration, shall be transferred to a "Criminal Justice Facilities Tax Trust Fund," which fund is hereby created in the State Treasury for distribution as herein provided to the county in which the tax was collected. However, the amount deducted for the costs of administration shall not exceed a total of \$1.5 million for all counties levying the tax authorized in this section. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the tax authorized in this section. The total cost of administration shall be prorated among the counties levying the tax authorized in this section on the basis of the amount collected in a particular county from said tax to the total amount collected in all counties from said tax. No later than March 1, 1986, the department shall submit a written report to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying the tax authorized herein which details the expenses and amounts deducted for the costs of administration for each county levying the tax. Prior to January 1, 1986, each county governing authority levying the tax authorized by this section shall certify to the department that it has entered into a contract for the purposes enumerated in subsection (2), and shall include therewith a schedule of disbursements required to satisfy such contract. The department shall disburse such funds in accordance with such schedule but not more frequently than monthly. Any funds on deposit in the trust fund created pursuant to this section shall be invested pursuant to general law.

(5) In counties which have adopted the additional, discretionary 1-percent tax authorized in this section, the following brackets shall be applicable to all taxable transactions which would have otherwise been 5-percent taxable transactions:

- (a) On single sales of less than 10 cents, no tax shall be added.
- (b) On single sales in amounts from 10 cents to 16 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 17 cents to 33 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 34 cents to 50 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 51 cents to 66 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 67 cents to 83 cents, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts from 84 cents to \$1, both inclusive, 6 cents shall be added for taxes up to \$1,000 per any one transaction.
- (h) On sales in amounts more than \$1, 6 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

(6) The governing authority of any county levying the tax authorized by this section shall notify the department within 10 days of the approval of the ordinance levying said tax in the referendum required pursuant to subsection (3) and of the time period during which the tax shall be levied.

(7)(a) In the event the governing authority of a county levying the tax authorized in this section fails to certify to the department as required by this section that a contract has been executed for the purposes enumerated in subsection (2), the moneys collected pursuant to subsection (1) and all interest accrued thereto shall be used to provide property tax relief in the manner prescribed in this paragraph. Following adjustment in 1986 of the millage rate adopted by the county pursuant to s. 200.065(5), the property appraiser shall reduce the millage rate for that year by an amount such that the reduction in ad valorem taxes levied for operating purposes by the county is equal to the moneys received pursuant to subsection (1), including any interest earned on the investment of such collections pursuant to subsection (4). No later than October 1, 1986, the department shall certify such amount for said county to the property appraiser. Any portion of the moneys collected pursuant to subsection (1), including interest earned on the investment of such collections pursuant to subsection (4), that remains after property taxes for operating purposes have been reduced to zero shall be used to reduce taxes levied pursuant to chapter 205.

(b) Notwithstanding the provisions of s. 218.23(1)(c), millage reductions adopted pursuant to this section shall not affect the eligibility of a county for revenue sharing. The department shall, by rule, adopt procedures for assuring that such eligibility is not affected by such reductions.

(c) Notwithstanding the provisions of s. 200.065(1), the rolled-back rate computed in 1986 for any county whose millage rate was reduced pursuant to paragraph (a) shall be a rate which will provide the sum of the ad valorem tax revenue levied during the prior year plus the moneys collected pursuant to subsection (1), including any interest earned on the investment of such collections pursuant to subsection (4), but excluding amounts used for the reduction of taxes levied pursuant to chapter 205.

(8) Any moneys collected pursuant to this section, including interest, in excess of the amount certified pursuant to subsection (4), shall be used for tax relief as provided in subsection (7).

(9) Any tax levied pursuant to this section shall be in addition to any tax imposed by other provisions of this chapter, or by the provisions of s. 125.0104.

(10) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

(Renumber subsequent section.)

Amendment 3—In title, on page 1, line 12, after the semicolon (;) insert: amending s. 267.072(4), Florida Statutes; authorizing the museum store at the Museum of Florida History to pay discounts and service charges in connection with credit card payments for goods and services sold; amending s. 496.285, Florida Statutes; requiring all moneys collected under the chapter to be deposited in the Division of Licensing Trust Fund; amending s. 496.335(5), Florida Statutes; requiring recovered civil penalties, attorney's fees, and court costs to be deposited in the Division of Licensing Trust Fund; repealing s. 5, ch. 81-92, Laws of Florida, relating to repeal of provisions relating to the collection and deposit of fees in the Division of Corporations Trust Fund;

Amendment 4—In title, on page 1, lines 2 and 3, strike "tax on sales, use and other transactions" and insert: financial matters

Amendment 5—In title, on page 1, line 12, after the semicolon (;) insert: creating s. 212.058, Florida Statutes; authorizing counties to levy a discretionary additional 1-percent tax for 1 year or a portion thereof; requiring referendum approval; creating a trust fund for deposit of proceeds; specifying applicability to purchases made in jurisdictions not levying such a tax under certain circumstances; providing method of taxing certain services billed on a monthly cycle; providing for refund of additional tax paid by certain contractors; providing penalties; providing applicable tax brackets; specifying that the proceeds be used for acquisition, construction, or improvement of local criminal justice facilities; requiring that counties certify to the Department of Revenue that they have entered into contracts for such purposes; providing for the use of the proceeds for property tax relief and certain other specified tax relief if such certification is not made; providing that excess proceeds be used for such tax relief; providing for administration, collection, and enforcement;

On motion by Senator Gersten, by two-thirds vote HB 680 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Stuart

SB 770 was laid on the table.

On motion by Senator Girardeau, by two-thirds vote HB 1317 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Girardeau—

HB 1317—A bill to be entitled An act relating to insurance; amending s. 624.317, Florida Statutes, 1982 Supplement; providing for the examination of administrators; creating s. 624.330, Florida Statutes; providing that entities which provide coverage for life and health insurance benefits are subject to the jurisdiction of the department, except to the extent regulated by federal law; providing exceptions; creating ss. 624.436-624.440, Florida Statutes; establishing the Florida Nonprofit Multiple Employer Welfare Arrangement Act; creating ss. 626.879-626.890, Florida Statutes; providing for the regulation of insurance administrators; defining administrator; requiring a certificate of authority; providing for a deposit of securities; requiring a written agreement, maintenance of records, and certain accounting procedures; providing grounds for suspension and other penalties; providing for the regulation of service companies; defining "service company"; requiring service for self-insurers; providing for application; providing requirements for recertification; providing grounds for withdrawal of authorization; amending ss. 627.551(6) and 627.651(5), Florida Statutes, 1982 Supplement; providing applicability of group requirements; providing an effective date.

—a companion measure, was substituted for CS for SB 383. On motions by Senator Girardeau, by two-thirds vote HB 1317 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 383 was laid on the table.

CS for SB 810—A bill to be entitled An act relating to receptive tour operators; amending s. 559.925, Florida Statutes, 1982 Supplement; providing additional duties and requirements of receptive tour operators; providing the Department of Business Regulation with additional powers; providing exceptions; providing penalties; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment which was adopted:

Amendment 1—On page 2, line 2, after the period (.) insert: "Foreign Tourists" means any tourist or tourists whose point of origin or departure is outside the United States, its territories or possessions.

On motion by Senator Gordon, by two-thirds vote CS for SB 810 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

HB 333—A bill to be entitled An act relating to saltwater fisheries; amending s. 370.157, Florida Statutes, altering the boundary description of an area in the Gulf of Mexico generally surrounding Cedar Key which is closed to shrimping; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 333 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

On motion by Senator Grizzle, the rules were waived and by two-thirds vote HB 489 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Grizzle—

HB 489—A bill to be entitled An act relating to municipalities; amending s. 166.041(3)(a), Florida Statutes; revising notice requirements for adoption of municipal ordinances other than emergency or rezoning ordinances; providing an effective date.

—a companion measure, was substituted for CS for SB 453 and read the second time by title.

Senator Grizzle moved the following amendment which was adopted:

Amendment 1—On page 1, line 16, strike "14" and insert: 10

On motion by Senator Grizzle, by two-thirds vote HB 489 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 453 was laid on the table.

Senator Stuart presiding

SB 868—A bill to be entitled An act relating to securities transactions; amending s. 517.07, Florida Statutes; providing for the issuance of permits to offer certain securities for more than 1 year under certain circumstances; providing for reports to be filed by issuers of securities who obtain such permits; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 2, lines 16 and 17, after "department", strike "audited financial statements" and insert: *financial statements certified by a principal of the business*

Pending further consideration of SB 868 as amended, on motion by Senator Kirkpatrick, the rules were waived and by two-thirds vote HB 1237 was withdrawn from the Committee on Commerce.

On motion by Senator Kirkpatrick—

HB 1237—A bill to be entitled An act relating to securities; amending s. 517.07, Florida Statutes, relating to registration of securities; authorizing the Department of Banking and Finance to issue a permit to sell debt securities for a period longer than one year under certain circumstances; providing an effective date.

—a companion measure, was substituted for SB 868 and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 1237 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

SB 868 was laid on the table.

SB 398—A bill to be entitled An act relating to jai alai; amending s. 551.12, Florida Statutes; removing the requirement that the final game of a Saturday evening jai alai performance start no later than midnight; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Henderson and adopted:

Amendment 1—On page 3, lines 3 and 4, strike “; provided, further, that a permittee shall conduct no more than 12 games during any performance” and insert: ~~provided, further, that a permittee shall conduct no more than 12 games during any performance~~

Amendment 2—On page 3, between lines 12 and 13, insert:

Section 2. Subsection (4) of s. 550.162, Florida Statutes, 1982 Supplement, is amended to read:

550.162 Dogracing; taxes; purse allowance; hours of operation.

(4) An operation day shall be a continuous period of 24 hours starting with the beginning of the first race of a public exhibition of greyhound racing, even though the operation day may start during one calendar day and extend past midnight to 2 a.m. the following calendar day; however, no race shall be started later than 1:30 a.m. and before noon on any operation day, ~~or later than 12 p.m. on any Saturday night.~~

(Renumber subsequent sections.)

Amendment 3—In title, on page 1, line 6, strike “after midnight;” and insert: amending s. 550.162(4), Florida Statutes, 1982 Supplement, removing the requirement that the final race of Saturday evening greyhound racing start no later than midnight;

On motion by Senator Henderson, by two-thirds vote SB 398 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

SB 1127—A bill to be entitled An act relating to the Department of Law Enforcement; adding s. 943.054(4), Florida Statutes; authorizing the department to exchange criminal history records with the Florida Board of Bar Examiners and to accept fingerprints of Florida Bar applicants; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote SB 1127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

On motion by Senator Langley, the Senate reconsidered the vote by which SB 1127 passed May 30.

One amendment to SB 1127 was adopted to conform the bill to HB 1198.

Pending further consideration of SB 1127 as amended, on motions by Senator Jenne, the rules were waived and by two-thirds vote HB 1198 was withdrawn from the Committees on Judiciary-Criminal and Judiciary-Civil.

On motions by Senator Jenne—

HB 1198—A bill to be entitled An act relating to the Department of Law Enforcement; adding subsection (4) to s. 943.054, Florida Statutes; authorizing the department to exchange criminal history records with the Florida Board of Bar Examiners and to accept fingerprints of applicants for admission to The Florida Bar; providing an effective date.

—a companion measure, was substituted for SB 1127 and read the second time by title. On motion by Senator Jenne, by two-thirds vote HB 1198 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Neal
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
Fox	Jenne	McPherson	

Nays—None

SB 1127 was laid on the table.

On motion by Senator Jennings, by two-thirds vote HB 822 was withdrawn from the Committee on Transportation.

On motions by Senator Jennings—

HB 822—A bill to be entitled An act relating to motor vehicles; adding s. 316.003(70), Florida Statutes, 1982 Supplement; providing definitions; creating s. 316.212, Florida Statutes; providing for operation of golf carts on certain roadways; adding s. 320.01(29), Florida Statutes, 1982 Supplement, providing definitions; creating s. 320.105, Florida Statutes; providing certain exemptions for golf carts; providing an effective date.

—a companion measure, was substituted for CS for SB 414 and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote HB 822 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

CS for SB 414 was laid on the table.

SB 765—A bill to be entitled An act relating to public educational facilities construction; amending s. 235.26(5)(a), Florida Statutes, 1982 Supplement; providing for reusing certain construction documents under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Johnston, by two-thirds vote SB 765 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Myers

On motion by Senator Kirkpatrick, 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 as amended HB 1171 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Retirement, Personnel & Collective Bargaining—

HB 1171—A bill to be entitled An act relating to retirement; creating s. 121.35, Florida Statutes; creating an optional retirement program for faculty and certain other positions within the State University System; providing eligibility criteria and providing for appeal of eligibility determinations; providing procedures for election of participation in the optional program; specifying contribution rates; providing limitations on benefits; providing for administration of the program; amending the introductory paragraph of s. 121.23, Florida Statutes; authorizing the State Retirement Commission to hear appeals of eligibility determinations under the program; providing an effective date.

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

CONSENT CALENDAR, continued

On motions by Senator Kirkpatrick, by two-thirds vote HB 1171, a companion measure, was withdrawn from the Committee on Personnel, Retirement and Collective Bargaining and substituted for CS for SB 718.

On motions by Senator Kirkpatrick, by two-thirds vote HB 1171 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

CS for SB 718 was laid on the table.

On motion by Senator Langley, 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 HB 249 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Kelly and Bass—

HB 249—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending ss. 534.081(3), and 590.02(4)(a) and (b), Florida Statutes, expanding the categories of crimes over which special officers of the department are granted law enforcement powers; providing an effective date.

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

CONSENT CALENDAR, continued

On motions by Senator Langley, by two-thirds vote HB 249, a companion measure, was withdrawn from the Committee on Agriculture and substituted for SB 543.

On motions by Senator Langley, by two-thirds vote HB 249 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 543 was laid on the table.

CS for SB 626—A bill to be entitled An act relating to runaway youths; providing legislative intent; providing definitions; providing for the development of a statewide plan for handling runaway youths; providing for the development of specific licensing criteria for runaway youth centers; providing for the establishment and future termination of a statewide and a district task force; requiring the adoption of licensure rules by a time certain; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for SB 626 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Consideration of CS for SB 298 was deferred.

SB 513—A bill to be entitled An act relating to unemployment compensation; amending s. 443.111(2), Florida Statutes, 1982 Supplement; changing the maximum weekly benefit amount allowable; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Margolis and failed:

Amendment 1—On page 1, strike all of lines 13-31 and insert:

(a) An individual's "weekly benefit amount" shall be an amount equal to one-half of his average weekly wage, but not less than \$10 or more than \$175 ~~\$125~~. Such weekly benefit amount, if not a multiple of \$1, shall be rounded off to the next higher multiple of \$1. The provisions of this subsection apply only to benefit years beginning on and after October 1, 1983 ~~1981~~. However, no individual currently eligible for benefits shall be determined ineligible pursuant to this section.

The Committee on Commerce recommended the following amendment which was moved by Senator Margolis and adopted:

Amendment 2—On page 1, strike all of lines 13-31 and insert:

(a) An individual's "weekly benefit amount" shall be an amount equal to one-half of his average weekly wage, but not less than \$10 or more than \$150 ~~\$125~~. Such weekly benefit amount, if not a multiple of \$1, shall be rounded off to the next higher multiple of \$1. The provisions of this subsection apply only to benefit years beginning on and after October 1, 1983 ~~1981~~. However, no individual currently eligible for benefits shall be determined ineligible pursuant to this section.

On motion by Senator Margolis, by two-thirds vote SB 513 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

CS for SB 815—A bill to be entitled An act relating to the tax on sales, use and other transactions; amending s. 212.08(5)(b)6., Florida Statutes, 1982 Supplement; providing an alternate method for calculation of the productive output of industrial machinery and equipment purchased as exempt when the business utilizing such machinery and equipment is manufacturing tangible personal property under a federal procurement regulation; providing definitions; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Maxwell and failed:

Amendment 1—On page 5, line 23, strike "*whichever is later,*"

Amendment 2—On page 5, line 26, after "operation." insert: *In no case shall the commencement of production utilizing the industrial machinery and equipment purchased as exempt begin later than 2 years following completion of installation of such machinery and equipment.*

Amendment 3—On page 5, strike all of lines 27-31, and reletter subsequent subparagraphs

Senator Maxwell moved the following amendment:

Amendment 4—On page 1, strike everything after the enacting clause and insert:

Section 1. Paragraph (d) is added to subsection (5) of section 212.08, Florida Statutes, 1982 Supplement, to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(d) *Machinery and equipment used under federal procurement contract.*—

1. *Industrial machinery and equipment purchased by an expanding business manufacturing tangible personal property pursuant to federal procurement regulations at fixed locations in this state shall be partially exempt from the tax imposed in this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent*

2. *Implicit productive output means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used. The percentage increase shall be measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing said items is begun divided by implicit productive output for the preceding calendar year. In no case shall the commencement of production begin later than 4 years following completion of installation of the machinery or equipment. Deflated implicit output means implicit output times the quotient of the national defense implicit price deflator for said preceding calendar year divided by the deflator for the year of said completion or commencement.*

3. *The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery or equipment, reduced by the percentage of gross receipts from cost plus fixed fee type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.*

4. *The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.*

5. *For the purposes of this paragraph (d) only:*

a. *"Industrial machinery and equipment" shall mean "Section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and is used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.*

b. *"Eligible cost" means the total direct and indirect costs, as defined in 32 C.F.R. 15-202 and 203, excluding general and administrative costs, selling expenses, and profit, defined by the Uniform Cost Accounting Standards adopted by the Cost Accounting Standards Board created pursuant to 50 U.S.C. 2168.*

c. *"National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.*

d. "Cost plus fixed fee type contract" means the same as in 32 C.F.R. 3-405.6.

6. The exclusions provided in s. 212.08(5)(b)5. shall apply to this exemption. This exemption shall apply only to machinery or equipment purchased pursuant to contracts with the U.S. Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contract is classified for national security reasons.

7. In no event shall the provisions of this paragraph apply to any expanding business whose increase in productive output could be measured under the provisions of paragraph (b)6.b. as physically comparable between the two periods.

Section 2. This act shall take effect on July 1, 1983, but shall not apply to any purchases made prior to January 1, 1984. Provided, however, the provisions of this act shall apply to any purchases made subsequent to March 1, 1983, for any business who received a letter of determination from the Department of Revenue for a temporary tax exemption permit under the provisions of s. 212.08(5)(b).

Senator Kirkpatrick moved the following amendment to Amendment 4 which was adopted:

Amendment 4A—On page 6, between lines 9 and 10, insert:

Section 2. Paragraph (a) of subsection (7) of section 212.08, Florida Statutes, 1982 Supplement, is amended to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Religious, charitable, educational, and veteran.—There shall be exempt from the tax imposed by this chapter articles of tangible personal property: sold or leased directly to or by churches; or sold or leased to nonprofit religious, nonprofit educational, or nonprofit charitable institutions and state headquarters for veterans' organizations when used in carrying on their customary nonprofit religious, nonprofit educational, nonprofit charitable, or veterans' organization activities, including church cemeteries; or sold or leased to the Future Farmers of America Foundation for educational purposes.

(Renumber subsequent section.)

Senator Margolis moved the following amendments to Amendment 4 which were adopted:

Amendment 4B—On page 6, line 10, insert: new sections 2 and 3 to read:

Section 2. Paragraphs (a) and (c) of subsection (7) of section 212.08, Florida Statutes, 1982 Supplement, are amended to read:

212.08 Sales, rental, storage, use tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Religious, charitable, scientific, educational, and veteran.—There shall be exempt from the tax imposed by this chapter articles of tangible personal property sold or leased directly to or by churches or sold or leased to nonprofit religious, nonprofit educational, nonprofit scientific or nonprofit charitable institutions and state headquarters for veterans' organizations when used in carrying on their customary nonprofit religious, nonprofit educational, nonprofit scientific, nonprofit charitable, or veterans' organization activities, including church cemeteries. If a qualified veteran organization or its auxiliary does not maintain a permanent state headquarters, then articles of tangible personal property sold or leased to such organization and used to maintain the office of the highest ranking state official shall be exempt from the tax imposed by this chapter.

(c) Restrictive definitions.—The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

1. "Religious institutions" means churches and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on.

2. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Secondary Schools, Department of Education, or the Florida Council of Independent Schools. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit corporations whose purpose is to raise funds for colleges and universities located in this state. The term "educational institutions" includes any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

3. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, or other nonprofit entities, whose sole or primary function is providing one or more of the following services if a reasonable percentage of such service is provided free of charge, and a reasonable percentage is provided at substantially reduced cost, to those unable to pay: operating physical facilities in Florida at which are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.

a. Providing medical aid for the relief of disease, injury, or disability;

b. Providing on a regular basis physical necessities such as food, clothing, or shelter,

c. Services which provide for the prevention or rehabilitation of alcoholism, drug abuse, the prevention of suicides, or the alleviation of mental, physical or sensory health problems, and social welfare services including adoption placement, child care, community care for the elderly and other social welfare services which clearly and substantially benefit a disadvantaged or hardshipped client population;

d. Engaging primarily in medical research for the relief of disease, injury, or disability;

e. Providing legal services.

4. "Veterans' organizations" means nationally chartered veterans' organizations, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans U.S.A. and Jewish War Veterans, holding a current exemption from federal income tax under s. 501(c)(19) of the Internal Revenue Code, or, in the case of the Disabled American Veterans, Department of Florida, Inc., and its auxiliaries, under s. 501(c)(4) of said code.

5. "Scientific organizations" means scientific organizations in Florida holding a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

6. The Department of Revenue shall adopt rules providing for the review and renewal or revocation of exemptions granted to religious, educational, scientific, or charitable institutions hereunder within 5 years from the date the exemption was established by the department. Such rules shall provide procedures which allow an organization whose exemption is proposed to be revoked by the department a period of 6 months before the revocation shall become effective to correct any operational deficiencies determined by the department to exist

a. Any institutions whose exemption is revoked by the department shall be subject to any tax, penalty, or interest due under this chapter only after the effective date of the revocation.

b. Any institution whose qualification for exemption under s. 501(c)(3), Internal Revenue Code, 1954, as amended, is revoked by the Internal Revenue Service and which has used such qualification as the basis for exemption under this subsection, shall notify the Department of Revenue of the revocation within 30 days and shall provide to the department the facts and circumstances surrounding the revocation.

c. All exemptions which have been heretofore granted by the department under this subsection shall be reviewed and renewed or revoked after the effective date of this act.

Section 2. Subsection (8) is added to section 212.031, Florida Statutes, 1982 Supplement, to read:

212.031 Lease or rental of real property.—

(8) The lease, sublease, or rental of space by a movie theater owner or operator to a person providing food and drink concessionaire services within the premises of such theater shall be exempt from the tax imposed by this section.

(Renumber subsequent section.)

Amendment 4C—On page 1, line 11, after the semicolon (;) insert: amending s. 212.08(7)(a) and (c), Florida Statutes, 1982 Supplement; clarifying the definition of charitable institutions, educational institutions, and veteran organizations; providing exemptions to non-profit, educational television or radio networks or systems or stations; requiring the Department of Revenue to review and renew or revoke certain sales tax exemptions; creating s. 212.031(8), Florida Statutes, 1982 Supplement; exempting the rental of space by a movie theater owner or operator to a person providing concessionaire services;

Senator Maxwell moved the following amendment to Amendment 4 which was adopted:

Amendment 4D—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to tax on sales, use and other transactions; adding s. 212.08(5)(d), Florida Statutes, 1982 Supplement; providing a partial exemption for industrial machinery and equipment purchased by an expanding business manufacturing tangible personal property pursuant to federal procurement regulations under specified conditions; providing for refund of previously paid taxes; providing for the application of specified exclusions; providing application of said provisions; providing an effective date.

Senator Kirkpatrick moved the following amendment to Amendment 4 which was adopted:

Amendment 4E—In title, on page 1, line 11, after the semicolon (;) insert: amending s. 212.08(7)(a), Florida Statutes, 1982 Supplement; exempting certain property sold to the Future Farmers of America Foundation for educational purposes;

Amendment 4 as amended was adopted.

On motion by Senator Maxwell, by two-thirds vote CS for SB 815 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

SB 973—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.321, Florida Statutes, eliminating certain investigations of applicants as a prerequisite for a 90-day temporary transfer alcoholic beverage license; providing an effective date.

—was read the second time by title.

Two amendments failed, and two were adopted to SB 973 to conform the bill to HB 343.

On motion by Senator McPherson, the rules were waived and by two-thirds vote HB 343 was withdrawn from the Committee on Commerce.

On motion by Senator McPherson—

HB 343—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.321, Florida Statutes, eliminating certain investigations of applicants as a prerequisite for a 90-day temporary transfer alcoholic beverage license; providing an effective date.

—a companion measure, was substituted for SB 973 and read the second time by title. On motion by Senator McPherson, by two-thirds vote HB 343 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Barron	Gordon	Johnston	Myers
Carlucci	Grant	Kirkpatrick	Plummer
Castor	Grizzle	Langley	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crawford	Henderson	Mann	Thomas
Fox	Hill	Margolis	Vogt
Frank	Jenne	McPherson	Weinstein
Gersten	Jennings	Meek	

Nays—3

Childers, D.	Girardeau	Maxwell
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SB 973 was laid on the table.

SB 304—A bill to be entitled An act relating to education; creating s. 230.671, Florida Statutes; creating the Jobs Assistance for Florida Youth Program; specifying legislative intent; defining eligibility of students; requiring cooperation of employers; providing for on-the-job and postsecondary training; providing rulemaking authority; providing for funding; providing an effective date.

—was read the second time by title.

Senator Meek moved the following amendments which were adopted:

Amendment 1—On page 1, line 14, strike everything after the enacting clause and insert:

Section 1. Section 230.671, Florida Statutes, is created to read:

230.671 Florida Youth Jobs Assistance Program.—

(1) **LEGISLATIVE INTENT.**—It is the intent of the Legislature that capable, goal-oriented eleventh and twelfth grade high school students in the public schools of this state who are not planning to attend college shall be assisted in making a transition from high school to full-time productive employment in a chosen area of work. The Legislature recognizes the valuable contributions made to the state and its communities by productive workers who did not choose to pursue a college-oriented career, and further recognizes the value of preemployment and on-the-job training for Florida's youth who need assistance in meeting their employment goals.

(2) **DEFINITIONS.**—For the purposes of this program, the terms cited below shall be defined as follows:

(a) "Academic disadvantage" means that the student lacks reading, math or writing skills or performs below grade average.

(b) "Economic disadvantage" means that:

1. The student's family income is at or below the national poverty level;
2. The student or his parents or guardian are public assistance recipients; or
3. The student is institutionalized or under state care.

(c) "Handicapped" means a student who is:

1. Mentally retarded;
2. Hard of hearing;
3. Deaf;
4. Speech impaired;
5. Visually handicapped;
6. Seriously emotionally disturbed;

7. Orthopedically impaired; or
8. Other health impaired student, or students with specific learning disabilities.

(d) "Limited English-speaking ability" means:

1. Students who were not born in the United States or whose native tongue is a language other than English, and
2. Students who came from environments where a language other than English is dominant, and by reasons thereof, have difficulties speaking and understanding instruction in the English language.

(e) "Cooperative education" means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alteration of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(3) **ELIGIBILITY.**—To be eligible for admission to the Florida Youth Jobs Assistance Program, a student shall meet the following minimum requirements:

- (a) Be an eleventh or twelfth grade student in a Florida public school, and
- (b) Require additional education training, counseling, and related assistance in order to secure and hold meaningful employment and participate successfully in an educational program, and
- (c) Have a present aptitude and willingness to enter a nonprofessional career, and
- (d) Be currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or after disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance, and
- (e)
 1. Be economically disadvantaged, or
 2. Be academically disadvantaged, or
 3. Have limited English-speaking ability, or
 4. Have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(4) **PROGRAM ADMINISTRATION AND PROCEDURES.**—

(a) The program shall be administered by the Commissioner of Education through the vocational education programs of the state and school districts.

(b) School districts shall solicit cooperation of local business and industry leaders to disseminate information and to participate in developing cooperative education training and employment for eleventh and twelfth grade students. School districts are authorized to enter into agreements, according to rules adopted by the State Board of Education, with individual employers willing to provide such cooperative education programs. School districts may grant up to \$750 per year, pursuant to such an agreement, to the employer for each student for whom the employer agrees to act as mentor for preemployment or on-the-job training.

(c) Student participants in the program who are not able to demonstrate minimum job entry-level employability skills upon leaving high school shall be provided further assistance for a period not to exceed 1 additional year. Such skills may be developed through a planned program conducted by a community based organization certified by the local manpower council and approved by the Commissioner of Education or through training conducted by a public or an approved private postsecondary, trade, business or vocational school not offering a 4-year degree. The following provisions shall apply to postsecondary training:

1. No more than 5 percent of the school district's program participants shall be eligible for postsecondary training per academic year and no more than 15 percent of participants shall be eligible for community based organization training programs.

2. A grant not to exceed \$750 per approved student may be made to a participating private postsecondary institution or to the community based organization to help defray the cost of instruction.

3. The student shall have the written endorsement of a business for employment consideration or on-the-job training upon successful demonstration of minimum entry-level employment skills.

(d) The Department of Education and school districts are authorized to solicit and accept donations, grants and other sources of funds to further the intent of this act and to expand the number of students eligible for entry-level skills development authorized in paragraph (c).

(5) **FUNDING.**—The secondary school portion of the program shall be funded through the diversified vocational education cost factor in the Florida Education Trainee Program. The postsecondary portion of the program shall be funded through federal cooperative education funds available under Title II of the Vocational Education Amendments of 1976. (P.L. 94-482.)

(6) **PROGRAM EVALUATION.**—The basic criteria for determining the effectiveness of the Florida Youth Jobs Assistance Program is the increase in student employment and earnings resulting from participation in the program. In order to determine whether these criteria have been achieved, the Commissioner of Education shall report annually to the Legislature on the success of the program expressed in terms of participating students' placement rates in unsubsidized employment, retention, in unsubsidized employment, and increases in earnings, including hourly wages.

(7) **RULES.**—The State Board of Education is authorized to adopt rules necessary for administration, implementation, and evaluation of the program.

Section 2. The provisions of this act relating to the secondary school program shall take effect upon becoming a law. The provisions of this act relating to the postsecondary program shall take effect July 1, 1984.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education; creating s. 230.671, Florida Statutes; creating the Florida Youth Jobs Assistance Program; specifying legislative intent; defining eligibility of students; requiring cooperation of employers; providing for on-the-job and postsecondary training; providing rulemaking authority; providing for funding; providing an effective date.

On motion by Senator Meek, by two-thirds vote SB 304 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
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	
Frank	Jennings	Myers	

Nays—None

CS for SB's 594 and 389—A bill to be entitled An act relating to pugilistic exhibitions; creating s. 14.27, Florida Statutes; creating the State Athletic Commission under the Department of Business Regulation; providing for appointment of members; creating ss. 548.041-548.49, Florida Statutes; providing for compensation and terms of office of members of the commission; providing for the adoption of rules; providing for an executive secretary and defining his duties; providing definitions; regulating boxing in the state; exempting schools and Olympic events; granting exclusive jurisdiction over all boxing matches to the commission; providing rules and requirements for boxing; establishing a minimum age for boxers; requiring a physician, referees, and judges to be in attendance; establishing weight and class limitations, methods of scoring, and other safety regulations; providing for certain disclosure; prohibiting collusive or sham contests; regulating purses and their disbursement; providing for hearings; requiring insurance; requiring certain persons to be licensed; requiring permits for boxing matches; establishing procedures for licens-

ing; establishing license and permit fees; requiring the disclosure of receipts from boxing contests; establishing a percent gross receipts tax; providing penalties; establishing a medical advisory board; regulating the contracts and tickets of admission relating to boxing matches; requiring certain persons to post bond or other security prior to licensing; authorizing the commission to hold hearings, to issue subpoenas, to suspend or revoke licenses, and to impose fines; providing criminal penalties; prohibiting certain conflicts of interest; repealing ss. 548.01-548.04, Florida Statutes, relating to pugilistic exhibitions; providing for future repeal and review; providing an effective date.

—was read the second time by title. On motion by Senator Gersten, by two-thirds vote CS for SB's 594 and 389 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

On motion by Senator Henderson, the rules were waived and by two-thirds vote HB 1039 was withdrawn from the Committee on Appropriations.

On motion by Senator Henderson—

HB 1039—A bill to be entitled An act relating to contractual services; amending s. 287.012(3) and (5), Florida Statutes, 1982 Supplement, and adding subsections (7) and (8) thereto, redefining the term “contractual services”; defining the terms “physically or mentally disabled person,” “extension” and “renewal”; amending s. 287.042(4)(a), Florida Statutes, 1982 Supplement, requiring notice of invitation to bids to be mailed at least 10 days prior to the date of bid submittals; amending s. 287.057(2), (3), (9), (11), (12), (15), and (17), Florida Statutes, 1982 Supplement, and adding new subsections (13) and (17) to said section, providing criteria for bids for contractual services; providing procedures for contract renewal; deleting an internal cross reference; requiring agency certification of emergency situations that justify exceptions to bidding requirements; allowing dollar increases with respect to contract extensions; providing renewal procedures; deleting a prohibition against agency fiscal employees serving on contract selection committees; providing for a review and approval process for certain contractual service contracts; amending s. 287.058, Florida Statutes, 1982 Supplement, providing additional provisions to be included in contract documents; providing for signature of written agreements by agency heads; providing an effective date.

—a companion measure, was substituted for SB 690 and read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1039 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea —Jenne

SB 690 was laid on the table.

CS for SB 1049—A bill to be entitled An act relating to the practice of physical therapy; creating s. 486.015, Florida Statutes; providing legislative intent; amending s. 486.021, Florida Statutes; providing definitions; renumbering and amending s. 486.121, Florida Statutes; providing powers and duties of the Board of Medical Examiners with respect to regulating the practice of physical therapy; providing powers, duties, and membership of the Physical Therapy Council; renumbering and amending s. 486.071, Florida Statutes; requiring licensure of physical therapists; amending s. 486.031, Florida Statutes; specifying requirements for licensure; amending s. 486.041, Florida Statutes; providing licensure procedures and fees; providing for temporary permits; amending s. 486.051, Florida Statutes; directing the Department of Professional Regulation to provide for licensure examinations; amending ss. 486.061 and 486.081, Florida Statutes; providing for the issuance of licenses and for licensure without examination; requiring certification by the council; renumbering and amending s. 486.052, Florida Statutes; providing for biennial renewal fees and delinquency fees; providing conditions for reinstatement of a license; amending s. 486.102, Florida Statutes; providing licensure requirements for physical therapist assistants; amending s. 486.103, Florida Statutes; providing licensure procedures and fees; providing for temporary permits; amending s. 486.104, Florida Statutes; directing the department to provide for licensure examinations; amending ss. 486.106 and 486.107, Florida Statutes; providing for issuance of licenses and for licensure without examination; requiring certification by the council; renumbering and amending s. 486.105, Florida Statutes; providing for biennial renewal fees and delinquency fees; providing conditions for reinstatement of license; renumbering and amending s. 486.072, Florida Statutes, providing for the disposition of fees; renumbering and amending s. 486.091, Florida Statutes; providing grounds for the refusal, revocation, or suspension of licenses; authorizing the department to compel a physical therapist or physical therapist assistant to submit to certain examinations; renumbering and amending s. 486.101, Florida Statutes; prohibiting false representation and prohibiting misrepresentation in obtaining a license; amending s. 486.151, Florida Statutes; providing penalties for violations; providing for injunctive relief; amending s. 486.161, Florida Statutes; providing exemptions; amending s. 486.171, Florida Statutes; providing that current licenses are valid under certain circumstances; repealing s. 486.141, Florida Statutes, which prohibits fraudulent representation to obtain registration; providing for review and repeal; providing an effective date.

—was read the second time by title.

Senators Girardeau, Grant and Hair offered the following amendment which was moved by Senator Girardeau and adopted:

Amendment 1—On page 21, line 29, insert: “occupational therapists,” after the word “surgeons,”

On motion by Senator Girardeau, by two-thirds vote CS for SB 1049 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

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

Nays—None

Consideration of SB 648 was deferred.

On motions by Senator Rehm, by two-thirds vote HB 1153 was withdrawn from the Committees on Education and Appropriations.

On motions by Senator Rehm—

HB 1153—A bill to be entitled An act relating to mental health; creating s. 240.514, Florida Statutes; establishing the Florida Mental Health Institute within the University of South Florida; providing purpose; providing for a director; authorizing the institute to utilize the pay plan of the State University System; providing an effective date.

—a companion measure, was substituted for CS for SB 823 and by two-thirds vote read the second time by title. On motion by Senator Rehm, by two-thirds vote HB 1153 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 823 was laid on the table.

SB 656—A bill to be entitled An act relating to financial matters; adding a paragraph to s. 215.47(2), Florida Statutes, 1982 Supplement; authorizing the State Board of Administration to invest in bonds of the State of Israel; providing an effective date.

—was read the second time by title.

Senator Scott moved the following amendments which were adopted:

Amendment 1—On page 1, strike all of line 18 and insert:

(k) *General obligations backed by the full faith and credit of a foreign government which has not defaulted on similar obligations for a minimum period of 25 years prior to purchase of the obligation and has met its payments of similar obligations when due.*

Amendment 2—In title, on page 1, strike all of lines 5 and 6 and insert: administration to invest in general obligations of certain foreign governments; providing an effective date.

On motion by Senator Scott, by two-thirds vote SB 656 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The President presiding

SB 648—A bill to be entitled An act relating to elections; amending s. 97.061(3), Florida Statutes; specifying persons who may assist electors requiring assistance in voting; amending s. 98.031(5), Florida Statutes; eliminating the requirement that a supervisor of elections publish in certain newspapers the changing of election precinct boundaries; amending s. 101.051(1), Florida Statutes; changing certain requirements for electors needing assistance in voting; amending s. 101.64, Florida Statutes, 1982 Supplement; modifying certain forms to be supplied to electors requesting absentee ballots and eliminating attesting witness requirements; amending s. 101.65, Florida Statutes, 1982 Supplement; modifying instructions to absentee electors; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Plummer and adopted:

Amendment 1—On page 7, between lines 13 and 14, insert:

Section 6. Subsection (1) of section 101.68, Florida Statutes, is amended to read:

101.68 Canvassing of absent elector's ballot.—

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor may compare the information on the Voter's Certificate on the back of the envelope with the information in the registration books to determine whether the elector is duly registered in the precinct and may record on the elector's registration certificate that the elector has voted. The supervisor shall safely keep the ballot unopened in his office until the county canvassing board canvasses the vote according to law. The canvassing board shall begin the canvassing of absentee ballots not later than noon on the day following the election. The canvassing board shall compare the ballots presented to it by the supervisor for canvass with the record required by s. 101.62(3), so as to compare the number of ballots in its possession with the number of requests for ballots received to be counted according to the supervisor's file or list, to insure all the absentee ballots to be counted by the canvassing board are accounted for. The canvassing board shall, if the supervisor has not already done so, *for verification purposes, compare the signature of the absent elector on the Voter's Certificate with the signature of the absent elector on the sworn statement completed by the absent elector upon making application for registration as an elector, and compare the information on the back of the envelope with the registration book to see that the elector is duly registered in the precinct and has not voted on election day and to determine the legality of the absent elector's ballot. If it is determined by the canvassing board that any vote is illegal, then some member of the board shall, without opening the envelope, mark across the face of the envelope, "rejected as illegal."* The envelope and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.

(Renumber subsequent section.)

Senator Hair moved the following amendments which were adopted:

Amendment 2—On page 6, between lines 10 and 11, insert:

Section 5. Subsection (3) of section 101.62, Florida Statutes, is amended to read:

101.62 Request for absentee ballots.—

(3) For each request for an absentee ballot received, the supervisor shall record *the reason given by the elector which qualifies him to vote by absentee ballot, the date the request was made, the date the absentee ballot was delivered or mailed, the date the ballot was received by the supervisor, and such other information he may deem necessary.*

(Renumber subsequent sections.)

Amendment 3—On page 5, line 18 through page 6, line 10, strike all of said lines

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Plummer and adopted:

Amendment 4—In title, on page 1, line 17, after "Supplement;" insert: amending s. 101.68, Florida Statutes, requiring the canvassing board, if the supervisor of elections has not already done so, to make a comparison of the absent elector's signature for verification purposes;

Senator Hair moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 11, after the semicolon (;) insert: amending s. 101.62(3), Florida Statutes; requiring supervisor of elections to record reason given by elector which qualifies him to vote by absentee ballot;

On motion by Senator Plummer, by two-thirds vote SB 648 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	Fox	Hill	Meek
Beard	Frank	Jenne	Myers
Carlucci	Gersten	Jennings	Neal
Castor	Girardeau	Johnston	Plummer
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thurman
Crawford	Grizzle	Mann	Vogt
Dunn	Hair	Maxwell	Weinstein

Nays—None

CS for SB 483—A bill to be entitled An act relating to public lodging establishments and any facility or accommodation of a time-share plan; creating s. 509.213, Florida Statutes; creating s. 553.895, Florida Statutes; requiring future transient public lodging establishments, as defined in chapter 509 and used primarily for transient occupancy as defined in s. 83.43(10), Florida Statutes, and any facility or accommodation of a time-share plan to be equipped with an automatic sprinkler system and smoke detection system by certain dates; requiring existing public lodging establishments and any facility or accommodation of a time-share plan to be equipped with an automatic sprinkler system and smoke detection system by certain dates; providing standards and certain dates for fire safety equipment for existing public lodging establishments and any facility or accommodation of a time-share plan; requiring specialized smoke detectors for the deaf and hearing-impaired; providing for enforcement; providing exceptions; providing for review and repeal in accordance with the Sundown and Regulatory Sunset Acts; providing effective dates.

—was read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—On page 2, lines 5 and 24, strike “facility or accommodation” and insert: time share unit

Amendment 2—On page 5, lines 15 and 16, strike “facility or accommodation” and insert: time share unit

Pending further consideration of CS for SB 483 as amended, on motion by Senator Stuart, the rules were waived and by two-thirds vote HB 1069 was withdrawn from the Committee on Commerce.

On motion by Senator Stuart—

HB 1069—A bill to be entitled An act relating to public lodging establishments and any facility or accommodation of a time-share plan; creating s. 509.213, Florida Statutes; creating s. 553.895, Florida Statutes; requiring future transient public lodging establishments, as defined in chapter 509 and used primarily for transient occupancy as defined in s. 83.43(10), Florida Statutes, and any facility or accommodation of a time-share plan to be equipped with an automatic sprinkler system and smoke detection system by certain dates; requiring existing public lodging establishments and any facility or accommodation of a time-share plan to be equipped with an automatic sprinkler system and smoke detection system by certain dates; providing standards and certain dates for fire safety equipment for existing public lodging establishments and any facility or accommodation of a time-share plan; requiring specialized smoke detectors for the deaf and hearing-impaired; providing for enforcement; providing exceptions; providing for review and repeal in accordance with the Sundown and Regulatory Sunset Acts; providing effective dates.

—a companion measure, was substituted for CS for SB 483 and read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 1069 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 483 was laid on the table.

On motions by Senator D. Childers, by two-thirds vote HB 1176 was withdrawn from the Committees on Health and Rehabilitative Services and Appropriations.

On motion by Senator D. Childers—

HB 1176—A bill to be entitled An act relating to health maintenance organizations; adding subsections (9)-(13) to s. 641.19, Florida Statutes, 1982 Supplement, defining “surplus,” “guaranteeing organization,” “un-

covered expenditures,” “insolvent” or “insolvency” and “surplus notes”; amending s. 641.21(7), Florida Statutes, 1982 Supplement, relating to applications for certificates; requiring a financial statement; amending s. 641.22, Florida Statutes, 1982 Supplement, relating to issuance of certificates of authority; providing for required minimum surplus for health maintenance organizations; requiring health maintenance organizations to file reinsurance contracts with the department; creating s. 641.225, Florida Statutes, relating to surplus requirements; amending s. 641.23, Florida Statutes, 1982 Supplement, relating to revocation of certificates; providing a time period for order of compliance; amending s. 641.25, Florida Statutes, 1982 Supplement, providing for administrative penalties in lieu of revocation; amending s. 641.26, Florida Statutes, 1982 Supplement, providing for filing of an annual report; providing for requirements for filing annual reports and financial statements; amending s. 641.27, Florida Statutes, 1982 Supplement, relating to examinations by the department; providing terms and conditions for expenses of examination of each health maintenance organization by the department; amending s. 641.28, Florida Statutes, 1982 Supplement, relating to civil actions and remedies; providing for recovery of attorney’s fees and court costs; amending s. 641.285, Florida Statutes, 1982 Supplement, relating to insolvency protection; providing for deposits of securities with the department; providing amounts of security deposits; providing exceptions; providing for withdrawal of deposits; providing for reduction of deposits; providing for application of section; adding subsections (8) and (9) to s. 641.31, Florida Statutes, 1982 Supplement, providing for coordinating and limiting contract benefits; amending s. 641.315, Florida Statutes, 1982 Supplement, relating to provider contracts; providing that the health maintenance organization shall be liable for fees when the organization fails to meet its obligation to pay such fees; providing effective dates.

—a companion measure, was substituted for SB 593 and read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 1176 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

SB 593 was laid on the table.

HB 1307—A bill to be entitled An act relating to fertilizer; amending s. 576.011(18), Florida Statutes, 1982 Supplement, as amended by chapter 82-103, Laws of Florida, defining mixed fertilizer; amending s. 576.051(2), Florida Statutes, 1982 Supplement, providing for consumer requested sampling; amending s. 576.055, Florida Statutes, providing for rulemaking authority relating to deconing; amending s. 576.061(2), Florida Statutes, providing for additional deficiency penalty payments; amending s. 576.101, Florida Statutes, providing for revocation of registration and imposition of probation; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 1307 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

CS for SB 476—A bill to be entitled An act relating to real estate time-share plans; amending s. 721.02(2), Florida Statutes, and adding a new subsection (3), providing that full and fair disclosure to purchasers and prospective purchasers of time-share plans is one of the purposes of chapter 721, Florida Statutes; amending s. 721.03, Florida Statutes, 1982 Supplement, relating to the scope of the chapter; amending s. 721.05, Florida Statutes, providing definitions; amending s. 721.04, Florida Statutes, relating to certain time-share plans; amending s. 721.06, Florida Statutes, 1982 Supplement, relating to contracts for the purchase of time-share periods; prohibiting attempts to obtain waivers of cancellation rights; providing requirements for contracts; amending s. 721.07, Florida Statutes, providing procedures with respect to public offering statements; amending s. 721.08, Florida Statutes, relating to escrow provisions; amending s. 721.09(2), (3), and (4), Florida Statutes; requiring escrow agents to maintain escrow accounts in a specified manner; providing a penalty for sellers or escrow agents who intentionally fail to comply with certain escrow deposit requirements; amending s. 721.10, Florida Statutes, relating to the cancellation of purchase transactions with respect to time-sharing; amending s. 721.11, Florida Statutes; defining advertising materials and providing restrictions; providing penalties; requiring disclosure with respect to certain advertising; creating s. 721.111, Florida Statutes, relating to prize and gift promotional offers; providing requirements; providing penalties; amending s. 721.12(1), Florida Statutes, relating to recordkeeping by the seller; amending s. 721.13(3)(e), Florida Statutes, and adding a new subsection (4); requiring annual audits to be conducted in a certain manner; requiring purchasers to approve certain agreements; amending s. 721.14, Florida Statutes, providing for the appointment of a receiver to run the affairs of the association under certain circumstances; amending s. 721.15(2), Florida Statutes, and adding subsection (6) thereto, prohibiting excuse of time-share owners from paying a share of common expenses; providing exceptions; providing that assessments against time-share purchasers need not be made more frequently than annually; amending s. 721.17, Florida Statutes, providing for the transfer of interest in a time-share plan; creating s. 721.175, Florida Statutes, providing for supervisory duties of developers; amending s. 721.18, Florida Statutes, relating to exchange programs, modifying filing requirements and procedures and providing an annual filing fee; amending s. 721.20, Florida Statutes, prohibiting sellers or developers from employing nonlicensed persons to sell time-share periods; amending s. 721.21, Florida Statutes, relating to purchasers' remedies; amending s. 721.22, Florida Statutes, relating to partition; amending s. 721.26(4) and (5)(c) and (d), Florida Statutes, authorizing the division to bring an action for appropriate relief in circuit court for violations of the chapter; providing rulemaking authority; amending s. 721.27, Florida Statutes, increasing to \$1 the annual fee for each time-share period; repealing s. 718.1065, Florida Statutes, relating to condominium partition; amending s. 895.02(1)(a), Florida Statutes; defining certain violations as "racketeering activity"; providing application of the act; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Vogt and adopted:

Amendment 1—On page 46, strike all of lines 16-23 and insert:

(2) No game promotion such as contents of chance, gift enterprises or sweepstakes, in which the elements of chance and prize are present, shall be used after January 1, 1985 in connection with the offering or sale of time-share periods; all gift promotions used until that time shall meet all requirements of this chapter and of ss. 849.092 and 849.094(1)(2) and (7).

Amendment 2—On page 48, line 7, strike "\$10" and insert: \$100

Amendment 3—On page 48, line 8, after "filing." insert: Those developers utilizing game promotions in which the elements of chance and prize are present shall pay an additional \$400 fee at the time of filing of the prize and gift promotional offer.

Amendment 4—On page 65, strike all of lines 1-19 and insert:

Section 27. This act shall take effect July 1, 1983. However, it is the intent of the Legislature that: (1) the act shall apply to time-share plans existing on or after the effective date of this act but this act shall not be construed to effect the impairment of any existing contract; (2) time-share plans which have been filed and approved by the Divisions prior to the effective date of this act, shall submit all amendments necessary to bring the time-share plan into compliance with the provisions of this act and obtain approval of said amendments no later than October 1,

1983; (3) as to contracts entered into prior to the effective date hereof, amendments made only for the purpose of bringing a time-share plan into compliance with this act shall for purposes of voidability, be determined not to be material or adverse; (4) time-share plans which have been filed and approved by the Division prior to the effective date of this act may continue to rely on the provisions of s. 718.202, Florida Statutes, relating to the use of sales or reservation deposits for construction purposes prior to closing.

Pending further consideration of CS for SB 476 as amended, on motions by Senator Vogt, the rules were waived and by two-thirds vote HB 1046 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations.

On motion by Senator Vogt—

HB 1046—A bill to be entitled An act relating to real estate time-share plans; amending s. 721.02(2), Florida Statutes, and adding a new subsection (3), providing that full and fair disclosure to purchasers and prospective purchasers of time-share plans is one of the purposes of chapter 721, Florida Statutes; amending s. 721.03, Florida Statutes, 1982 Supplement, relating to the scope of the chapter; amending s. 721.05, Florida Statutes, providing definitions; amending s. 721.04, Florida Statutes, relating to certain time-share plans; amending s. 721.06, Florida Statutes, 1982 Supplement, relating to contracts for the purchase of time-share periods; prohibiting attempts to obtain waivers of cancellation rights; providing requirements for contracts; amending s. 721.07, Florida Statutes, providing procedures with respect to public offering statements; amending s. 721.08, Florida Statutes, relating to escrow provisions; amending s. 721.09(2), (3), and (4), Florida Statutes; requiring escrow agents to maintain escrow accounts in a specified manner; providing a penalty for sellers or escrow agents who intentionally fail to comply with certain escrow deposit requirements; amending s. 721.10, Florida Statutes, relating to the cancellation of purchase transactions with respect to time-sharing; amending s. 721.11, Florida Statutes; defining advertising materials and providing restrictions; providing penalties; requiring disclosure with respect to certain advertising; creating s. 721.111, Florida Statutes, relating to prize and gift promotional offers; providing requirements; providing penalties; amending s. 721.12(1), Florida Statutes, relating to recordkeeping by the seller; amending s. 721.13(3)(e), Florida Statutes, and adding a new subsection (4); requiring annual audits to be conducted in a certain manner; requiring purchasers to approve certain agreements; amending s. 721.14, Florida Statutes, providing for the appointment of a receiver to run the affairs of the association under certain circumstances; amending s. 721.15(2), Florida Statutes, and adding subsection (6) thereto, prohibiting excuse of time-share owners from paying a share of common expenses; providing exceptions; providing that assessments against time-share purchasers need not be made more frequently than annually; amending s. 721.17, Florida Statutes, providing for the transfer of interest in a time-share plan; creating s. 721.175, Florida Statutes, providing for supervisory duties of developers; amending s. 721.18, Florida Statutes, relating to exchange programs, modifying filing requirements and procedures and providing an annual filing fee; amending s. 721.20, Florida Statutes, prohibiting sellers or developers from employing nonlicensed persons to sell time-share periods; amending s. 721.21, Florida Statutes, relating to purchasers' remedies; amending s. 721.22, Florida Statutes, relating to partition; amending s. 721.26(4) and (5)(c) and (d), Florida Statutes, authorizing the division to bring an action for appropriate relief in circuit court for violations of the chapter; providing rulemaking authority; amending s. 721.27, Florida Statutes, increasing to \$1 the annual fee for each time-share period; repealing s. 718.1065, Florida Statutes, relating to condominium partition; providing application of the act; amending s. 192.037(6), Florida Statutes, 1982 Supplement; providing that escrow accounts be placed with the tax collector; providing an effective date.

—a companion measure, was substituted for CS for SB 476 and read the second time by title.

Senator Vogt moved the following amendment:

Amendment 1—On pages 3-64, strike everything after the enacting clause and insert:

Section 1. Subsection (2) of section 721.02, Florida Statutes, is amended, subsection (3) is renumbered as subsection (4), and a new subsection (3) is added to said section, to read:

721.02 Purposes.—The purposes of this chapter are to:

(2) Establish procedures for the creation, sale, exchange, promotion, and operation of *time-share* ~~time-sharing~~ plans.

(3) Provide full and fair disclosure to the purchasers and prospective purchasers of *time-share* plans.

Section 2. Section 721.03, Florida Statutes, 1982 Supplement, is amended to read:

(Substantial rewording of section. See s. 721.03, F.S., 1982 Supp., for present text.)

721.03 Scope.—

(1) This chapter shall apply to all *time-share* plans consisting of more than seven *time-share* periods over a period of at least 3 years in which the facilities or accommodations are located within this state.

(2) All *time-share* accommodations or facilities which are located outside the state but offered for sale in this state shall be subject only to the provisions of ss. 721.01-721.12, 721.18-721.21, 721.26, and 721.28.

(3) Where a *time-share* plan is subject to both the provisions of this chapter and the provisions of chapter 718 or chapter 719, the plan shall meet the requirements of both chapters unless exempted as provided herein. In the event of a conflict between the provisions of this chapter and the provisions of chapter 718 or chapter 719, the provisions of this chapter shall prevail.

(4) A *time-share* plan which is subject to the provisions of chapter 718 or chapter 719, if fully in compliance with the provisions of this chapter, is exempt from the following:

(a) Sections 718.202 and 719.202, relating to sales or reservation deposits prior to closing.

(b) Sections 718.502 and 719.502, relating to filing prior to sale or lease.

(c) Sections 718.503 and 719.503, relating to disclosure prior to sale.

(d) Sections 718.504 and 719.504, relating to prospectus or offering circular.

(5) The treatment of *time-share* estates for ad valorem tax purposes and special assessments shall be as prescribed in chapters 192-200.

Section 3. Section 721.05, Florida Statutes, is amended to read:

721.05 Definitions.—As used in this chapter:

(1) "Accommodations" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure which is situated on real property and designed for occupancy by one or more individuals.

(2) "Agreement for deed" means any written contract utilized in the sale of *time-share* estates which provides that legal title will not be conveyed to the purchaser until the contract price has been paid in full, and the terms of payment extend for a period in excess of 180 days after either the date of execution of the contract or completion of construction, whichever occurs later.

(3)(2) "Assessment" means the share of funds required for the payment of common expenses which is assessed from time to time against each purchaser by the managing entity.

(4) "Closing" means:

(a) For plans selling *time-share* estates, conveyance of the legal title to the *time-share* period as evidenced by the delivery of a deed to the purchaser or to the clerk of the court for recording, or conveyance of the equitable title to the *time-share* period as evidenced by the irrevocable delivery of an agreement for deed to the clerk of the court for recording.

(b) For plans selling *time-share* licenses, the final execution and delivery by all parties of the last document necessary for vesting in the purchaser the full rights available under the plan.

(5) "Conspicuous type" means type in boldface capital letters no smaller than the largest type (excluding headings) on the page on which it appears and, in all cases, at least 10-point type. Where conspicuous type is required, it shall be separated on all sides from other type and print. Conspicuous type may be utilized in contracts for purchase or public offering statements only where required by law.

(6)(3) "Common expenses" means those expenses properly incurred for the maintenance, operation, and repair of the all accommodations or facilities, or both, constituting the *time-share* ~~time-sharing~~ plan.

(7) "Completion of construction" means:

(a) Issuance of a certificate of occupancy for the entire building in which a *time-share* unit being sold is located, or for the 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, substantial completion of construction, finishing, and equipping of the building or improvements according to the plans and specifications; and

(b) That all accommodations of the *time-share* unit and facilities of the *time-share* plan are available for use in a manner identical in all material respects to the manner portrayed by the promotional material, advertising and public offering statements filed with the division.

(8)(4) "Contract" means any agreement conferring the rights and obligations of the *time-share* ~~time-sharing~~ plan on the purchaser.

(9)(5) "Developer" means any the person creating a *time-sharing* plan: who:

(a) Creates the *time-share* plan; or

(b) Succeeds to any developer right or obligation as described in s. 721.17.

(10)(6) "Division" means the Division of Florida Land Sales and Condominiums of the Department of Business Regulation.

(11) "Enrolled" means paid membership in an exchange program or membership in an exchange program evidenced by written acceptance or confirmation of membership.

(12) "Escrow account" means an account established solely for the purposes set forth in this chapter with a financial institution located within this state.

(13) "Escrow agent" includes only:

(a) A savings and loan association, bank, trust company, or other financial lending institution located in this state having a net worth in excess of \$5 million;

(b) An attorney who is a member of The Florida Bar and who has posted a surety bond issued by a company authorized and licensed to do business in this state as surety in the amount of \$50,000; or

(c) A real estate broker licensed pursuant to chapter 475 and who has posted a surety bond issued by a company authorized and licensed to do business in this state as surety in the amount of \$50,000.

(14) "Exchange company" means any person owning and/or operating an exchange program.

(15) "Exchange program" means any opportunity or procedure for the assignment or exchange of *time-share* periods among purchasers in the same or other *time-share* plans.

(16)(7) "Facilities" means amenities including any structure, service, improvement, or real property, improved or unimproved, other than the *time-share* unit, which is made available to the purchasers of a *time-share* ~~time-sharing~~ plan.

(17)(8) "Managing entity" means the person responsible for operating and maintaining the *time-share* ~~time-sharing~~ plan.

(18) "Memorandum of agreement" means a written document, in recordable form, which includes the names of the purchaser and seller, a legal description of the *time-share* property and *time-share* period, and a description of the type of *time-share* license sold by the seller.

(19)(9) "Offer to sell," "offer for sale," "offered for sale," or "offer" means the solicitation, advertisement, inducement of purchasers, the taking of reservations, or any other method or attempt to encourage any person to acquire whereby a purchaser is offered the opportunity to participate in a *time-share* ~~time-sharing~~ plan.

(20) "Owner of the underlying fee" means any person having an interest in the real property underlying the accommodations or facilities of the *time-share* plan at or subsequent to the time of creation of the *time-share* plan, or any person who purchases 15 or more *time-share* periods for resale in the ordinary course of business.

(21)(10) "Owners' association" means the association made up of all purchasers of a *time-share time-sharing plan* who have purchased a *time-share estate fee simple interest in real property*.

(22)(11) "Purchaser" means *any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a time-share plan other than as security for an obligation any person who is buying or who has bought a time-share period in a time-sharing plan*.

(23)(12) "Seller" means any developer or any other person, or agent or employee thereof, who is offering time-share periods for sale to the public in the ordinary course of business, except a person who has acquired a time-share period for his own occupancy and later offers it for resale.

(24) "*Time-share estate*" means a right to occupy a time-share unit, coupled with a freehold estate or an estate for years with future interest in a time-share property or a specified portion thereof.

(25) "*Time-share instrument*" means one or more documents, by whatever name denominated, creating or governing the operation of time-share plans.

(26) "*Time-share license*" means a right to occupy a time-share unit, which right is neither coupled with a freehold interest, nor coupled with an estate for years with a future interest, in the time-share property.

(27)(13) "Time-share period" means that period of time when a purchaser of a *time-share time-sharing plan* is entitled to the possession and use of the accommodations or facilities, or both, of a *time-share time-sharing plan*.

(28)(14) "*Time-share Time-sharing plan*" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, in exchange for a consideration, receives *ownership rights in or a right to use accommodations or facilities, or both, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years*.

(29) "*Time-share property*" means one or more time-share units subject to the same time-share instrument, together with any other property or rights to property appurtenant to those units.

(30)(15) "Time share unit" means an accommodation or facility of a *time-share time-sharing plan* which is divided into time-share periods.

Section 4. Section 721.04, Florida Statutes, is amended to read:

721.04 Saving clause.—All *time-share time-sharing plans* filed pursuant to chapter 2-23, Florida Administrative Code, prior to July 1, 1981, shall be deemed to be in compliance with the filing requirements of chapter 81-172, *Laws of Florida this chapter*.

Section 5. Section 721.06, Florida Statutes, 1982 Supplement, is amended to read:

721.06 Contracts for purchase of time-share periods.—

(1) No seller of a *time-share time-sharing plan* shall fail to utilize, and furnish each purchaser of such plan a fully completed copy of, a contract pertaining to the ~~such~~ sale, which contract shall include the following information:

(a)(1) The actual date the contract is executed by *each party all parties*

(b)(2) The names and addresses of ~~the seller~~, the developer, any owner of the underlying fee, and the *time-share time-sharing plan*.

(c)(3) The total financial obligation of the purchaser, including the initial purchase price and any additional charges to which the purchaser may be subject, such as *financing*, reservation, maintenance, management, and recreation charges.

(d)(4) The estimated date of *completion of construction availability* of each accommodation or facility which is not completed at the time the contract is executed by the seller and purchaser, *and the estimated date of closing*.

(e)(5) A description of the nature and duration of the time-share period being sold, including whether any interest in real property is being conveyed and the specific number of years or ~~months~~ constituting the term of the *time-share plan contract*.

(f)(6) Immediately prior to the space reserved in the contract for the signature of the purchaser, in ~~boldfaced and~~ conspicuous type ~~which shall be larger than the type in the remaining text of the contract~~, substantially the following statements:

"YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN 10 DAYS FROM THE DATE YOU SIGN THIS CONTRACT, AND UNTIL 10 DAYS AFTER YOU RECEIVE THE PUBLIC OFFERING STATEMENT, *WHICHEVER IS LATER*."

IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE *DEVELOPER SELLER* IN WRITING OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT TO . . . (Name of Developer Seller) . . . AT . . . (Address of Developer Seller) . . . ANY ATTEMPT TO OBTAIN A WAIVER OF YOUR CANCELLATION RIGHTS IS UNLAWFUL. WHILE YOU MAY EXECUTE ALL CLOSING DOCUMENTS IN ADVANCE, THE CLOSING, AS EVIDENCED BY DELIVERY OF THE DEED OR OTHER DOCUMENT, BEFORE EXPIRATION OF YOUR 10-DAY CANCELLATION PERIOD, IS PROHIBITED. ~~NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED IN THIS CONTRACT.~~

(g) If a *time-share license no interest in real property* is being conveyed, the contract shall also contain, in conspicuous type, the following statement:

"YOU MAY ALSO CANCEL THIS CONTRACT AT ANY TIME AFTER THE ACCOMMODATIONS OR FACILITIES ARE NO LONGER AVAILABLE AS PROVIDED IN THIS CONTRACT AND THE PUBLIC OFFERING STATEMENT."

(h) If a *time-share estate is being conveyed, the contract A contract for the sale of a fee interest in real property* shall also contain, in ~~boldfaced and~~ conspicuous type, the following statement:

"FOR THE PURPOSE OF AD VALOREM ASSESSMENT, TAXATION AND SPECIAL ASSESSMENTS, THE MANAGING ENTITY WILL BE CONSIDERED THE TAXPAYER AS YOUR AGENT PURSUANT TO SECTION 192.037, FLORIDA STATUTES."

(7) ~~A statement that oral representations cannot be relied upon and that the seller makes no representations other than those contained in the contract and the public offering statement.~~

(i)(8) A statement that, in the event the purchaser cancels the contract during a 10-day cancellation period, the developer *will shall* refund to the purchaser *the total amount of all payments made by the purchaser under the contract, reduced by the proportion of any contract benefits the purchaser has actually received under the contract prior to the effective date of the cancellation. The statement shall further provide that the refund shall be made within 20 days after receipt of notice of cancellation, or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later. all payments made under the contract within 20 days after receipt of notice of cancellation.*

(j) If the *time-share period is being sold pursuant to an agreement for deed, a statement that the signing of the agreement for deed does not entitle the purchaser to receive a deed until all payments under the agreement have been made.*

(k) Unless the developer is at the time of offering the plan the owner in fee simple absolute of the accommodations and facilities of the *time-share plan, free and clear of all liens and encumbrances, a statement that the developer is not the sole owner of the underlying fee of the accommodations or facilities without liens or encumbrances, and shall include:*

1. *The names and addresses of all persons or entities having an ownership interest or other interest therein; and*

2. *The developer's actual interest therein.*

(l) If the contract is for the sale or transfer of a *time-share period in which the accommodations or facilities are subject to a lease, the contract shall include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type the following:*

"THIS TIME-SHARE PERIOD IS SUBJECT TO A LEASE (OR SUB-LEASE)."

(2) An agreement for deed shall be recorded by the developer, who shall pay all recording costs associated therewith.

(3) The escrow agent shall provide every seller with a receipt for all funds paid to the seller.

~~(9) If no fee interest in real property is being conveyed, a statement that, in the event of any cancellation by the purchaser after the 10-day cancellation periods, the refund shall be the total amount of all payments made by the purchaser under the contract reduced by the proportion of any contract benefits the purchaser actually has received or has had the right to receive under the contract during the time preceding the date when the cancellation becomes effective.~~

~~If the seller is to transfer a fee interest in real property to the purchaser, the seller shall furnish a contract for sale to the purchaser at least 10 days before the date of closing, unless the purchaser has waived in writing the 10-day rights of cancellation after such cancellation periods have been disclosed to him by the seller.~~

Section 6. Section 721.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 721.07, F.S., for present text.)

721.07 Public offering statement.—Prior to offering any time-share plan, every developer shall file a public offering statement with the division for approval. The developer shall furnish each purchaser with a copy of the approved public offering statement. Until the division approves such filing, any contract regarding the sale of the time-share plan which is the subject of the public offering statement shall be voidable by the purchaser.

(1) The division shall, upon receiving a public offering statement from a developer, mail the developer an acknowledgment of receipt. The failure of the division to send such acknowledgment shall not, however, relieve the developer from the duty of complying with this section.

(2) Within 45 days of receipt of a public offering statement, the division shall determine whether the proposed public offering statement is adequate to meet the requirements of this section and shall notify the developer by mail that the division has either approved the public offering statement or found specified deficiencies. If the division fails to approve or specify deficiencies within 45 days, the filing shall be deemed approved. The developer may correct the deficiencies; and, within 20 days after receipt of the developer's corrections, the division shall notify the developer by mail that the division has either approved the filing or found additional specified deficiencies. If the division fails to approve or specify additional deficiencies within 20 days after receipt of the developer's corrections, the filing shall be deemed approved.

(3)(a) Any change to an approved filing shall be filed with the division for approval as an amendment prior to the effectiveness of the change. The division shall have 20 days to approve or cite deficiencies in the proposed amendment. If the division fails to act within 20 days, the amendment shall be deemed approved. If the developer fails to file corrections to any deficiency citation within 30 days, the division may reject the amendment.

(b) At the time amendments are delivered to purchasers, as provided in paragraph (a), the developer shall provide, to those who have not closed, a written statement that if any of such amendments materially alter or modify the offering in a manner which is adverse to the purchaser, the purchaser or lessee shall have a 10-day voidability period.

(4) Upon filing of a public offering statement, the developer shall pay a filing fee of \$1 for each time-share period which is to be part of the proposed time-share plan.

(5) Every public offering statement shall contain the following:

(a) A cover page stating only:

1. The name of the time-share plan; and
2. The following, in conspicuous type:

THIS PUBLIC OFFERING STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A TIME-SHARE PERIOD. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE

PURCHASER SHOULD REFER TO ALL REFERENCES, EXHIBITS HERETO, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ORAL REPRESENTATIONS AS BEING CORRECT. REFER TO THIS DOCUMENT AND ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE SELLER IS PROHIBITED FROM MAKING ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THE CONTRACT AND THIS PUBLIC OFFERING STATEMENT.

(b) A summary containing all statements required to be in conspicuous type in the offering statements and in all exhibits thereto.

(c) A separate index of the contents and exhibits of the public offering statement.

(d) A text, which shall include, where applicable, the disclosures set forth in paragraphs (e)-(hh) and a cross-reference to the location in the public offering statement of each exhibit.

(e) A description of the time-share plan, including, but not limited to:

1. Its name and location.
2. An explanation of the form of time-share ownership that is being offered, including a statement as to whether any interest in the underlying real property will be conveyed to the purchaser. If the plan is being created or being sold on a leasehold, the location of the lease in the exhibits to the public offering statement shall be stated.
3. An explanation of the manner in which the apportionment of common expenses and ownership of the common elements has been determined.

(f) A description of the accommodations and facilities, including, but not limited to:

1. The number of buildings, the number of units in each building, the number of time-share periods in each unit, the total number of time-share periods being offered, the number of bathrooms and bedrooms in each unit, and the total number of units and unit weeks.
2. The estimated latest date of completion of constructing, finishing, and equipping.
3. The maximum number of units and time-share periods that will use the accommodations and facilities. If the maximum number of units or time-share periods will vary, a description of the basis for variation and the minimum amount of dollars per time-share period to be spent for additional recreational facilities, or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a purchaser's maintenance expense or rental expense, the maximum increase and limitations thereon shall be stated.
4. Whether the developer intends to offer whole units in addition to time-share units.
5. The duration (in years) of the time-share plan.

(g) A description of the recreational and other commonly used facilities that will be used only by purchasers of the plan, including, but not limited to, the following:

1. Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.
2. Each swimming pool, its general location, approximate size, depths, and capacity, approximate deck size and capacity, and whether the pool is heated.
3. Additional facilities, the number of each facility, its approximate location, approximate size, and approximate capacity.
4. A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.
5. The estimated date when each room or other facility will be available for use by the purchaser.
6. An identification of each room, accommodation, or other facility to be used by purchasers that will not be owned by the purchasers or the association.

7. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities.

8. A description of the terms of the lease or other agreements, including the length of the term, the rent payable, directly or indirectly, by each purchaser, and the total rent payable to the lessor, stated in weekly, monthly, and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a purchaser's share or only as to the entire leased property.

9. A statement as to whether the developer may provide additional facilities not described above; their general locations and types; improvements or changes that may be made; the approximate dollar amount to be expended; and the estimated maximum additional common expense or cost to the individual purchaser that may be charged during the first annual period of operation of the modified or added facilities.

(h) A description of the recreational and other commonly used facilities that will not be used exclusively by purchasers of the time-share plan and which require the payment of any portion of the maintenance and expenses of such facilities, either directly or indirectly, by the purchasers. The description shall include, but not be limited to, the following:

1. Each building or facility committed to be built.
2. Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.
3. As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in subparagraph 2., a statement as to whether it will be owned by the purchasers having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.
4. The year in which each facility will be available for use by the purchasers or, in the alternative, the maximum number of purchasers in the project at the time each of the facilities is committed to be completed.
5. A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.
6. If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

(i)1. If any recreational facilities or other facilities offered by the developer for use by purchasers are to be leased or have club membership associated therewith, one of the following statements in conspicuous type shall be included: **THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS TIME-SHARE PLAN;** or, **THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS TIME-SHARE PLAN.** There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

2. If it is mandatory that unit owners pay a fee, rent, dues, or other charge under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

a. **MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR PURCHASERS;**

b. **PURCHASERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE;**

c. **PURCHASERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES);** or

d. A similar statement of the nature of the organization or the manner in which the use rights are created, and that purchasers are required to pay. Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

3. If the developer, or any other person other than the purchasers and other persons having use rights in the facilities, shall reserve, or be entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: **THE PURCHASERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.** Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

4. If, in any recreation format, whether leasehold, club, or other, any person other than the association shall have the right to a lien on the time-share periods to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

a. **THERE IS A LIEN OR LIEN RIGHT AGAINST EACH TIME-SHARE PERIOD TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. A PURCHASER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN;** or

b. **THERE IS A LIEN OR LIEN RIGHT AGAINST EACH TIME-SHARE PERIOD TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. A PURCHASER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.**

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(j) If the developer or any other person shall have the right to increase or add to the recreational facilities at any time after the establishment of the time-share plan, without the consent of the purchasers or associations being required, there shall appear a statement in conspicuous type in substantially the following form: **RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF THE PURCHASERS OR THE ASSOCIATION(S).** Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(k) An explanation of the status of the title to the real property underlying the time-share plan, including a statement of the existence of any lien, defect, judgment, mortgage, or other encumbrance affecting the title to the property, and how such lien, defect, judgment, mortgage, or other encumbrance will be removed or satisfied prior to closing.

(l) A description of any judgment against the developer, the managing entity, or owner of the underlying fee and the status of any pending suit to which the developer, the managing entity, or owner of the underlying fee is a party, which are material to the time-share plan, and any other suit material to the time-share plan of which the developer, managing entity, or owner of the underlying fee has actual knowledge. If no judgments or pending suits exist, a statement of such fact.

(m) All unusual and material circumstances, features, and characteristics of the real property.

(n) A description of any financing to be offered to purchasers by the developer or any person or entity in which the developer has a financial interest, together with a disclosure that the description of such financing may be changed by the developer and any change in the financing offered to prospective purchasers shall not be deemed to be a material change.

(o) A detailed explanation of any financial arrangements which have been provided for completion of all promised improvements.

(p) A statement as to whether the developer's plan includes a program of leasing units or time-share periods rather than selling them, or leasing and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in conspicuous type that: **THE UNITS (OR TIME-SHARE PERIODS) MAY BE TRANSFERRED SUBJECT TO A LEASE.**

(q) The name and address of the managing entity and whether the seller may change the managing entity or its control, and if so, the manner by which the seller may change the managing entity. The

arrangements for management, maintenance, and operation of the accommodations and facilities and of other property that will serve the purchasers, and a description of the management arrangement and any contracts for these purposes having a term in excess of 1 year, including the following:

1. The names of contracting parties.
2. The term of the contract.
3. The nature of the services included.
4. The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.
5. Copies of all described contracts shall be attached as exhibits.

(r) If the developer, or any person other than the purchaser, has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that condominium or cooperative to persons other than successors or alternate developers, and the plan is one in which all purchasers automatically become members of the association, then a statement in conspicuous type in substantially the following form shall be included: **THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.** Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(s) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a time-share period, then a statement in conspicuous type in substantially the following form shall be included: **THE SALE, LEASE, OR TRANSFER OF TIME-SHARE PERIODS IS RESTRICTED OR CONTROLLED.** Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of time-share periods is described in detail shall be stated.

(t) If the time-share plan is part of a phase project, there shall be a statement to that effect and a complete description of the phasing.

(u) A summary of the restrictions, if any, to be imposed on time-share periods concerning the use of any of the accommodations or facilities, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the time-share plan documents where such restrictions are found, or if such restrictions are contained elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit. If there are no restrictions, then a statement of such fact.

(v) If there is any land that is offered by the developer for use by the purchasers and which is neither owned by them nor leased to them, the association, or any entity controlled by the purchasers, a statement shall be made describing the land, how it will serve the time-share plan, and the nature and term of service. Immediately following this statement, the location in the disclosure materials where the declaration or other instrument creating such servitude shall be stated.

(w) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage will be provided, and the person or entity furnishing them.

(x) An estimated operating budget for the time-share plan and the association or managing entity and a schedule of the purchaser's expense shall be attached as an exhibit and shall contain the following information:

1. The estimated annual expenses of the time-share plan collectible from purchasers by assessments. A purchaser's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due. Expenses shall also be shown for the smallest time-share period offered for sale by the developer. If the time-share plan provides for the offer and sale of units to be used on a non-time-share basis, the estimated monthly and annual expenses shall be set forth in a separate schedule.

2. The estimated weekly, monthly, and annual expenses of the purchaser of each time-share period, other than assessments payable to the managing entity. There may be excluded from this estimate expenses that are personal to purchasers which are not uniformly incurred by all purchasers, or which are not provided for or contemplated by the time-share plan documents.

3. The estimated items of expenses of the time-share plan and the managing entity, except as excluded under subparagraph 2., including, but not limited to, the following items, which shall be stated either as a management expense collectible by assessments or as purchaser's expenses payable to persons other than the managing entity:

- a. Expenses for the managing entity:

- (I) Administration of the managing entity.

- (II) Management fees.

- (III) Maintenance.

- (IV) Rent for recreational and other commonly used facilities.

- (V) Taxes upon time-share property.

- (VI) Taxes upon leased areas.

- (VII) Insurance.

- (VIII) Security provisions.

- (IX) Other expenses.

- (X) Operating capital.

- (XI) Reserves for deferred maintenance and reserves for capital expenditures. All reserves shall be calculated by a formula which is based upon estimated life and replacement cost of each reserve item. Reserves for deferred maintenance shall include accounts for roof replacement, building painting, pavement resurfacing, replacement of unit furnishings and equipment, and any other component the useful life of which is less than the useful life of the overall structure.

- (XII) Fees payable to the division.

- b. Expenses for a purchaser:

- (I) Rent for the unit, if subject to a lease.

- (II) Rent payable by the purchaser directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a mandatory condition of ownership and is not included in the common expense or assessments for common maintenance paid by the purchasers to the association.

4. The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time that purchasers elect a majority of the board of administration and the period after that date.

5. If the developer intends to guarantee the level of assessments, a description of such arrangement, including, but not limited to:

- a. The specific time period during which the guarantee will be in effect.

- b. A statement that the developer will pay all expenses incurred in excess of the amounts collected from purchasers or unit owners other than the developer if the developer has excused himself from the payment of assessments during the guarantee period.

- c. The level, expressed in total dollars, at which the developer guarantees the budget.

6. If the developer intends to provide a trust fund to defer or reduce the payment of annual assessments, a copy of the trust instrument shall be attached as an exhibit, and shall include a description of such arrangement, including, but not limited to:

- a. The specific amount of such trust funds, and the source of the funds.

- b. The name and address of the trustee.

- c. The investment methods permitted by the trust agreement.

- d. A statement in conspicuous type that the funds from the trust account may not cover all assessments and that there is no guarantee that purchasers will not have to pay assessments in the future.

- (y) A schedule of estimated closing expenses to be paid by a purchaser or lessee of a time-share period and a statement as to whether a title opinion or title insurance policy is available to the purchaser and, if so, at whose expense.

(z) The identity of the developer and the chief operating officer or principal directing the creation and sale of the time-share plan and a statement of the experience of both in this field, or, if no experience, a statement of that fact.

(aa) Any service, maintenance, or recreation contracts or leases that may be canceled by the purchasers.

(bb) The total financial obligation of the purchaser, including the initial purchase price and any additional charges to which the purchaser may be subject.

(cc) The name of any person who will or may have the right to alter, amend, or add to the charges to which the purchaser may be subject and the terms and conditions under which such alterations, amendments, or additions may be imposed.

(dd) An explanation of the purchaser's rights of cancellation.

(ee) A description of the insurance coverage provided for the benefit of the purchasers.

(ff) A statement as to whether the time-share plan is participating in an exchange program and, if so, the name and address of the exchange company offering the exchange program.

(gg) Any other information that the seller, with the approval of the division, desires to include in the public offering statement.

(hh) Copies of the following, to the extent they are applicable, shall be included as exhibits:

1. The declaration of condominium, or the proposed declaration if the declaration has not been recorded.

2. The cooperative documents, or the proposed cooperative documents if the documents have not been recorded.

3. The declaration of covenants and restrictions, or proposed declaration if the declaration has not been recorded.

4. The articles of incorporation creating the association.

5. The bylaws of the association.

6. The ground lease or other underlying lease of the real property on which the time-share plan is situated.

7. The management agreement and all maintenance and other contracts regarding the management and operation of the time-share property which have a term in excess of 1 year.

8. The estimated operating budget for the time-share plan and the required schedule of purchasers' expenses.

9. A copy of the floor plan of each type of accommodation and the plot plan showing the location of all accommodations and facilities of the time-share plan.

10. The lease of recreational and other facilities that will be used only by purchasers of the time-share plan.

11. The lease of facilities used by purchasers and others.

12. The form of time-share period lease, if the offer is of a leasehold.

13. A declaration of servitude of properties serving the accommodations or facilities but not owned by purchasers or leased to them or the association.

14. The statement of condition of the existing building or buildings, if the offering is of time-share periods in an operation being converted to condominium or cooperative ownership.

15. The statement of inspection for termite damage and treatment of the existing improvements, if the time-share property is a conversion.

16. The form of agreement for sale or lease of time-share periods.

17. A copy of the executed agreement for escrow of payments made to the developer prior to closing.

18. A copy of the documents containing any restrictions on use of the property required by paragraph (u).

19. A copy of the documents creating the time-share plan.

20. A copy of any contract or lease to be signed by the purchasers.

(ii) Such other information as is necessary to fully and fairly disclose all aspects of the time-share plan. However, if a developer has, in good faith, attempted to comply with the requirements of this section, and if, in fact, he has substantially complied with the disclosure requirements of this chapter, nonmaterial errors or omissions shall not be actionable.

For purposes of this section, descriptions shall include locations, areas, capacities, numbers, volumes or sizes, and may be stated as approximations or minimums.

Section 7. Section 721.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 721.08, F.S., for present text.)

721.08 Escrow.—Prior to the filing of the public offering statement with the division, the developer shall establish an escrow account with an escrow agent for the purpose of protecting the purchasers' deposits. All escrow agents shall be independent of the developer and seller, and no developer or seller nor any officer, director, affiliate, subsidiary or employee thereof may serve as escrow agent. Escrow agents shall maintain the accounts called for in this section only in such a manner as to be under the direct supervision and control of the escrow agent. A fiduciary relationship shall exist between the escrow agent and the purchaser. The escrow agent shall retain all affidavits received pursuant to this section for a period of 5 years. Should the escrow agent receive conflicting demands for the escrowed funds or property, the escrow agent shall immediately either, with the consent of all parties, submit the matter to arbitration or, by interpleader or otherwise, seek an adjudication of the matter by court.

(1) One hundred percent of all funds or other property constituting the deposit, which is received from or on behalf of purchasers of the time-share plan or time-share period, shall be deposited pursuant to an escrow agreement approved by the division. The escrow agreement shall provide that the funds or property may be released from escrow only as follows:

(a) CANCELLATION.—

1. In the event a purchaser gives a valid notice of cancellation pursuant to s. 721.10 or is otherwise entitled to cancel the sale, the funds or property constituting the deposit made by the purchaser, or the proceeds thereof, shall be returned to the purchaser no later than 20 days after receipt by the developer of the notice of cancellation, or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later.

2. If the purchaser has received benefits under the contract prior to the effective date of the cancellation, the funds or property to be returned to the purchaser may be reduced by the proportion of contract benefits actually received.

(b) PURCHASER'S DEFAULT.—Following expiration of the 10-day cancellation period, if the purchaser defaults in the performance of his obligations under the terms of the contract to purchase or such other agreement by which the seller sells the time-share period, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or property and shall provide a copy of such affidavit to the purchaser who has defaulted. The developer's affidavit as required herein shall include:

1. The developer's statement that the purchaser has defaulted and that the developer has not;

2. A brief explanation of the nature of the default and the date of its occurrence;

3. A statement that pursuant to the terms of the contract the developer is entitled to the funds held by the escrow agent; and

4. A statement that the developer has not received from the purchaser any written notice of a dispute between the purchaser and developer or a claim by the purchaser to the escrow.

(c) COMPLIANCE WITH CONDITIONS.—

1. If the time-share plan is one in which time-share licenses are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or property upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

- (I) Expiration of the cancellation period.
- (II) Completion of construction.
- (III) Closing.
- (IV) Execution and recordation of the nondisturbance and notice to creditors instrument, as described in this section.

b. A certified copy of the recorded nondisturbance and notice to creditors instrument.

c. A copy of a memorandum of agreement, as defined in s. 721.05(16), which has been irretrievably delivered for recording.

2. If the time-share plan is one in which time-share estates are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or property upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

- (I) Expiration of the cancellation period.
- (II) Completion of construction.
- (III) Closing.

b. If the time-share estate is sold by agreement for deed, a certified copy of the recorded nondisturbance and notice to creditors instrument, as described in this section.

If the developer has previously provided a certified copy of any document required by this section, he may for all subsequent disbursements substitute a true and correct copy of the certified copy, provided that no changes to the document have been made or are required to be made.

(d) **NONDISTURBANCE AND NOTICE TO CREDITORS INSTRUMENT.**—The nondisturbance and notice to creditors instrument, where required, shall be executed by every person having an interest in the accommodations or facilities or having a lien, mortgage, or other encumbrance to which the facilities or accommodations are subject. The instrument shall state that, provided the party seeking enforcement is not in default of its obligations, the instrument may be enforced by both the seller and any purchaser of the time-share plan; that it shall be effective as between the time-share purchaser and interest holder despite any rejection or cancellation of the contract between the time-share purchaser and developer during bankruptcy proceedings of the developer; and that so long as the interest holder has any interest in the accommodations, facilities, or plan, the interest holder will fully honor all the rights of the time-share purchasers in and to the time-share plan, will honor the purchasers' right to cancel their contracts and receive appropriate refunds, and will comply with all other requirements of this chapter and rules promulgated hereunder. The instrument shall contain language sufficient to provide subsequent creditors of the developer and interest holders with notice of the existence of the time-share plan and of the rights of purchasers. It shall serve to protect the interest of the time-share purchasers from any claims of subsequent creditors. A copy of the recorded nondisturbance and notice to creditors instrument, where required, shall be provided to each time-share purchaser at the time the purchase contract is executed.

(2) In lieu of any escrows required by this section, the director of the division shall have the discretion to accept other assurances, including, but not limited to, a surety bond issued by a company authorized and licensed to do business in this state as surety, or an irrevocable letter of credit in an amount equal to the escrow requirements of this section.

(3) In lieu of any escrow provisions required by this act, the director of the division shall have the discretion to permit deposit of the funds or other property in an escrow account as required by the jurisdiction in which the sale took place.

(4) An escrow agent holding funds escrowed pursuant to this section may invest such escrowed funds in securities of the United States Government, or any agency thereof, or in savings or time deposits in institutions insured by an agency of the United States Government. The right to receive the interest generated by any such investments shall be paid to the party to whom the escrowed funds or property are paid unless otherwise specified by contract.

(5) Each escrow agent shall maintain separate books and records for each time-sharing plan and shall maintain such books and records in accordance with good accounting practices.

(6) Any developer, seller, or escrow agent who intentionally fails to comply with the provisions of this section concerning establishment of an escrow account, deposits of funds into escrow, and withdrawal therefrom shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successors thereof. The failure to establish an escrow account or to place funds therein as required in this section shall be prima facie evidence of an intentional and purposeful violation of this section.

Section 8. Subsections (2), (3), and (4) of section 721.09, Florida Statutes, are amended to read:

721.09 Reservation agreements; escrows.—

(2) Each executed reservation agreement shall be signed by the ~~developer seller and the escrow agent~~ and shall contain the following:

(a) A statement that the escrow agent will grant a prospective purchaser an immediate, unqualified refund of the reservation deposit upon either the purchaser's or the seller's written request directed to the escrow agent.

(b) A statement that the escrow agent may not otherwise release moneys unless a contract is signed by the purchaser, authorizing the ~~transfer release~~ of the escrowed reservation deposit as a deposit on the purchase price. Such deposit shall then be subject to the requirements of s. 721.08, ~~relating to escrow accounts, surety bonds, and nondisturbance instruments.~~

(c) A statement of the obligation of the developer to file a public offering statement with the division prior to entering into binding contracts.

(d) A statement of the right of the purchaser to receive the public offering statement required by this chapter.

(e) The name and address of the escrow agent and a statement that ~~the purchaser may obtain a receipt from the escrow agent shall provide a receipt upon request.~~

(f) A statement that the seller assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for the purchase or that the price represented may be exceeded within a stated amount or percentage or a statement that no assurance is given as to the price in the contract for purchase.

(3)(a) The total amount paid for a reservation shall be deposited into a reservation escrow account.

(b) ~~Escrow agents shall maintain the accounts called for in this section only in such a manner as to be under the direct supervision and control of the escrow agent. All funds paid in connection with the reservation of a time share shall be placed in an escrow account established solely for that purpose with an attorney who is a member of The Florida Bar, a bank having trust powers and located in this state, a savings and loan company located in this state, a trust company located in this state, or a real estate broker registered under chapter 475 or its successor. In lieu of the foregoing, with the approval of the division, the funds may be deposited into an escrow account required by the jurisdiction in which the sale took place.~~

(c) The escrow agent may invest the escrowed funds in securities of the United States Government, or any agency thereof, or in savings or time deposits in institutions insured by an agency of the United States Government. ~~The right to receive the interest generated by from any such investments shall be payable to the party entitled to receive the escrowed funds or property shall be as specified by the reservation agreement.~~

(d) The escrowed funds shall at all reasonable times be available for withdrawal in full by the escrow agent.

(e) Each escrow agent shall maintain separate books and records for each ~~time-share~~ ~~time-sharing~~ plan and shall maintain such books and records in accordance with good accounting practices.

(f) ~~Any seller or escrow agent who intentionally fails to comply with the provisions of this section regarding deposit of funds in escrow and~~

withdrawal therefrom shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successors thereof. The failure to establish an escrow account or to place funds therein as required in this section shall be prima facie evidence of an intentional and purposeful violation of this section.

~~(4) Any seller who intentionally fails to pay all required funds into the escrow account required by this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successor thereof.~~

Section 9. Section 721.10, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 721.10, F.S., for present text.)

721.10 Cancellation.—

(1) A purchaser shall have the right to cancel the contract until midnight of the 10th calendar day following whichever of the following occurs later:

(a) The execution date; or

(b) The day on which the purchaser received the last of all documents required to be provided to him.

This right of cancellation shall not be waived by any purchaser nor by any other person on behalf of the purchaser. Furthermore, no closing shall occur until the time-share purchaser's cancellation period has expired. Any attempt to obtain a waiver of the purchaser's cancellation rights, or a closing prior to the expiration of the cancellation period, shall be unlawful and such closing shall be voidable at the option of the purchaser for a period of 1 year after the expiration of the cancellation period. However, nothing in this section shall preclude the execution of documents in advance of closing for delivery after expiration of the cancellation period.

(2) Any notice of cancellation given by mail or telegraphic communication shall be considered given on the date postmarked, if mailed, or when transmitted from the place of origin, if telegraphed, so long as the notice is actually received by the developer or escrow agent. If given by means of a writing transmitted other than by mail or telegraph, it shall be considered given at the time of delivery at the place of business of the developer.

(3) In the event of a timely preclosing cancellation, or in the event the plan is one in which time-share licenses are sold and at any time the accommodations or facilities are no longer available, the developer shall honor the right of any purchaser to cancel the contract which granted the time-share purchaser rights in and to the plan. Upon such cancellation, the developer shall refund to the purchaser all payments made by the purchaser which exceed the proportionate amount of benefits made available under the plan, using the number of years of the proposed plan as the base. Such refund shall be made within 20 days of demand therefor by the purchaser or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later.

Section 10. Section 721.11, Florida Statutes, is amended to read:

721.11 Advertising materials.—

(1) All advertising materials relating to a time-share plan shall be filed with the division by the developer 10 days prior to use. All such advertising materials shall be substantially in compliance with this chapter, and in full compliance with the mandatory provisions of this chapter. In the event that such materials are not in compliance, the division may require the developer to correct the deficiency and, in the event the developer fails to correct the deficiency, the division may file administrative charges against the developer using such materials, and exact such penalties as provided in s. 721.26 ~~within 10 days of use.~~

(2) "Advertising materials" include:

(a) Promotional brochures, pamphlets, advertisements, or other materials to be disseminated to the public in connection with the sale of a time-share plan ~~time shares.~~

(b) Transcripts of radio and television advertisements.

(c) Lodging or vacation certificates.

(d) Transcripts of standard ~~oral verbal~~ sales presentations.

(e) Billboards and other signs posted on and off the premises ~~Any other advertising materials.~~

(f) Photographs, drawings, or artists' representations of accommodations or facilities of a time-share plan which exists or which will or may exist.

(g) Any paid publication relating to a time-share plan which exists or which will or may exist.

(h) Any other promotional device or statement related to a time-share plan, including prize and gift promotional offers as described in s. 721.111.

(3) "Advertising materials" shall not include:

(a) Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, registrations, property reports, or other materials required to be delivered to a prospective purchaser by an agency of any other state or the Federal Government.

(b) All communications addressed to and relating to the account of any person who has previously executed a contract for the sale and purchase of a time-share period in the time-share plan to which the communication relates, except when directed to the sale of additional time-share periods.

(c) Audio, written, or visual publications or materials relating to an exchange company or exchange program.

(4)(2) No advertising or oral statement made by any seller shall:

(a) Misrepresent a fact or create a false or misleading impression regarding the time-share ~~time sharing~~ plan or promotion thereof.

(b) Make a prediction of specific or immediate increases in the price or value of time-share periods.

(c) Contain a statement concerning future price increases by the seller which are nonspecific or not bona fide.

(d) Contain any asterisk or other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring a material fact.

(e) Describe any improvement to the time-share ~~time sharing~~ plan that is not required to be built or that is uncompleted unless the improvement is conspicuously labeled as "NEED NOT BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION" with the date of promised completion clearly indicated.

(f) Misrepresent the size, nature, extent, qualities, or characteristics of the offered accommodations or facilities.

(g) Misrepresent the amount or period of time during which the accommodations or facilities will be available to any purchaser.

(h) Misrepresent the nature or extent of any services incident to the time-share ~~time sharing~~ plan.

(i) Make any misleading or deceptive representation with respect to the contents of the public offering statement and the contract or the purchasers' rights, privileges, benefits, or obligations under the contract or this chapter.

(j) Misrepresent the conditions under which a purchaser may exchange the right to use accommodations or facilities in one location for the right to use accommodations or facilities in another location.

(k) Misrepresent the availability of a resale or rental program offered by or on behalf of the developer.

(l) Contain an offer or inducement to purchase which purports to be limited as to quantity or restricted as to time unless the numerical quantity and/or time limit applicable to the offer or inducement is clearly stated

(m) Imply that a facility is available for the exclusive use of purchasers if the facility will actually be shared by others or by the general public.

(n) Purport to have resulted from a referral unless the name of the person making the referral can be produced upon demand of the division.

(o) Misrepresent its source by leading a prospective purchaser to believe that the advertising material is mailed by a governmental or official agency, credit bureau, bank, or attorney, if such is not the case.

(p) Misrepresent the value of any prize, gift, or other item to be awarded in connection with any prize and gift promotional offer, as described in s. 721.111.

~~(5)(3) No written advertising material No promotional device, including any sweepstakes, lodging certificate, gift award, premium, discount, drawing, or display booth, may be utilized without a disclosure in conspicuous type that: THIS ADVERTISING MATERIAL IS BEING USED FOR THE PURPOSE OF SOLICITING SALES OF TIME-SHARE PERIODS.~~

(a) This subsection shall not apply to any advertising material which involves a project or development which includes sales of real estate or other commodities or services in addition to time-share periods, including, but not limited to, lot sales, condominium or home sales, or the rental of resort accommodations. However, if the sale of time-share periods, compared with such other sales or rentals, is the primary purpose of the advertising material, a disclosure shall be made in conspicuous type that: THIS ADVERTISING MATERIAL IS BEING USED FOR THE PURPOSE OF SOLICITING THE SALE OF... (Disclosure shall include time-share periods and may include other types of sales)...

(b) Factors which the division may consider in determining whether the primary purpose of the advertising material is the sale of time-share periods include:

1. The retail value of the time-share periods compared to the retail value of the other real estate, commodities, or services being offered in the advertising material.

2. The amount of space devoted to the time-share portion of the project in the advertising material compared to the amount of space devoted to other portions of the project, including, but not limited to, printed material, photographs, or drawings.

~~(a) The promotional device is being used for the purpose of soliciting sales of time-share periods; and~~

~~(b) The promotional device is being used to obtain the names and addresses of prospective purchasers and that any names and addresses acquired may be used for the purpose of soliciting sales of time-share periods.~~

~~(4) When a time share project uses free offers, gift enterprises, drawings, sweepstakes, or discounts as a promotional program, the rules of such promotional program shall be disclosed to the public and shall state:~~

~~(a) The name of each time sharing plan or business entity participating in the program.~~

~~(b) The day and year by which all prizes listed or offered will be awarded.~~

~~(c) The method by which all prizes are to be awarded.~~

~~(5) At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be awarded by the date and year specified in the promotion.~~

~~(6) The division shall require full disclosure of all pertinent information concerning the use of lodging certificates in a promotional campaign, including the terms and conditions of the campaign and the fact and extent of participation in such campaign by the developer. The division further may require reasonable assurances that the obligation incurred by a seller or the seller's agent in a lodging certificate program can be met. Such programs are subject to the prior approval of the division.~~

~~(7) If at any time the division determines that any advertising fails to meet the requirements of this section, the division may undertake enforcement action under the provisions of s. 721.26.~~

(1) As used herein, "prize and gift promotional offer" means any advertising materials wherein a prospective purchaser may receive goods or services other than the time-share plan itself, either free or at a discount, including, but not limited to, the use of any prize, gift, award, premium, or lodging or vacation certificate.

(2) No game promotion, such as contests of chance, gift enterprises, or sweepstakes, in which the elements of chance and prize are present, shall be used after January 1, 1985 in connection with the offering or sale of time-share periods. All gift promotions used until that time shall meet all requirements of this chapter and of ss. 849.092 and 849.094(1), (2), and (7).

(3) Any prize, gift, or other item offered pursuant to a prize and gift promotional offer shall be delivered to the prospective purchaser on the day he appears to claim it, whether or not he purchases a time-share period.

(4) A separate filing for each prize and gift promotional offer to be used in the sale of time-share periods shall be made with the division at least 10 days prior to the use of said offer by the developer. No advertising materials related to a prize and gift promotional offer shall be distributed unless filed first with the division with one item of each prize or gift made available for inspection by the division (except cash). If the division determines that any prize or gift has been misrepresented, and upon notification, the developer fails to correct such misrepresentation, the division may file administrative charges against the developer using such prize or gift promotional offers, and exact such penalties as provided in s. 721.26.

(5) Each filing of a gift and promotional offer with the division shall include, where applicable:

(a) A copy of all advertising materials to be used in connection with the prize and gift promotional offer.

(b) The name, address, and telephone number (including area code) of the supplier or manufacturer from whom each type or variety of gift, prize, or other item is obtained.

(c) The manufacturer's model number or other description of such item.

(d) The information on which the developer relies in determining the verifiable retail value.

(e) The name, address, and telephone number (including area code) of the promotional entity responsible for overseeing and operating the prize and gift promotional offer.

(f) The name and address of the registered agent in Florida of the promotional entity for service of process purposes.

(g) The number of anticipated recipients of each item of advertising material related to the prize and gift promotional offer.

(h) Full disclosure of all pertinent information concerning the use of lodging or vacation certificates, including the terms and conditions of the campaign and the fact and extent of participation in such campaign by the developer. The division may require reasonable assurances that the obligation incurred by a seller or his agent in a lodging certificate program can be met.

(6) Each developer shall pay to the division a fee of \$100 for the filing of each prize and gift promotional offer, at the time of filing. Those developers utilizing game promotions in which the elements of chance and prize are present shall pay an additional \$400 fee at the time of filing of the prize and gift promotional offer. No additional fee shall be charged for the submission of corrected advertising materials related to a prize and gift promotional offer, or for the submission of additional materials related to prize and gift promotional offers for which a prior filing has been made.

(7) All advertising material to be distributed in connection with a prize and gift promotional offer shall contain, in addition to the information required pursuant to the provisions of s. 721.11, the following disclosures:

(a) A description of the prize, gift, or other item that the prospective purchaser will actually receive, including the manufacturer's suggested retail price, or if none is available, the verifiable retail value.

Section 11. Section 721.111, Florida Statutes, is created to read:

721.111 Prize and gift promotional offers.—

(b) All rules, terms, requirements, and preconditions which must be fulfilled or met before a prospective purchaser may claim any gift, prize, or other item involved in the prize and gift promotional plan, including whether the prospective purchaser is required to attend a sales presentation in order to receive the prize, gift, or other item.

(c) The date upon which the offer expires.

(d) If the number of gifts, prizes, or other items to be awarded is limited, a statement of the number of items that will be awarded.

(e) The method by which prizes, gifts, or other items are to be awarded.

(8) All developers shall file with the division by March 1st of each year the following information regarding each prize and gift promotional offer used during the prior calendar year:

(a) The total number of each prize, gift, or other item actually awarded or given away.

(b) The names and addresses of all persons who actually received a prize, gift, or other item which had a verifiable retail value or manufacturer's suggested retail price in excess of \$200. This regulation shall not apply to recipients of lodging or vacation certificates.

(9) All prizes, gifts, or other items represented by the developer to be awarded in connection with all prize and gift promotional offers shall be awarded by the date referenced in the advertising material used in connection therewith.

Section 12. Subsection (1) of section 721.12, Florida Statutes, is amended to read:

721.12 Recordkeeping by seller.—Each seller of a *time-share time-sharing* plan shall maintain among its business records the following:

(1) A copy of each contract for the sale of a time-share period, which contract has not been canceled. ~~If a time-share estate is being sold fee title is being conveyed,~~ the seller is required to retain a copy of the contract only until a deed of conveyance, agreement for deed, or lease is recorded in the office of the clerk of the circuit court in the county wherein the plan is located.

Section 13. Paragraph (e) of subsection (3) of section 721.13, Florida Statutes, is amended, present subsection (4) is renumbered as subsection (5), and a new subsection (4) is added to said section, to read:

721.13 Management.—

(3) The duties of the managing entity shall include, but are not limited to:

(e) Arranging for an annual independent audit ~~to be conducted~~ of all the books and financial records of the *time-share time-sharing* plan by a certified public accountant in accordance with *generally accepted auditing standards as defined by the rules of the Board of Accountancy of the Department of Professional Regulation the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants*. A copy of the audit shall be forwarded to the officers of the owners' association; or, if no association exists, the owner of each time-share period shall be notified that such audit is available upon request.

(4) *In those time-share plans in which time-share estates are sold, no grant or reservation made by a declaration, lease, or other document, nor any contract made by the developer, managing entity, or owners' association which requires the owners' association or unit owners to purchase or lease any portion of the time-share property shall be valid unless approved by a majority of the purchasers other than the developer, after more than 50 percent of the time-share periods have been sold.*

Section 14. Section 721.14, Florida Statutes, is amended to read:

721.14 Discharge of managing entity.—

(1) ~~If time-share estates are a fee simple interest in real property~~ being sold to purchasers of a *time-share time-sharing* plan, the contract retaining a managing entity shall be automatically renewable every 3 years, beginning with the third year after the managing entity is first created or provided for the *time-share time-sharing* plan, unless the purchasers vote to discharge the managing entity. Such a vote shall be con-

ducted by the board of the owners' association. The managing entity shall be discharged if at least 66 percent of the purchasers voting, which shall be at least 50 percent of all votes allocated to purchasers, vote to discharge the managing entity.

(2) In the event the managing entity is discharged, the board of the owners' association shall be responsible for obtaining another managing entity. *If it fails to do so, any time-share owner may apply to the circuit court within whose jurisdiction the accommodations and facilities lie for the appointment of a receiver to manage the affairs of the association. At least 30 days prior to applying to the circuit court, the time-share owner shall mail to the association and post in a conspicuous place on the time-share property a notice describing the intended action, giving the association the opportunity to fill the vacancies. If during such time the association fails to fill the vacancies, the time-share owner may proceed with the petition. If a receiver is appointed, the association shall be responsible for the salary of the receiver, court costs, and attorney's fees. The receiver shall have all powers and duties of a duly constituted board of administration and shall serve until the association fills vacancies on the board sufficient to constitute a quorum.*

(3) The managing entity of a *time-share condominium time-sharing* plan subject to the provisions of chapter 718 or chapter 719 may be discharged pursuant to those chapters or their successors or pursuant to this section ~~or chapter 718 or its successor~~.

Section 15. Subsection (2) of section 721.15, Florida Statutes, is amended, and subsection (6) is added to said section, to read:

721.15 Assessments for common expenses.—

(2) After the creation or provision of a managing entity, the managing entity shall make an annual assessment against each purchaser for the payment of common expenses, based on the projected annual budget, in the amount specified by the contract between the seller and the purchaser. *No owner of a time-share period may be excused from his share of the common expenses unless all unit owners are likewise excused from payment, except the developer may be excused from the payment of his share of the common expenses which would have been assessed against those units during a stated period of time during which he has guaranteed to each purchaser in the time-share documents, or by agreement between the developer and a majority of the owners of time-share periods other than the developer, that the assessment for common expenses imposed upon the owners would not increase over a stated dollar amount. In the event of such a guarantee, the developer shall be obligated to pay any amount of common expenses incurred during the guarantee period which was not produced by the assessments at the guarantee level from other unit owners. The seller shall be assessed for the share of common expenses allocated to all time-share periods still owned by the seller at the time such assessment is made, unless the seller guarantees all common expenses of the time-share plan pursuant to the provisions of the contract or until the time control is turned over to the purchasers.*

(6) *Notwithstanding any contrary requirements of s. 718.112(2)(h) or s. 719.106(1)(g), for time-share plans subject to this chapter, assessments against purchasers need not be made more frequently than annually.*

Section 16. Section 721.17, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 721.17, F.S., for present text.)

721.17 Transfer of interest.—Except for those time-share plans subject to the provisions of chapter 718 or chapter 719, no developer or owner of the underlying fee shall sell, lease, assign, mortgage, or otherwise transfer the owner's or developer's interest in the accommodations or facilities of the time-share plan except by an instrument evidencing the transfer recorded in the public records of the county in which the accommodations or facilities are located. The instrument shall be executed by both the transferor and transferee and shall state:

(1) That its provisions are intended to protect the rights of all purchasers of the plan.

(2) That its terms may be enforced by any prior or subsequent time-share purchaser so long as that purchaser is not in default of his obligations.

(3) That the transferee will fully honor the rights of the purchasers to occupy and use the accommodations and facilities as provided in their original contracts and the time-share instruments.

(4) That the transferee will fully honor all time-share purchasers' rights to cancel their contracts and receive appropriate refunds.

(5) That the transferee's obligations thereunder will continue to exist despite any cancellation or rejection of the contracts between the developer and purchaser arising out of bankruptcy proceedings.

Should any transfer of the interest of the developer or owner of the underlying fee occur in a manner not in compliance with the above, the terms set forth in this section shall be presumed to be a part of the transfer and shall be deemed to be included in the instrument of transfer. Notice shall be mailed to each purchaser of record within 30 days of the transfer. Persons who hold mortgages on the property constituting a time-share plan before the public offering statement of such plan is approved by the division shall not be considered transferees for the purposes of this section.

Section 17. Section 721.175, Florida Statutes, is created to read:

721.175 Supervisory duties of developer.—Notwithstanding obligations placed upon any other persons by this chapter, it shall be the duty of the developer to supervise, manage, and control all aspects of the offering of the time-share plan, including, but not limited to, promotion, advertising, contracting, and closing. Any violation of this section which occurs during such offering activities shall be deemed to be a violation by the developer as well as by the person actually committing such violation.

Section 18. Section 721.18, Florida Statutes, is amended to read:

721.18 Exchange programs.—

(1) If a purchaser is offered the opportunity to subscribe to any exchange program ~~that provides exchanges of time-share periods among purchasers in either the same time-sharing plan or other time-sharing plans, or both,~~ the seller shall deliver to the purchaser, together with the public offering statement, and prior to the offering or execution of any contract between the purchaser and the company offering the exchange program, ~~or if the exchange company is dealing directly with the purchaser, the exchange company shall deliver to the purchaser prior to the initial offering or execution of any contract between the purchaser and the company offering the exchange program, and, in either case, the purchaser shall certify in writing to the receipt thereof,~~ written information regarding such exchange program, ~~including and the purchaser shall certify in writing to the receipt of such written information, which information shall include,~~ but is not limited to, the following, ~~the form and substance of which shall first be approved by the division in accordance with subsection (2):~~

- (a) The name and address of the exchange company.
- (b) The names of all officers, directors, and shareholders of the exchange company.
- (c) Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer, seller, or managing entity for any time-sharing plan participating in the exchange program and, if so, the name and location of the time-sharing plan and the nature of the interest.
- (d) Unless otherwise stated, a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the seller of the time-sharing plan.
- (e) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time-sharing plan with the exchange program.
- (f) A statement that the purchaser's participation in the exchange program is voluntary.
- (g) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange program and the procedure by which changes thereto may be made.
- (h) A complete and accurate description of the procedure to qualify for and effectuate exchanges.

(i) A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the exchange program, including, but not limited to, limitations on exchanges based on seasonality, unit size, or levels of occupancy, expressed in boldfaced type, and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied.

(j) Whether exchanges are arranged on a space-available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program.

(k) Whether and under what circumstances a purchaser, in dealing with the exchange program, may lose the use and occupancy of his time-share period in any properly applied for exchange without his being provided with substitute accommodations by the exchange program.

(l) The fees or range of fees for participation by purchasers in the exchange program, a statement whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made.

(m) The name and address of the site of each accommodation or facility included in the time-sharing plans participating in the exchange program.

(n) The number of the time-share units in each time-sharing plan which are available for occupancy and which qualify for participation in the exchange program, expressed within the following numerical groupings: 1-5; 6-10; 11-20; 21-50; and 51 and over.

(o) The number of currently enrolled purchasers for each time-sharing plan participating in the exchange program, expressed within the following numerical groupings: 1-100; 101-249; 250-499; 500-999; and 1,000 and over; and a statement of the criteria used to determine those purchasers who are currently enrolled with the exchange program.

(p) The disposition made by the exchange company of time-share periods deposited with the exchange program by purchasers enrolled in the exchange program and not used by the exchange company in effecting exchanges.

(q) The following information, which shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported on an annual basis beginning no later than July 1, 1982:

1. The number of purchasers currently enrolled in the exchange program.
2. The number of accommodations and facilities that have current affiliation agreements with the exchange program.
3. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange program divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for.
4. The number of time-share periods for which the exchange program has an outstanding obligation to provide an exchange to a purchaser who relinquished a time-share period during the year in exchange for a time-share period in any future year.
5. The number of exchanges confirmed by the exchange program during the year.

(r) A statement in boldfaced type to the effect that the percentage described in subparagraph (q)3. is a summary of the exchange requests entered with the exchange program in the period reported and that the percentage does not indicate a purchaser's probabilities of being confirmed to any specific choice or range of choices.

(2) Each exchange company offering an exchange program to purchasers in this state shall file the information specified in subsection (1) at least 20 days prior to July 1 of each year. However, an exchange company shall make its initial filing at least 20 days prior to offering an exchange program to any purchaser in Florida. Each filing shall be accompanied by an annual filing fee of \$500. Within 20 days of receipt of such filing, the division shall determine whether the filing is adequate to meet the requirements of this section and shall notify the exchange company in writing that the division has either approved the filing or found specified deficiencies. If the division fails to respond within 20 days, the filing shall be deemed approved. The exchange company may correct the deficiencies; and, within 10 days after receipt of the exchange company's corrections, the division shall notify the exchange company in writing that the division has either approved the filing or found additional specified deficiencies. ~~with the division annually.~~ If at

any time the division determines that any of such information supplied by an exchange company fails to meet the requirements of this section, the division may undertake enforcement action against the exchange company in accordance with the provision of s. 721.26. No developer shall have any liability with respect to any violation of this chapter arising out of the publication by the developer of information provided to it by an exchange company pursuant to this section. No exchange company shall have any liability with respect to any violation of this chapter arising out of the use by a developer of information relating to an exchange program other than that provided to the developer by the exchange company.

(3) *Audio, written or visual publications or materials relating to an exchange company or an exchange program shall be filed with the division within 3 days of their use. Only a person who has purchased a time-share period in a time-share unit may participate in an exchange program.*

(4) The failure of an exchange company to observe the requirements of this section, or the use of any unfair or deceptive act or practice in connection with the operation of an exchange program, is a violation of this chapter.

Section 19. Section 721.20, Florida Statutes, is amended to read:

721.20 License required to sell.—Any seller of a *time-share time-sharing* plan shall be a licensed real estate salesman, broker, or broker-salesman, as defined in s. 475.01 pursuant to chapter 475 or its successor. No seller or developer shall employ any person for the purposes of offering time-share periods for sale unless such person is a licensed salesman, broker, or broker-salesman as defined in s. 475.01 or its successor, and shall be subject to all of the provisions of that chapter. This section shall not apply to those individuals who offer for sale only time-share periods located outside of this state and who do not engage in any sales activities within this state, nor to those time-share ~~those~~ individuals who are exempt from chapter 475 or to those time-sharing plans which are registered with the Securities and Exchange Commission. For purposes of this section, both time-share licenses and time-share estates are considered to be interests in real property.

Section 20. Section 721.21, Florida Statutes, is amended to read:

721.21 Purchasers' remedies.—An action for damages or injunctive or declaratory relief for a violation of this chapter may be brought by any purchaser or association of purchasers against the developer, a seller, an escrow agent, or the managing entity. The prevailing party in any such action, or in any action in which the purchaser claims a right of voidability based upon either a closing prior to the expiration of the cancellation period or an amendment which materially alters or modifies the offering in a manner adverse to the purchaser, may be entitled to reasonable attorney's fees. Relief under this section does not exclude any other remedies provided by law.

Section 21. Section 721.22, Florida Statutes, is amended to read:

721.22 Partition.—

(1) No action for partition of any time-share unit shall lie, unless otherwise provided for in the contract between the seller and the purchaser.

(2) *If a time-share estate exists as an estate for years with a future interest, the estate for years shall not be deemed to have merged with the future interest, but neither the estate for years nor the corresponding future interest shall be conveyed or encumbered separately from the other.*

Section 22. Subsection (4) and paragraphs (c) and (d) of subsection (5) of section 721.26, Florida Statutes, are amended to read:

721.26 Regulation by division.—In addition to other powers and duties prescribed by chapters 498, 718, and 719, the division has the power to enforce and ensure compliance with the provisions of this chapter. In performing its duties, the division shall have the following powers and duties:

(4) The division may prepare and disseminate a prospectus and other information to assist prospective purchasers, sellers, and managing entities of *time-share time-sharing* plans in assessing the rights, privileges, and duties pertaining thereto. *The division is authorized to promulgate rules pursuant to chapter 120 as necessary to implement, enforce, and interpret this chapter.*

(5) Notwithstanding any remedies available to purchasers, if the division has reasonable cause to believe that a violation of this chapter has occurred, the division may institute enforcement proceedings in its own name against any developer, exchange program, seller, managing entity, association, or other person as follows:

(c) The division may bring an action in circuit court for declaratory or injunctive relief or other appropriate relief, including appointment of receivers and restitution.

(d)1. The division may impose a civil penalty against any developer, exchange program, seller, managing entity, association, escrow agent, or other person for a violation of this chapter. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed \$10,000. All accounts collected shall be deposited with the Treasurer to the credit of the Florida Real Estate Time-Sharing Trust Fund.

2. If a developer, exchange program, seller, escrow agent, or other person fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer, exchange program, seller, escrow agent, or other person cease and desist from further operation until such time as the civil penalty is paid; or the division may pursue enforcement of the penalty in a court of competent jurisdiction. If an association or managing entity fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction.

Section 23. Section 721.27, Florida Statutes, is amended to read:

721.27 Annual fee for each time-share period in plan.—On or before January 1 of each year, each managing entity shall collect as a common expense and pay to the division an annual fee of \$1 50 cents for each time-share period within the *time-share time-sharing* plan.

Section 24. Section 718.1065, Florida Statutes, is hereby repealed.

Section 25. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 409.325, relating to public assistance fraud.
3. Chapter 517, relating to sale of securities.
4. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing and horseracing.
5. Section 551.09, relating to jai alai frontons.
6. Chapter 552, relating to the manufacture, distribution, and use of explosives.
7. Chapter 562, relating to beverage law enforcement.
8. Chapter 687, relating to interest and usurious practices.
9. Chapter 782, relating to homicide.
10. Chapter 784, relating to assault and battery.
11. Chapter 787, relating to kidnapping.
12. Chapter 790, relating to weapons and firearms.
13. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.
14. Chapter 806, relating to arson.
15. Chapter 812, relating to theft, robbery, and related crimes.
16. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
17. Chapter 831, relating to forgery and counterfeiting.
18. Chapter 832, relating to issuance of worthless checks and drafts.

- 19. Chapter 837, relating to perjury.
- 20. Chapter 838, relating to bribery and misuse of public office.
- 21. Chapter 843, relating to obstruction of justice.
- 22. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
- 23. Section 849.09, s. 849.14, s. 849.15, s. 849.23, s. 849.24, or s. 849.25, relating to gambling.
- 24. Chapter 893, relating to drug abuse prevention and control.
- 25. Sections 918.12-918.14, relating to tampering with jurors, evidence, and witnesses.
- 26. Sections 721.08, 721.09, or 721.13, relating to real estate time-share plans.

Section 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 27. It is the intent of the Legislature that:

- (1) This act shall apply to time-share plans existing on or after the effective date of this act, but this act shall not be construed to effect the impairment of any existing contract;
- (2) Time-share plans which have been filed and approved by the Division of Florida Land Sales and Condominiums of the Department of Business Regulation prior to the effective date of this act shall submit all amendments necessary to bring the time-share plan into compliance with the provisions of this act and obtain approval of said amendments no later than October 1, 1983;
- (3) As to contracts entered into prior to the effective date hereof, amendments made only for the purpose of bringing a time-share plan into compliance with this act shall for purposes of voidability, be determined not to be material or adverse; and
- (4) Time-share plans which have been filed and approved by the division prior to the effective date of this act may continue to rely on the provisions of section 718.202, Florida Statutes, relating to the use of sales or reservation deposits for construction purposes prior to closing.

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

Amendment 1A—On page 64, between lines 9 and 10, insert:

Section 28. Subsection (6) of section 192.037, Florida Statutes, 1982 Supplement, is amended to read:

(Substantial rewording of section. See s. 192.037(6), F.S., for present text.)

Section 192.037 Fee Time-share Real Property; Taxes and Assessments.—

- (6)(a) Funds received by a managing entity, its successors or assigns, from time-share titleholders for ad valorem taxes or special assessments, shall be placed in escrow as provided in this section for release as provided herein;
- (b) The escrow account shall be placed with an independent escrow agent who shall comply with the provisions of this chapter relating to escrow agents.
- (c) The principal of such escrow account shall only be paid to the tax collector, or his deputy, of the county in which the time-share development is located.
- (d) Interest earned upon any sum of money placed in escrow under the provisions of this section, shall be paid to the managing entity, its successors or assigns, for the benefit of the owners of time-share units provided, however, that no interest shall be paid unless all taxes on the time-share development have been paid.
- (e) A statement of receipts and disbursements of the escrow account shall be forwarded to the division within 30 days after any disbursement shall have been made, appropriately showing the amount of principal and interest reflected in such account.

Section 29. This act shall take effect July 1, 1983 or upon becoming a law, whichever occurs later.

(Renumber subsequent section.)

Amendment 1 as amended was adopted.

Senator Johnston moved the following amendment which was adopted:

Amendment 2—In title, on page 3, line 16, after the semicolon (;) insert: amending s. 192.037(6), Florida Statutes, 1982 Supplement; providing procedures for the payment of certain ad valorem taxes and special assessments;

Senator Vogt moved the following amendment which was adopted:

Amendment 3—In title, on pages 1-3, strike everything before the enacting clause and insert: A bill to be entitled An act relating to real estate time-share plans; amending s. 721.02(2), Florida Statutes, and adding a new subsection (3), providing that full and fair disclosure to purchasers and prospective purchasers of time-share plans is one of the purposes of chapter 721, Florida Statutes; amending s. 721.03, Florida Statutes, 1982 Supplement, relating to the scope of the chapter; amending s. 721.05, Florida Statutes, providing definitions; amending s. 721.04, Florida Statutes, relating to certain time-share plans; amending s. 721.06, Florida Statutes, 1982 Supplement, relating to contracts for the purchase of time-share periods; prohibiting attempts to obtain waivers of cancellation rights; providing requirements for contracts; amending s. 721.07, Florida Statutes, providing procedures with respect to public offering statements; amending s. 721.08, Florida Statutes, relating to escrow provisions; amending s. 721.09(2), (3), and (4), Florida Statutes; requiring escrow agents to maintain escrow accounts in a specified manner; providing a penalty for sellers or escrow agents who intentionally fail to comply with certain escrow deposit requirements; amending s. 721.10, Florida Statutes, relating to the cancellation of purchase transactions with respect to time-sharing; amending s. 721.11, Florida Statutes; defining advertising materials and providing restrictions; providing penalties; requiring disclosure with respect to certain advertising; creating s. 721.111, Florida Statutes, relating to prize and gift promotional offers; providing requirements; providing penalties; amending s. 721.12(1), Florida Statutes, relating to recordkeeping by the seller; amending s. 721.13(3)(e), Florida Statutes, and adding a new subsection (4); requiring annual audits to be conducted in a certain manner; requiring purchasers to approve certain agreements; amending s. 721.14, Florida Statutes, providing for the appointment of a receiver to run the affairs of the association under certain circumstances; amending s. 721.15(2), Florida Statutes, and adding subsection (6) thereto, prohibiting excuse of time-share owners from paying a share of common expenses; providing exceptions; providing that assessments against time-share purchasers need not be made more frequently than annually; amending s. 721.17, Florida Statutes, providing for the transfer of interest in a time-share plan; creating s. 721.175, Florida Statutes, providing for supervisory duties of developers; amending s. 721.18, Florida Statutes, relating to exchange programs, modifying filing requirements and procedures and providing an annual filing fee; amending s. 721.20, Florida Statutes, prohibiting sellers or developers from employing nonlicensed persons to sell time-share periods; amending s. 721.21, Florida Statutes, relating to purchasers' remedies; amending s. 721.22, Florida Statutes, relating to partition; amending s. 721.26(4) and (5)(c) and (d), Florida Statutes, authorizing the division to bring an action for appropriate relief in circuit court for violations of the chapter; providing rulemaking authority; amending s. 721.27, Florida Statutes, increasing to \$1 the annual fee for each time-share period; repealing s. 718 1065, Florida Statutes, relating to condominium partition; amending s. 895.02(1)(a), Florida Statutes; defining certain violations as "racketeering activity"; providing application of the act; providing an effective date.

On motion by Senator Vogt, by two-thirds vote HB 1046 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Childers, W. D.	Gordon	Jenne
Barron	Dunn	Grant	Jennings
Beard	Fox	Grizzle	Johnston
Carlucci	Frank	Hair	Kirkpatrick
Castor	Gersten	Henderson	Langley
Childers, D.	Girardeau	Hill	Malchon

Mann	Myers	Stuart	Weinstein
Maxwell	Neal	Thomas	
McPherson	Plummer	Thurman	
Meek	Rehm	Vogt	

Nays—None

CS for SB 476 was laid on the table.

On motion by Senator Weinstein, by unanimous consent—

SB 942—A bill to be entitled An act relating to expressway authorities; creating part VI of chapter 348, Florida Statutes; creating the Broward County Expressway Authority Law; providing definitions; creating the Broward County Expressway Authority; providing for the purposes and powers of the authority; providing for bonds; providing for a lease-purchase agreement between the authority and the Department of Transportation; providing that the department may be appointed by the Division of Bond Finance of the Department of General Services as the division's agent for certain purposes; providing for the acquisition of land and property by eminent domain; providing for cooperation; providing for the covenant of the state; providing an effective date.

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

The Committee on Transportation recommended the following amendments which were moved by Senator Weinstein and adopted:

Amendment 1—On page 5, strike all of lines 7-11 and insert: shall serve a term of 4 years. In the event that a member appointed by the Governor does not remain in elected office the said member's seat

Amendment 2—On page 5, strike line 29 and insert: chairman of the authority to serve for a term of 2 years. The authority shall also elect a

Amendment 3—On page 6, strike all of lines 23-25 and insert: utilize employees and contractors of the county through a contractual agreement with the county. Members of the authority may be removed from office by the Governor, or the Board of County Commissioners of Broward County, whichever appointed the member, for

Amendment 4—On page 11, strike all of lines 18-22 and insert: lease-purchase agreement.

(4) Upon the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute shall be transferred in accordance with law by the authority to the state. At this point the Department of Transportation at its discretion may provide that any toll, rate, fee, or rental collected may be continued. Such revenues shall be used only for repair, operation, and maintenance or for extensions, additions, or improvements to the system.

(Renumber subsequent subsections.)

Amendment 5—On page 15, lines 8 and 9, strike "or upon becoming a law, whichever occurs later"

Pending further consideration of SB 942 as amended, on motions by Senator Weinstein, by two-thirds vote CS for CS for HB 841 was withdrawn from the Committees on Transportation and Governmental Operations.

On motion by Senator Weinstein—

CS for CS for HB 841—A bill to be entitled An act relating to expressway authorities; creating part VI of chapter 348, Florida Statutes; creating the Broward County Expressway Authority Law; providing definitions; providing for the creation of the Broward County Expressway Authority; providing for the purposes and powers of the authority; providing for bonds; providing for a lease-purchase agreement between the authority and the Department of Transportation; providing that the department may be appointed by the Division of Bond Finance of the Department of General Services as the division's agent for certain purposes; providing for the acquisition of land and property; providing the power of eminent domain; providing for cooperation; providing for the covenant of the state; providing an effective date.

—a companion measure, was substituted for SB 942 and by two-thirds vote read the second time by title. On motion by Senator Weinstein, by two-thirds vote CS for CS for HB 841 was read the third time by title, passed and certified to the House.

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Barron, Thomas

SB 942 was laid on the table.

On motion by Senator Mann, by unanimous consent—

CS for SB 298—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 377.242, Florida Statutes; prohibiting the construction on certain submerged lands of structures to drill for, explore for, or produce oil, gas, or petroleum products; prohibiting such structures on certain uplands under certain circumstances; amending s. 377.37, Florida Statutes; providing penalties; amending s. 377.075(1), Florida Statutes; establishing the Florida Geological Survey; providing an effective date.

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

Senator Mann moved the following amendments which were adopted:

Amendment 1—On page 2, line 15, strike everything after the enactment clause and insert:

Section 1. Subsection (1) of section 377.075, Florida Statutes, is amended to read:

377.075 Division of Resource Management; geological functions.—

(1) PERSONNEL.—The Department of Natural Resources shall, through the Division of Resource Management, *establish the Florida Geological Survey and* employ such suitable persons; as in the judgment of the department may be necessary to conduct the geological survey of the state.

Section 2. Section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department shall be vested with the power and authority:

(1) To issue permits for the drilling for, exploring for, or production of oil, gas, or other petroleum products which are to be extracted from below the surface of the land, including submerged lands, only through the well hole drilled for oil, gas, and other petroleum products.

(a) No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be *permitted* or constructed on any submerged land *within all bays and estuaries*.

(b) *No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile seaward of the coastline of the state or as otherwise provided in s. 377.24(7).*

(c) No ~~such~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products shall be *permitted* or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

(d) *No structure intended for the drilling for, or production of, oil, gas, or other petroleum products shall be permitted or constructed permit shall be granted within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, any bay or estuary, or within 1 mile of any freshwater lake, river, or stream coastline unless the department division is satisfied that the natural resources of such bodies of water estuaries, beaches, and shore areas of the state will be adequately protected in the event of accident or blowout.*

(e) Paragraphs (a) and (d) shall not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, said conditions and stipulations shall govern and supersede paragraphs (a) and (d).

(f) The prohibition in this subsection shall not include "infield gathering lines," provided that no other placement is reasonably available and all other required permits have been obtained.

(2) Each permit shall contain an agreement by the permit holder that the permit holder will not prevent inspection by division personnel at any time.

(3)(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

Section 3. Subsection (1) of section 377.37, Florida Statutes, is amended, and subsection (3) is added to said section to read:

377.37 Penalties.—

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), or any lessee, permit holder, or operator of equipment or facilities used in the exploration, drilling, or production of oil, gas, or other petroleum products who refuses inspection by the division as provided in this chapter, shall be liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

(b) Whenever two or more persons pollute the air or waters of the state in violation of this chapter or any rule, regulation, or order of the department so that the damage is indivisible, each violator shall be jointly and severally liable for such damage and for the reasonable cost and expenses of the state incurred in tracing the source of discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including the animal, plant, and aquatic life of the state, to their former condition. However, if said damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage attributable to his violation. ~~for a civil penalty of up to \$500 per day for every day during which said violation occurs.~~

(c) The payment of any damages or penalties as provided for herein shall not have the effect of changing illegal product into legal product, illegal oil into legal oil, or illegal gas into legal gas; nor shall such payment have the effect of authorizing the sale, purchase, acquisition, transportation, refining, processing, or handling in any other way of such illegal oil, illegal gas, or illegal product.

(d) The payment of any such damages or penalties shall not impair or abridge any cause of action which any person may have against the person violating any provision of this law or any rule, regulation, or order for an injury resulting to him from such violation.

(3) Moneys collected as fines collected for violations of this part, implementing rules, or permit conditions shall be paid into the Hazardous Waste Management Trust Fund, as established pursuant to s. 403.725. Moneys from these fines shall be used first to pay all amounts necessary to restore the polluted areas which were the subject of state action. Any remaining moneys shall be used in accordance with the provisions of s. 403.725.

Section 4. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, lines 1-31, and on page 2, lines 1-9, strike everything before the enacting clause and insert: A bill to be

entitled An act relating to energy resources; amending s. 377.075(1), Florida Statutes, directing the Department of Natural Resources, through the Division of Resource Management, to establish the Florida Geological Survey; amending s. 377.242, Florida Statutes, relating to permits for drilling or exploring and extracting through well holes or by other means; amending s. 377.37(1), Florida Statutes, and adding a subsection; providing penalties with respect to violations of state laws governing energy resources; providing for the disposition of moneys collected pursuant to certain violations; providing an effective date.

On motion by Senator Mann, 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 as amended CS for HB 234 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Natural Resources and Representatives T. C. Brown and Healey—

CS for HB 234—A bill to be entitled An act relating to energy resources; amending s. 377.075(1), Florida Statutes, directing the Department of Natural Resources, through the Division of Resource Management, to establish the Florida Geological Survey; amending s. 377.242, Florida Statutes, relating to permits for drilling or exploring and extracting through well holes or by other means; amending s. 377.37(1), Florida Statutes, and adding a subsection; providing penalties with respect to violations of state laws governing energy resources; providing for the disposition of moneys collected pursuant to certain violations; providing an effective date.

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

CONSENT CALENDAR, continued

On motions by Senator Mann, the rules were waived and CS for HB 234, a companion measure, was substituted for CS for SB 298 and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 298 was laid on the table.

EXECUTIVE BUSINESS

The Senate resumed consideration of the Executive Order of Suspension of Daniel H. Bennett as Sheriff of Flagler County.

On motion by Senator Jenne, the foregoing report of the Special Master on the Executive Order of Suspension of Daniel H. Bennett from the office of Sheriff of Flagler County was accepted and adopted and the Senate removed Daniel H. Bennett from said office effective January 6, 1983. The vote was:

Yeas—39

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

Henderson	Langley	Meek	Stuart
Hill	Malchon	Myers	Thomas
Jenne	Mann	Neal	Thurman
Jennings	Margolis	Plummer	Vogt
Johnston	Maxwell	Rehm	Weinstein
Kirkpatrick	McPherson	Scott	

Nays—None

SPECIAL ORDER

CS for SB 362—A bill to be entitled An act relating to health care; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 483.011-483.328, Florida Statutes; amending ss. 483.031-483.071, 483.091, 483.101, 483.111-483.181, 483.201, 483.21, 483.23-483.25, 483.288, 483.291, 483.317, 483.32, Florida Statutes; creating ss. 483.052, 483.152-483.154, 483.251, Florida Statutes; providing exemptions; providing definitions; providing for rules; providing for licensure of clinical laboratories and personnel; providing for fees; providing for inspections; providing for approval of training programs; requiring display of license; providing for inactive status; requiring continuing education or reexamination, providing for minimum qualifications; providing for acceptance of laboratory tests; providing for disciplinary actions; specifying offenses and criminal penalties; providing for administrative fines and penalties; creating an advisory council; allowing to stand repealed under the Regulatory Sunset Act s. 483.297, Florida Statutes, as amended, relating to an advisory council; providing for consolidation of regulation; providing for legislative review; providing an effective date.

—was taken up with pending Amendment 1.

On motion by Senator Langley, CS for SB 362 was established as a special order for 4:15 p.m. this day.

On motion by Senator Barron, the rules were waived by unanimous consent and the Senate reverted to Introduction for the purpose of introducing the following resolution out of order:

INTRODUCTION AND REFERENCE OF BILLS

By Senator Barron—

SR 1208—A resolution commemorating the departure of John Van Gieson from the Capitol Press Corps.

—which was read the first time by title. On motion by Senator Barron, SR 1208 was read the second time in full and adopted. The vote on adoption was

Yeas—38

Mr. President	Gersten	Johnston	Plummer
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
Dunn	Hill	McPherson	Weinstein
Fox	Jenne	Meek	
Frank	Jennings	Myers	

Nays—None

CS for SB 365—A bill to be entitled An act relating to migrant labor camps; revising, reviving, and readopting ss. 381.422-381.482, Florida Statutes, notwithstanding the Regulatory Sunset Act; amending s. 381.422, Florida Statutes; providing definitions; amending s. 381.432, Florida Statutes, and adding new subsections (2) and (3) to said section; requiring a permit for migrant labor camps; requiring notice for migrant dwelling units; providing exemptions; amending s. 381.442, Florida Statutes; requiring application for permit; creating s. 381.445, Florida Statutes; establishing permit fees; providing for fees to be deposited in a trust fund; specifying uses of moneys in the trust fund; amending s. 381.452, Florida Statutes; providing for issuance and expiration of permit; amending s. 381.462, Florida Statutes; providing for revocation of permit; requiring posted notice prior to effective date of revocation; amending s. 381.472, Florida Statutes; providing for rules; amending s. 381.482, Florida Statutes; providing right of entry to inspect; providing for legislative review; providing an effective date.

—was read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

Amendment 1—On pages 1-6, strike everything after the enacting clause and insert:

Section 1. Section 381.422, Florida Statutes, is amended to read:

381.422 Definitions; migrant labor camps.—As used in ss. 381.432-381.482, the following words and phrases shall mean:

(1) "Migrant labor camp" means:—one or more buildings or structures, tents, trailers, or vehicles, or any portion thereof, together with the land appertaining thereto, established, operated, furnished incident to employment, or used as living quarters for five or more seasonal, temporary, or migrant farm workers, whether or not rent is paid or reserved in connection with the use or occupancy of such premises. *Migrant dwelling units, as defined herein, and public lodging establishments licensed pursuant to chapter 509 are not included in this definition; however, all other housing described in this subsection is included in this definition, regardless of its primary purpose or design, or regardless of whether it is offered to the general public. It is the intent of this section to require all such housing to be subject to the provisions of either chapter 509 or this chapter.*

(2) "Migrant dwelling units" means one-family, two-family, or three-family houses or dwelling units established, operated, or used as living quarters for five or more seasonal, temporary, or migrant farm workers, whether or not rent is paid or reserved in connection with the use or occupancy of such premises.

(3)(2) "Department" means:—the Department of Health and Rehabilitative Services or its representative county health units.

Section 2. Section 381.432, Florida Statutes, is amended to read:

381.432 ~~Permit or notice License required for establishment, maintenance, or operation of migrant labor camp.—~~

(1) No person shall establish, maintain, or operate any migrant labor camp in this state without first obtaining a ~~permit license~~ therefor from the ~~department Department of Health and Rehabilitative Services~~ and unless such ~~permit license~~ is posted and kept posted in the camp to which it applies at all times during maintenance or operation of the camp.

(2) No person shall establish, maintain, or operate any migrant dwelling unit in this state without first filing a notice with the department on the form provided for that purpose by the department.

Section 3. Section 381.442, Florida Statutes, is amended to read:

381.442 Application for ~~permit license~~.—Application for a ~~permit license~~ to establish, operate, or maintain a migrant labor camp shall be made to the ~~department Department of Health and Rehabilitative Services~~ in writing and on a form and under rules regulations prescribed by the department. The application shall state the location of the existing or proposed migrant labor camp, the approximate number of persons to be accommodated, the probable duration of use, and any other information the department may require.

Section 4. Section 381.452, Florida Statutes, is amended to read:

381.452 Issuance of ~~permit; notice of closure license~~.—

(1) If the ~~department Department of Health and Rehabilitative Services~~ is satisfied, after causing an inspection to be made, that the camp meets the minimum standards of construction, sanitation, equipment, and operation required by rules regulations issued under s. 381.472, it shall issue in the name of the department the necessary ~~permit license~~ in writing on a form to be prescribed by the department. The ~~permit license~~, unless sooner revoked, shall expire on September 30 next after the date of issuance unless renewed, and it shall not be transferable. All applications for renewal shall be filed with the department 30 days prior to its expiration on form blanks furnished by the department.

(2) At least 14 days prior to closing any facility permitted under this chapter, the department shall post on the premises, in language understood by the occupants, written notice of pending closure.

Section 5. Section 381.462, Florida Statutes, is amended to read:

381.462 Revocation of ~~permit license~~.—The ~~department Department of Health and Rehabilitative Services~~ may revoke a ~~permit license~~ autho-

rizing the operation of a migrant labor camp if it finds the holder has failed to comply with any provision of this law or of any ~~rule regulation~~ ~~or order~~ issued hereunder.

Section 6. Section 381.472, Florida Statutes, is amended to read:

~~381.472 Rules Authority to issue regulations.—The department of Health and Rehabilitative Services shall adopt and enforce make, promulgate, and repeal such rules and regulations as it may determine to be necessary to protect the health and safety of the general public and persons living in migrant labor camps or migrant dwelling units, including provisions relating to construction of camps, sanitary conditions, light, air, safety, minimum living space per occupant, equipment, maintenance and operation of the camp, enforcement of the applicable uniform firesafety standards established by the State Fire Marshal pursuant to s. 633.05(8), and such other matters as it may determine to be appropriate or necessary for the protection of the life and health of the occupants. Any unit of a camp used for family residential purposes shall contain, within such unit, provision for a potable water supply. Rules adopted hereunder may be enforced in the manner provided in s. 381.031(3). Such rules shall be a part of the Sanitary Code of Florida created by s. 381.031(1)(g). Violations of these provisions or rules adopted hereunder shall be subject to the penalties provided in ss. 381.112 and 381.411.~~

Section 7. Section 381.482, Florida Statutes, is amended to read:

~~381.482 Right of entry.—The department of Health and Rehabilitative Services or its inspectors may enter and inspect migrant labor camps and migrant dwelling units at reasonable hours and investigate such facts, conditions, and practices or matters, as may be necessary or appropriate to determine whether any person has violated any provisions of this law or the rules promulgated hereunder by the department and regulations of the department pertaining hereto are being violated. The department shall annually may from time to time at its discretion publish summarized the reports pertaining to of such inspections.~~

Section 8. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, sections 381.422, 381.432, 381.442, 381.452, 381.462, 381.472, and 381.482, Florida Statutes, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended herein.

Section 9. Sections 381.422, 381.432, 381.442, 381.452, 381.462, 381.472, and 381.482, Florida Statutes, are repealed on October 1, 1993, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes, the Regulatory Sunset Act.

Section 10. This act shall take effect July 1, 1983.

Amendment 2—In title, on page 1, strike all of lines 1-26 and insert: A bill to be entitled An act relating to migrant labor camps; amending s. 381.422, Florida Statutes, to clarify, update, and provide new definitions; amending s. 381.432, Florida Statutes, requiring a permit prior to establishment, operation, or maintenance of a migrant labor camp; requiring notice to the Department of Health and Rehabilitative Services prior to establishment, operation, or maintenance of a migrant dwelling unit; amending s. 381.442, Florida Statutes, requiring appropriate application to be filed; amending s. 381.452, Florida Statutes, clarifying and deleting obsolete language; requiring notice of closure; amending s. 381.462, Florida Statutes, providing for revocation of permit under certain circumstances; amending s. 381.472, Florida Statutes, directing the Department of Health and Rehabilitative Services to adopt necessary rules; amending s. 381.482, Florida Statutes, relating to the right of entry of the department; requiring annual departmental reports; saving the aforesaid sections of chapter 381, Florida Statutes, from Sunset review and repeal scheduled October 1, 1983; providing for future review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

Pending further consideration of CS for SB 365, on motion by Senator D. Childers, the rules were waived and by two-thirds vote HB 1164 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator D. Childers—

HB 1164—A bill to be entitled An act relating to migrant labor camps; amending s. 381.422, Florida Statutes, to clarify, update, and provide new definitions; amending s. 381.432, Florida Statutes, requiring a

permit prior to establishment, operation, or maintenance of a migrant labor camp; requiring notice to the Department of Health and Rehabilitative Services prior to establishment, operation, or maintenance of a migrant dwelling unit; amending s. 381.442, Florida Statutes, requiring appropriate application to be filed; amending s. 381.452, Florida Statutes, clarifying and deleting obsolete language; requiring notice of closure; amending s. 381.462, Florida Statutes, providing for revocation of permit under certain circumstances; amending s. 381.472, Florida Statutes, directing the Department of Health and Rehabilitative Services to adopt necessary rules; amending s. 381.482, Florida Statutes, relating to the right of entry of the department; requiring annual departmental reports; saving the aforesaid sections of chapter 381, Florida Statutes, from Sunset review and repeal scheduled October 1, 1983; providing for future review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

—a companion measure, was substituted for CS for SB 365 and read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

Amendment 1—On pages 2-6, strike everything after the enacting clause and insert:

Section 1. Section 381.422, Florida Statutes, is amended to read:

381.422 Definitions; migrant labor camps.—As used in ss. 381.432-381.482 the following words and phrases shall mean:

(1) "Migrant labor camp".—One or more buildings or structures, tents, trailers, or vehicles, or any portion thereof, together with the land appertaining thereto, established, operated, furnished as incident of employment, or used as living quarters for five or more seasonal, temporary, or migrant farm workers whether or not rent is paid or reserved in connection with the use or occupancy of such premises. Migrant labor camp also includes two or more migrant dwelling units located on the property of one person, but one migrant dwelling unit or a public lodging establishment licensed pursuant to chapter 509, is not included in this definition. However, all other housing described in this section is included in this definition, regardless of its primary purpose or design, or regardless of whether it is offered to the general public. It is the intent of this section to require all such housing to be subject to the provisions of either chapter 509 or this law.

(2) "Migrant dwelling units".—One family, two family or three family houses or dwelling units established, operated or used as living quarters for seasonal, temporary or migrant farm workers whether or not rent is paid or reserved in connection with the use or occupancy of such premises.

(3)(2) "Department".—The Department of Health and Rehabilitative Services.

Section 2. Section 381.432, Florida Statutes, is amended to read:

381.432 Permit or notice License required for establishment, maintenance, or operation of migrant labor camp; exemptions.—

(1) **PERMIT REQUIRED.**—No person shall establish, maintain, or operate any migrant labor camp in this state without first obtaining a permit license therefor from the department of Health and Rehabilitative Services and unless such permit license is posted and kept posted in the camp to which it applies at all times during maintenance or operation of the camp.

(2) **FILING OF NOTICE REQUIRED.**—No person shall establish, maintain, or operate any migrant dwelling unit in this state without first filing a notice with the department on the form provided for that purpose by the department.

(3) **EXEMPTIONS.**—Migrant labor camps and migrant dwelling units providing housing for four or fewer temporary, seasonal, or migrant farm workers are exempt from the provisions of this section.

Section 3. Section 381.442, Florida Statutes, is amended to read:

381.442 Application for permit license.—Application for a permit license to establish, operate, or maintain a migrant labor camp shall be made to the department of Health and Rehabilitative Services in writing and on a form and under rules regulations prescribed by the department. The application shall state the location of the existing or proposed

migrant labor camp, the approximate number of persons to be accommodated, the probable duration of use, and any other information the department may require.

Section 4. Section 381.445, Florida Statutes, is created to read:

381.445 Fees.—

(1) Each migrant labor camp operator subject to the provisions of s. 381.432 shall pay to the department the following annual fees, which shall be set by the department by rule within the ranges specified herein:

(a) Camps with facilities for 1 to 50 occupants: Not less than \$50, nor more than \$75.

(b) Camps with facilities for 51 to 100 occupants: Not less than \$100, nor more than \$150.

(c) Camps with facilities for 101 or more occupants: Not less than \$150, nor more than \$225.

(2) Notwithstanding s. 154.06, fees collected under this section shall be deposited in a trust fund administered by the department, and shall be used solely for actual costs incurred in implementing and enforcing this act.

(3) Until the department adopts rules establishing fees under subsection (1), the lower amount in each range shall apply.

(4) Fees established pursuant to subsection (1) shall be based on the actual costs incurred by the department in carrying out its regulatory responsibilities under ss. 381.422-381.482.

Section 5. Section 381.452, Florida Statutes, is amended to read:

381.452 Issuance of *permit license*.—If the department of ~~Health and Rehabilitative Services~~ is satisfied, after causing an inspection to be made, that the camp meets the minimum standards of construction, sanitation, equipment, and operation required by ~~rules regulations~~ issued under s. 381.472 and the applicant has paid the fees required by s. 381.445, it shall issue in the name of the department the necessary *permit license* in writing on a form to be prescribed by the department. The ~~permit license~~, unless sooner revoked, shall expire on ~~September June~~ 30 next after the date of issuance unless renewed, and it shall not be transferable. All applications for renewal shall be filed with the department 30 days prior to its expiration on form blanks furnished by the department.

Section 6. Section 381.462, Florida Statutes, is amended to read:

381.462 Revocation of *permit; notice license*.—The department of ~~Health and Rehabilitative Services~~ may revoke a *permit license* authorizing the operation of a migrant labor camp if it finds the holder has failed to comply with any provision of this law or of any ~~rule regulation or order~~ issued hereunder.

Section 7. Section 381.472, Florida Statutes, is amended to read:

381.472 ~~Rules Authority to issue regulations~~.—The department of ~~Health and Rehabilitative Services~~ shall ~~adopt make, promulgate, and repeal such rules and regulations as it may determine to be necessary to~~ protect the health and safety of persons living in migrant labor camps or *migrant dwelling units and the general public*, including provisions relating to construction of camps, sanitary conditions, light, air, safety, minimum living space per occupant, equipment, maintenance and operation of the camp, enforcement of the applicable uniform firesafety standards established by the State Fire Marshal pursuant to s. 633.05(8), and such other matters as it may determine to be appropriate or necessary for the protection of the life and health of the occupants. Any unit of a camp used for family residential purposes shall contain, within such unit, provision for a potable water supply. *Rules adopted hereunder may be enforced in the manner provided in s. 381.031(3). Such rules shall be part of the Sanitary Code of Florida created by s. 381.031(1)(g)11. Violations of these provisions or rules adopted hereunder shall be subject to the penalties of ss. 381.112 and 381.411.*

Section 8. Section 381.482, Florida Statutes, is amended to read:

381.482 Right of entry.—The department of ~~Health and Rehabilitative Services~~ or its inspectors may enter and inspect migrant labor camps and *migrant dwelling units* at reasonable hours and investigate such facts, conditions, and practices or matters, as may be necessary or appropriate to determine whether any person has violated any provisions of this law or rules ~~adopted by and regulations of the department pertaining~~

~~hereto are being violated.~~ *The right of entry shall also extend to any premises which the department has reason to believe is being established, maintained, or operated as a migrant labor camp without a permit, but no such entry shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same.* The department may from time to time at its discretion publish the reports of such inspections.

Section 9. Notwithstanding the provisions of the Regulatory Sunset Act, sections 381.422 through 381.482, Florida Statutes, shall not stand repealed on October 1, 1983, as scheduled by such act, but such sections, as amended, are hereby revived and readopted.

Section 10. Sections 381.422 through 381.482, Florida Statutes, are repealed on October 1, 1993, and shall be reviewed pursuant to section 11.61, Florida Statutes.

Section 11. This act shall take effect October 1, 1983.

Amendment 2—In title, on page 1, strike all of lines 1-29 and insert: A bill to be entitled An act relating to migrant labor camps; revising, reviving, and readopting ss. 381.422-381.482, Florida Statutes, notwithstanding the Regulatory Sunset Act; amending s. 381.422, Florida Statutes; providing definitions; amending s. 381.432, Florida Statutes, and adding new subsections (2) and (3) to said section; requiring a permit for migrant labor camps; requiring notice for migrant dwelling units; providing exemptions; amending s. 381.442, Florida Statutes; requiring application for permit; creating s. 381.445, Florida Statutes; establishing permit fees; providing for fees to be deposited in a trust fund; specifying uses of moneys in the trust fund; amending s. 381.452, Florida Statutes; providing for issuance and expiration of permit; amending s. 381.462, Florida Statutes; providing for revocation of permit; requiring posted notice prior to effective date of revocation; amending s. 381.472, Florida Statutes; providing for rules; amending s. 381.482, Florida Statutes; providing right of entry to inspect; providing for legislative review; providing an effective date.

On motion by Senator D. Childers, by two-thirds vote HB 1164 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 365 was laid on the table.

On motion by Senator D. Childers, the rules were waived and by two-thirds vote HB 1075 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator D. Childers—

HB 1075—A bill to be entitled An act relating to rehabilitation of drug dependents; amending s. 397.011, Florida Statutes, clarifying purpose and intent; amending s. 397.021(3), (4), (5), and (6), Florida Statutes; redefining certain terms; redesignating DATE centers as DATAP programs and changing the components thereof; amending s. 397.051, Florida Statutes, requiring certain treatment programs, rather than the Department of Health and Rehabilitative Services, to receive applications for admission and to establish a fee system; amending s. 397.052(2) and (4), Florida Statutes, requiring the court to issue a specified summons and increasing the period of involuntary treatment; creating s. 397.0525, Florida Statutes, authorizing the directors of certain drug treatment programs to refuse to admit persons to or to expel persons from their programs; amending s. 397.055(1), Florida Statutes, deleting provisions relating to the collection of fees for drug abuse care, maintenance, or treatment; amending s. 397.081, Florida Statutes, authorizing certain accreditation in lieu of written application requirements of licensure; authorizing licensure fees; amending s. 397.091(1), Florida Statutes, and adding a new subsection (1), authorizing the issuance of a probationary

license; amending s. 397.096, Florida Statutes, providing for the confidentiality of certain treatment records; amending s. 397.20, Florida Statutes, increasing the period of treatment for which the payment is reimbursable; amending ss. 397.031(1), (4), and (5), 397.041(4), 397.061, 397.071, 397.092, 397.094, 397.095, 397.098, 397.12, 397.13, 397.14, 397.15, 397.16, 397.17, 397.18, and 397.19, Florida Statutes, to conform to the act; generally conforming new language throughout chapter 397, Florida Statutes; repealing s. 397.11, Florida Statutes, relating to definitions; saving ss. 397.071-397.099, Florida Statutes, from sunset review and repeal scheduled October 1, 1983; providing for future review and repeal of said sections; providing an effective date.

—a companion measure, was substituted for CS for SB 367 and read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

Amendment 1—On page 11, line 8, after “programs.” insert: *Any publicly funded DATAP program or private nonprofit DATAP program with a volunteer staff shall not be required to pay any of the fees set by the department for licensure.*

Amendment 2—On page 13, strike all of lines 20-28

On motion by Senator W. D. Childers, by two-thirds vote HB 1075 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

CS for SB 367 was laid on the table.

Senator Thomas presiding

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

REPORTS OF COMMITTEES

EXECUTIVE BUSINESS

Senator Jenne, chairman of the Committee on Executive Business, moved that the Senate take no action and fail to confirm the appointment of Gary R. Rutledge as Secretary of Business Regulation. The motion was adopted by the following vote:

Yeas—32

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

Nays—2

Gersten Plummer

Vote after roll call:

Nay—Dunn

CS for SB 964—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 20.04(4), Florida Statutes, relating to structure of the executive branch; amending s. 20.19(1), (3), (4)(a) and (g), (5)(a), (9)(a) and (c), (11), and (17)(b), Florida Statutes, 1982 Supplement; clarifying provisions relating to the organizational structure of the department; providing for establishment of a

set of goals, to be revised every 5 years; redesignating the Assistant Secretary for Administrative Services and the Assistant Secretary for Program Planning and Development as the Assistant Secretary for Administration and the Assistant Secretary for Program Planning, respectively; reorganizing service districts and subdistricts; providing for annual departmental program evaluation of 10 percent of the department's programs, rather than 20 percent; providing criteria for transfer of staff and funding; providing an effective date.

—was read the second time by title.

Senator Neal moved the following amendments which were adopted:

Amendment 1—On page 12, strike all of lines 13 and 14 and insert: District 6, Subdistrict A.—Hillsborough and Manatee Counties;

Amendment 2—On page 12, strike line 22 and insert: District 8, Subdistrict A. B.—Sarasota and

Senator D. Childers moved the following amendments which were adopted:

Amendment 3—On page 16, strike line 24 and insert:

Section 4. Section 382.29, Florida Statutes, is amended to read:

382.29 Department to keep accurate accounts ~~and transmit funds monthly to State Treasurer.~~—A true and correct account of all sums transmitted to the Department of Health and Rehabilitative Services by the several county court judges and clerks of the circuit courts of the state, under the provisions of s. 382.24, shall be kept by the department, and the department shall each month ~~deposit~~ *transmit* such funds so received by it *in a trust fund administered by the department, and such funds shall be used for the sole purpose of carrying out the responsibilities of the department under this chapter. It is the intent of the Legislature that total fees assessed under this chapter shall be in an amount sufficient to meet the cost of carrying out the provisions of this chapter.* ~~to the State Treasurer; the State Treasurer shall place such funds so transmitted to him to the credit of the General Revenue Funds and sufficient moneys shall be appropriated by the Annual Appropriations Act for the efficient administration of this chapter.~~

Section 5. Subsections (6) and (7) of section 382.35, Florida Statutes, are amended to read:

382.35 Disclosure of information; certified copies of birth certificates, birth cards, etc.; copies as evidence; searches of records; fees; disposition of fees.—

(6) The State Registrar shall be entitled to fees as follows:

(a) *Not less than \$2.50 or more than \$5* ~~Two dollars~~ for the first calendar year of records searched for a record of birth, fetal death, death, marriage, dissolution of marriage, or other vital record, and \$1 for each additional calendar year of records searched, up to a maximum of \$25. This fee entitles the applicant to one certification of the record, if located.

(b) *Not less than \$10 or more than \$20* ~~Five dollars~~ for filing a delayed certification of birth, death, or stillbirth. *This fee entitles the applicant to one certification of the record, if filed.*

(c) *Not less than \$10 or more than \$20* ~~Five dollars~~ for processing and filing a correction on a death record or a correction on a birth record; ~~provided there shall be no fee for processing and filing a correction on a birth record of a child less than 6 months of age.~~ *This fee entitles the applicant to one certification of the record.*

(d) *Not less than \$10 or more than \$20* ~~Five dollars~~ for processing and filing a new birth certificate for reason of adoption or for reason of determination of paternity. *This fee entitles the applicant to one certification of the new certificate.*

(e) *Not less than \$2 or more than \$4* ~~Two dollars~~ for each certification of a vital record in excess of one certification of a vital record for which a fee for search is paid or for which a filing fee is paid, *when ordered at the same time.*

(f) *Not less than \$5 or more than \$10* ~~Three dollars~~ for processing and forwarding each exemplified copy of a vital record.

(g) *Not less than \$5 or more than \$10* ~~Four dollars~~ for each search of state census records.

(h) Not less than \$5 or more than \$10 for expedited processing of an initial certified copy or certified statement of a vital record.

(i) Not less than 2 cents or more than 4 cents for each vital record listed on computer tape.

Until rules establishing fees under this subsection are promulgated by the Department of Health and Rehabilitative Services, the fees assessed pursuant to this subsection shall be the minimum fees cited. All fees are due and payable at the time that services are requested and shall be nonrefundable, except that when a search is conducted and no vital record is found, any fees for additional copies shall be refunded.

(7) All fees prescribed herein shall be paid by the applicant. The Department of Health and Rehabilitative Services may waive any or all of the fees required in this section. The State Registrar shall keep a true and correct account of all fees required under this section and deposit such fees in a trust fund to be used by the department for the efficient administration of this chapter ~~turn the same over to the State Treasurer to the credit of the General Revenue Fund.~~

Section 6. Sections 382.46 and 382.47, Florida Statutes, are hereby repealed.

Section 7. Section 382.48, Florida Statutes, is amended to read:

382.48 Remedy cumulative.—The method of obtaining delayed birth certificates under ss. 382.40-382.45 ~~382.47~~ shall be cumulative and in addition to any other method now or hereafter provided by law for obtaining delayed birth certificate, but no person may establish more than one birth certificate.

Section 8. Subsection (2) of section 741.04, Florida Statutes, is hereby repealed.

Section 9. Section 514.033, Florida Statutes, is amended to read:

514.033 Creation of fee schedules authorized.—

(1) The Department of Health and Rehabilitative Services is authorized to establish a schedule of fees to be charged by the department or by any authorized local health unit as detailed in s. 514.032 for the review of applications and plans to construct, develop, modify, or add to a public swimming pool or bathing place and for the issuance of permits to operate such establishments. *It is the intent of the Legislature that total fees assessed under this act shall be in an amount sufficient to meet the cost of carrying out the provisions of this chapter. The fee schedule for fiscal year 1983-1984 shall be the minimum fees provided in this section and such schedule shall remain in effect until the effective date of a fee schedule promulgated by rule by the Department of Health and Rehabilitative Services. The fee schedule* ~~However, public swimming pools or bathing places owned or operated by the state shall be exempt from such charges. Maximum limits of the various fees shall be: for original construction or development, not less than \$100 or more than \$250 to exceed \$250; for a modification of or an addition to, not less than \$65 or more than \$85 to exceed \$75; for initial operation, not less than \$65 or more than \$85 to exceed \$75; for reissuance of permit, not less than \$65 or more than \$85; and for annual renewal, not less than \$15 or more than \$25. Fifty percent of the fees charged for annual renewal shall be deposited into a trust fund established as set forth in subsection (3) and 50 percent shall be returned to the counties for deposit in the local health unit trust fund to be used toward payment of the costs incurred in the administration of the local health units' responsibilities under this chapter. to exceed \$50~~

(2) Fee payment shall accompany the initial submission of applications to construct, develop, modify, add to, or operate a public swimming pool or bathing place, or for reissuance or annual renewal of permit. Fee payments are not refundable.

(3) Fees charged by the Department of Health and Rehabilitative Services in accordance with provisions of this chapter shall be paid into a trust fund within the Department of Health and Rehabilitative Services for the payment of costs incurred in ~~the General Revenue Fund to be used toward~~ the administration of this chapter *except as provided in subsection (1).* However, any local health unit performing review and permitting functions under the provisions of s. 514.032 shall deposit any funds collected thereby in the local health unit trust fund.

Section 10. Sections 1-3 of this act shall take effect October 1, 1983, and sections 4-10 of this act shall take effect July 1, 1983.

Amendment 4—On page 24, between lines 23 and 24, insert a new Section 4:

Section 4. Section 402.33, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 402.33, F.S., for present text.)

402.33 Department authority to charge fees for services provided.—

(1) As used in this section:

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

(b) "Client" means any natural person receiving services provided by the department, including supervision, care and maintenance, but not as a licensee subject to the department's regulation for purposes of licensure.

(c) "Responsible party" means any person legally responsible for the financial support of the client and may include a minor client's natural or adoptive parent, a client's spouse, an estate or trust established for the financial support of a client, but not a payor of third party benefits.

(d) "Third party benefits" means moneys received by or owing to a client or responsible party because of the client's need for or receipt of services such as those provided by the department. Such benefits include, but are not limited to, benefits from insurers, medicare, and workers' compensation.

(e) "Fee collections" means all fees collected under this section including all collections earned under Titles XVIII and XIX of the Social Security Act for services provided clients insured or otherwise covered by such titles.

(f) "Representative payee" means an individual or entity which acts on behalf of a client as the receiver of any or all benefits owing to the client.

(2) The department, in accordance with rules established by it, shall either charge, assess, or collect, or cause to be charged, assessed, or collected, fees for any service it may provide its clients either directly or through its agencies or contractors, except for:

(a) Diagnosis and evaluation procedures necessary to determine the client's eligibility and need for services provided by the department;

(b) Customary and routine information and referral services;

(c) Educational services provided in lieu of public education;

(d) Specific services exempted by an act of the Legislature from fee assessment;

(e) Emergency shelter or emergency detention care and custody;

(f) Specific classes or types of services provided in programs funded by grants, donations or contracts that prohibit charging fees; or

(g) Any type of service for which the department determines that the net estimated revenue from such fees after deducting any loss of funds from federal grants occasioned by such fees will be less than the estimated cost to charge and collect such fees.

Fees, other than third party benefits and benefit payments, shall not be charged for services provided to indigents whose only source of income is from state and federal aid. In addition, fees shall not be charged parents of a minor client for services requested by the minor without parental consent or for services provided a minor client who has been permanently committed to the care and custody of the department with parental rights permanently severed. The department shall not require a client who is receiving wages below minimum wage pursuant to the U.S. Fair Labor Standards Act to pay fees from such wages. Voluntary payments for services shall be encouraged.

(3) Fees not specifically set elsewhere by statute shall be reasonably related to the cost of providing the service, but shall not exceed the average cost of the service, and the client receiving or benefiting from the service or the client's responsible party shall be liable for any such fee assessed. The department shall actively assist clients or their responsible parties in obtaining any financial benefits they are entitled to by law, or as the beneficiaries of trusts, annuities, retirement funds or insurance contracts, only insofar as the department and its vendors shall be the payee in the rendering of such service. The department may serve as the

representative payee in receiving such benefits for the client or responsible party and shall use such benefits received to reduce the client's or responsible party's liability for fees assessed. Before reducing such liability, the department shall provide for the client's incidental personal expenses allowed by departmental rule and shall bill any insurer or other payor of third party benefits who may be obligated by contract or law to provide or to participate in the cost of providing the service or services to the client for which the fees were assessed.

(4) The department shall:

(a) At least annually, determine or establish the cost of providing services for which charges shall be made. A determination of this cost shall be made within 90 days of the effective date of this act.

(b) Annually review uniform criteria for determining ability to pay or to participate in the cost of service.

(5) Payment of charges shall not be a prerequisite to treatment or care.

(6)(a) The department shall not require a client or responsible party to pay fees it may assess that exceed their ability to pay. Such ability to pay shall be based upon the income of the client or responsible party, including any inheritance or bequests they may receive and shall be determined according to uniform criteria and rules adopted by the department, unless the amount of the fee is specifically established by statute. The department shall assess the effect upon clients, responsible parties, services, and revenues of determining ability to pay based upon:

1. The client's or responsible party's gross income, the number of persons dependent on that income, and the number of such persons who are clients; and

2. The client's or responsible party's income, less fixed domestic expenses, including a maximum amount of expenses as set forth by the department for each category of domestic expense so that any expenditures by the client or responsible party which exceed the maximum allowed shall not be deducted from gross income for the purpose of determining ability to pay

By January 1, 1984, the department shall submit to the Legislature a report on the possible effects of the program required pursuant to this paragraph and a plan recommending one of the alternatives for implementation requiring implementation within 3 years.

(b) The department is authorized to require financial information from clients or their responsible parties, in order to determine the client's or responsible party's ability to pay, including the source of current or potential income or benefits that might be available to pay the cost of services provided or assets that may be available to assure payment of the fees. If the required information is not furnished within a time period established by departmental rule, the department may enter suit to enforce the requirement or may bill the client or responsible party for the full cost of services, less reimbursements from third party payors for such services. The department shall verify such financial information in accordance with the most economical uniform procedures. If the cost of services, less recoveries from third party payors, exceeds the client's or responsible party's ability to pay, the department shall reduce the client's or responsible party's liability for fees assessed to an amount not in excess of the ability-to-pay determination.

(7)(a) The department shall by rule establish procedures for clients or responsible parties to request review of assessed fees. Further, the department shall advise such clients or responsible parties of the criteria which are used to make determinations on fee reduction or waiver requests.

(b) If the department denies a fee reduction or waiver request, it shall inform the client or responsible party of his right to appeal the decision pursuant to the provisions of chapter 120.

(8)(a) Unpaid fees for services provided by the department to a client shall constitute a lien on any property owned by the client or the client's responsible party which is not exempt by s. 4, Art. X of the State Constitution. If fees are not paid within 6 months after they are billed, the department shall charge interest on the unpaid balance at a rate equal to the average rate of interest earned by the State Treasury on state funds deposited in commercial banks as reported by the State Treasurer for the previous year. The department is authorized to negotiate and settle any delinquent account, and to charge off any delinquent account consistent

with the authority and requirements of s. 402.17, even though the department's claim may be against the client, a responsible party, or a payor of third party benefits, either directly for the department or as a fiduciary for the client or responsible party.

(b) If negotiation and settlement cannot be effected within a time period established by its rules, and charging off the account is not appropriate, the department shall then file the lien for the unpaid fees for recordation by the clerk of the circuit court in such county or counties the department determines to be in the best interest of the state. Services for which fees were charged shall constitute a claim against the client, the client's responsible party, or against any insurer obligated to pay for the services provided. Said liens and claims shall be enforced on behalf of the state by the department. Liens and claims upon recordation with the clerk of the circuit court shall be continuing obligations until 3 years after the demise of the client or the client's responsible party, unless satisfied earlier.

(c) Upon the death of a person against whom the department has a claim, the department shall file such caveats as are in the best interest of the state. If the department effects recovery, the fund from which the filing fee for the caveat was paid shall be reimbursed.

(9)(a) Upon the effective date of this section, the department shall begin an orderly review of all services provided clients to assure that fees now assessed conform to the provisions of this section. Additional service fees, when and if required, shall be established according to a time schedule and financial plan.

(b) Unless otherwise specified by the Legislature, fee collections, including third party reimbursements, in excess of fee-supported appropriations may be used, *in conformance with the provisions of chapter 216*, to fund nonrecurring expenditures for direct client services and to fund administrative costs of improving the department's fee collection program. No more than one-sixth of collections in excess of appropriations shall be used to fund such improvements to the program. Priority consideration for the expenditure of excess collections shall be given to those districts and programs most responsible for the excess. A plan for the use of excess collections not spent in the fiscal year in which collected shall be subject to approval by the Executive Office of the Governor within 90 days of the end of the state fiscal year in which the excess occurs. For the first 2 years after the effective date of this section, the department shall submit quarterly reports to the Legislature and to the Executive Office of the Governor on excess fee collections and expenditures therefrom.

(10) *The provisions of this section shall not apply to contributions or fees described in s. 410.024(8).*

(Renumber subsequent section.)

Senator Gordon moved the following amendment which was adopted:

Amendment 5—On page 16, between lines 23 and 24, insert:

Section 4. Section 393.0671, Florida Statutes, is created to read:

393.0671 Denial, suspension, revocation of license; moratorium on admissions; administrative fines; procedure.—

(1) The Department of Health and Rehabilitative Services may deny, revoke, or suspend a license or impose an administrative fine, not to exceed \$500 per violation per day, for a violation of any provision of s. 393.067 or rules promulgated pursuant thereto. All hearings shall be held within the county in which the licensee or applicant operates or applies for a license to operate a facility as defined herein.

(2) The department, as a part of any final order issued by it under the provisions of this chapter, may impose such fine as it deems proper, except that such fine shall not exceed \$500 for each violation. Each day a violation of this chapter occurs shall constitute a separate violation and shall be subject to a separate fine, but in no event shall any fine aggregate more than \$5,000. Fines paid by any facility licensee under the provisions of this subsection shall be deposited in the Patient Protection Trust Fund and expended as provided in s. 400.063.

(3) The department may issue an order immediately suspending or revoking a license when it determines that any condition in the facility presents a danger to the health, safety, or welfare of the residents in the facility.

(4) The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a threat to the health, safety, or welfare of the residents in the facility.

Section 5. Section 393.0672, Florida Statutes, is created to read:

393.0672 Injunction proceedings authorized.—

(1) The Department of Health and Rehabilitative Services may institute injunction proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of this chapter or any minimum standard, rule, regulation, or order issued or entered into pursuant thereto; or

(b) Terminate the operation of an ICF/MR where any of the following exist:

1. Failure to take preventive or corrective measures in accordance with any order of the department.

2. Failure to abide by any final order of the department once it has become effective and binding.

3. Any violation as provided in s. 393.0671 constituting an emergency requiring immediate action.

(2) Such injunctive relief may include temporary and permanent injunction.

Section 6. Section 393.0673, Florida Statutes, is created to read:

393.0673 Receivership proceedings.—

(1) The department may petition a court of competent jurisdiction for the appointment of a receiver for an ICF/MR, residential habilitation center, or group home owned and operated by a corporation or partnership when any of the following conditions exist:

(a) Any person is operating a facility without a license and refuses to make application for a license as required by s. 393.067, or in the case of an ICF/MR, as required by ss. 393.067 and 400.062.

(b) The licensee is closing the facility or has informed the department that it intends to close and adequate arrangements have not been made for relocation of the residents within 7 days, exclusive of weekends and holidays, of the closing of the facility.

(c) The department determines that conditions exist in the facility which present an imminent danger to the health, safety, or welfare of the residents of the facility or a substantial probability that death or serious physical harm would result therefrom. The department shall whenever possible facilitate the continued operation of the program.

(d) The licensee cannot meet its financial obligation for providing food, shelter, care and utilities. Evidence such as issuance of bad checks or accumulation of delinquent bills for such items as personnel salaries, food, drugs, or utilities shall constitute prima facie evidence that the ownership of the facility lacks the financial ability to operate the home in accordance with the requirements of this chapter and all rules promulgated thereunder.

(2) Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days of the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The department shall notify the owner or operator of the facility named in the petition of its filing and the date set for the hearing. The court shall grant the petition only upon finding that the health, safety, or welfare of residents of the facility would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver shall not be appointed ex parte unless the court determines that one or more of the conditions in subsection (1) exist; that the facility owner or operator cannot be found; that all reasonable means of locating the owner or operator and notifying him of the petition and hearing have been exhausted; or that the owner or operator after notification of the hearing chooses not to attend. After such findings, the court may appoint any person qualified by education, training, or experience to carry out the responsibilities of receiver pursuant to this section, except it shall not appoint any owner or affiliate of the facility which is in receivership. Prior to the appointment as receiver of a person who is the operator, manager, or supervisor of another facility, the court shall determine

that the person can reasonably operate, manage, or supervise more than one facility. The receiver may be appointed for up to 90 days with the option of petitioning the court for 30-day extensions. The receiver may be selected from a list of persons qualified to act as receivers developed by the department and presented to the court with each petition for receivership. Under no circumstances shall the department or designated departmental employee be appointed as a receiver for more than 60 days; however, the departmental receiver may petition the court for 30-day extensions. The department may petition the court to appoint a substitute receiver. The court shall grant the extension upon a showing of good cause. During the first 60 days of the receivership, the department shall not take action to decertify or revoke the license of a facility unless conditions causing imminent danger to the health and welfare of the residents exist and a receiver has been unable to remove those conditions. After the first 60 days of receivership, and every 60 days thereafter until the receivership is terminated, the department shall submit to the court the results of an assessment of the facility's ability to assure the safety and care of the residents. If the conditions at the facility or the intentions of the owner indicate that the purpose of the receivership is to close the facility rather than to facilitate its continued operation, the department shall place the residents in appropriate alternate residential settings as quickly as possible. If, in the opinion of the court, the department has not been diligent in its efforts to make adequate placement arrangements, the court shall find the department to be in contempt, and shall order the department to submit its plans for moving the residents.

(3) The receiver shall make provisions for the continued health, safety, and welfare of all residents of the facility and:

(a) Shall exercise those powers and perform those duties set out by the court.

(b) Shall operate the facility in such a manner as to assure safety and adequate health care for the residents.

(c) Shall take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the receiver is appointed, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to residents or others during the period of the receivership at the same rate of payment charged by the owners at the time the petition for receivership was filed, or at a fair and reasonable rate otherwise approved by the court for private pay residents. The receiver may apply to the department for a rate increase for Title XIX of the Social Security Act residents if the facility is not receiving the "state reimbursement cap" and expenditures justify an increase in the rate.

(e) May correct or eliminate any deficiency in the structure, furnishings or staffing of the facility which endangers the safety or health of residents while they remain in the facility, provided the total cost of correction does not exceed \$3,000. The court may order expenditures for this purpose in excess of \$3,000 on application from the receiver after notice to the owner. A hearing may be requested by the owner within 72 hours.

(f) May let contracts and hire agents and employees to carry out the powers and duties of the receiver under this section.

(g) Shall honor all leases, mortgages, and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of rental agreement, are for the use of the property during the period of the receivership, or which, in the case of a purchase agreement, become due during the period of the receivership.

(h) Shall have full power to direct, manage, hire and discharge employees of the facility subject to any contract rights they may have. The receiver shall hire and pay employees at the rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employees made prior to the appointment of a receiver and not carried out by the receiver.

(i) Shall be entitled to take possession of all property or assets of residents which are in the possession of a facility or its owner. The receiver shall preserve all property or assets and all resident records of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and receiver shall be made at the time the receiver takes possession of the facility.

(4)(a) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the order if the person would have been liable for the goods or services as supplied by the owner. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit accounts received in a separate account and shall use this account for all disbursements.

(b) The receiver may bring an action to enforce the liability created by paragraph (a).

(c) A payment to the receiver of any sum owing to the facility or its owner shall discharge any obligation to the facility to the extent of the payment.

(5)(a) A receiver may petition the court that he not be required to honor any lease, mortgage, secured transaction, or other wholly or partially executory contract entered into by the owner of the facility if the rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable, when compared to contracts negotiated under similar conditions. Any relief in this form provided by the court shall be limited to the life of the receivership, unless otherwise determined by the court.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver has obtained a court order to avoid under paragraph (a), and if the real estate or goods are necessary for the continued operation of the facility under this section, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known persons who own the property involved or mortgage holders at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest, or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease, security interest, or mortgage involved.

(6) The court shall set the compensation of the receiver, which shall be considered a necessary expense of a receivership.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breach of fiduciary duty.

(8) The court may require a receiver to post a bond.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist; or

(b) All of the residents in the facility have been transferred or discharged.

(10) Within 30 days after termination, unless this time period is extended by the court, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected and disbursed, and of the expenses of the receivership.

(11) Nothing in this section shall be deemed to relieve any owner, operator, or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, operator or employee prior to the appointment of a receiver; nor shall anything contained in this section be construed to

suspend during the receivership any obligation of the owner, operator, or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, operator, employee, or any other person for the payment of mortgages or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership. Receivership imposed under the provisions of this chapter shall be subject to the Patient Protection Trust Fund pursuant to s. 400.063. The owner of a facility placed in receivership by the court shall be liable for all expenses and costs incurred by the Patient Protection Trust Fund which occur as a result of the receivership.

Section 7. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Patient Protection Trust Fund.—

(1) The Department of Administration shall establish a Patient Protection Trust Fund for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0671(2), 400.062(3)(b), 400.121(2), and 400.23(4). Such funds shall be directed to the Department of Health and Rehabilitative Services to pay for the appropriate alternate placement, care, and treatment of patients who are removed from a ~~nursing-home~~ facility licensed under this part or a facility specified in s. 393.0673(1) in which the department determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the ~~nursing-home~~ patients. If the department determines that it is in the best interest of the patients' health, safety, or security to provide for an orderly removal of the patients from the facility, the department may utilize such funds to maintain and care for the patients in the facility pending removal and alternative placement. The maintenance and care of the patients shall be under the direction and control of a receiver appointed pursuant to s. 400.126(1) or s. 393.0673(1).

(Renumber subsequent section.)

Senator D. Childers moved the following amendments which were adopted:

Amendment 6—In title, on page 1, line 22, after the semicolon (;) insert: amending ss. 382.29 and 382.35(6) and (7), Florida Statutes; providing minimum and maximum fees to be charged by the State Registrar for record searches, filing delayed certifications, corrections, and new birth certificates, record certification, forwarding certain copies, for expedited processing, and for records on computer; providing that certain fees entitle the applicant to one certification; providing for establishment of fees by the Department of Health and Rehabilitative Services by rule; providing certain requirements with respect to such fees; providing for deposit of such fees, and of the additional marriage license fee, in a trust fund to be used for the administration of chapter 382; repealing ss. 382.46 and 382.47, Florida Statutes, relating to fees for delayed birth certificates; amending s. 382.48, Florida Statutes; correcting a cross reference; repealing s. 741.04(2), Florida Statutes, pertaining to the 3-day waiting period for a marriage license; amending s. 514.033, Florida Statutes; changing fee schedule and funding;

Amendment 7—In title, on page 1, line 22, after the semicolon (;) insert: amending s. 402.33, Florida Statutes, substantially revising provisions authorizing the department to charge, assess, or collect fees for services provided; providing definitions; increasing the types of services for which no fee may be charged; expanding provisions relating to the liability of clients and certain other persons, including third party payors for such fees; expanding provisions relating to the collection of such fees; requiring the department to review its services and fees therefor; providing criteria for determining a client's or responsible party's ability to pay; providing for procedures for review of assessed fees; providing for the use of any excess fee collections;

Senator Gordon moved the following amendment which was adopted:

Amendment 8—In title, on page 1, line 22, after the semicolon (;) insert: creating s. 393.0671, Florida Statutes; authorizing the Department of Health and Rehabilitative Services to deny, suspend or revoke licenses and impose fines; providing for deposit of fines in the Patient Protection Trust Fund; creating s. 393.0672, Florida Statutes; authorizing the department to institute injunction proceedings for certain purposes; creating s. 393.0673, Florida Statutes; authorizing the department to petition for the appointment of a receiver for an intermediate care facility for the mentally retarded, residential habilitation center, or group home

when certain conditions exist; providing for hearings and notice; providing qualifications of a receiver and time limitations; providing duties of the department; providing powers and duties of the receiver with respect to the facility and related contracts and the residents and their property; specifying liability of certain persons to pay a receiver for goods or services provided; providing that the receiver may petition to avoid certain contracts and specifying liabilities associated therewith; providing for compensation and liability of the receiver; providing for bond; providing conditions for termination of receivership; requiring an accounting to the court; providing liabilities of the owner, operator and employees of a facility placed in receivership; providing applicability of the Patient Protection Trust Fund; amending s. 400.063(1), Florida Statutes, relating to the Patient Protection Trust Fund; changing references to nursing homes to include certain other facilities;

On motion by Senator D. Childers, by two-thirds vote CS for SB 964 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

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

Nays—None

Consideration of CS for SB 661 was deferred.

On motions by Senator Maxwell, the rules were waived and by two-thirds vote HB 1169 was withdrawn from the Committees on Finance, Taxation and Claims and Rules and Calendar.

On motion by Senator Maxwell—

HB 1169—A bill to be entitled An act relating to the investment of state funds; amending s. 215.44(2), Florida Statutes, and adding a subsection; providing for legal representation of the State Board of Administration by the Department of Legal Affairs, and providing for transition of legal service from private attorneys to the department; creating a 6-member advisory council to advise the State Board of Administration on investment matters; providing for membership and meetings; providing travel expense reimbursement for members; providing for review and appeal in accordance with the Sundown Act; amending s. 215.47, Florida Statutes, 1982 Supplement; establishing the "prudent expert rule" as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System, and eliminating certain limitations on such investments; requiring the Board to adopt and maintain an investment policy; authorizing the use of outside investment advisors and managers; providing intent; requiring annual independent audits; requiring annual performance reports; amending ss. 197.0168(2)(b) and 242.331(5)(e), Florida Statutes, and s. 218.407(1), Florida Statutes, 1982 Supplement, relating to purchase of deferred payment tax certificates, investments by the Board of Trustees for the Florida School for the Deaf and the Blind, and investments by local governments, conforming language; providing an effective date.

—a companion measure, was substituted for SB 1095 and read the second time by title.

Further consideration of HB 1169 was deferred.

The hour of 4:15 p.m. having arrived, the Senate proceeded to consideration of—

CS for SB 362—A bill to be entitled An act relating to health care; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, ss. 483.011-483.328, Florida Statutes; amending ss. 483.031-483.071, 483.091, 483.101, 483.111-483.181, 483.201, 483.21, 483.23-483.25, 483.288, 483.291, 483.317, 483.32, Florida Statutes; creating ss. 483.052, 483.152-483.154, 483.251, Florida Statutes; providing exemptions; providing definitions; providing for rules; providing for licensure of clinical laboratories and personnel; providing for fees; providing for inspections; providing for approval of training programs; requiring display of license; providing for inactive status; requiring continuing edu-

cation or reexamination; providing for minimum qualifications; providing for acceptance of laboratory tests; providing for disciplinary actions; specifying offenses and criminal penalties; providing for administrative fines and penalties; creating an advisory council; allowing to stand repealed under the Regulatory Sunset Act s. 483.297, Florida Statutes, as amended, relating to an advisory council; providing for consolidation of regulation; providing for legislative review; providing an effective date.

—which was taken up with pending Amendment 1. Amendment 1 was adopted.

Senator Jenne moved the following amendment:

Amendment 2—On page 2, line 11, after "patients" insert: *when such practitioners perform only those procedures specified by the department by rule. The rules shall specify only simple, routine procedures which may be reliably and accurately performed by such practitioners or their employees in the absence of licensure or regulation by the department, without endangering the public health, safety or welfare*

Further consideration of CS for SB 362 was deferred.

On motion by Senator Barron, the Senate proceeded to consideration of bills on the revised special order calendar.

SB 857—A bill to be entitled An act relating to corrections; adding a subsection to s. 944.033, Florida Statutes, prohibiting the placement of certain sex offenders in community correctional centers; amending ss. 945.091(2) and 958.09(2), Florida Statutes, and adding a new subsection (2) to s. 951.24, Florida Statutes, declaring certain sex offenders ineligible for any extension of the limits of confinement by the state or a county or for any county work-release program; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 857 to conform the bill to HB 1262.

Pending further consideration of SB 857, on motion by Senator Castor, 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 as amended HB 1262 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Corrections, Probation & Parole and Representative Kelly and others—

HB 1262—A bill to be entitled An act relating to corrections; adding a subsection to s. 944.033, Florida Statutes, prohibiting the placement of certain sex offenders in community correctional centers; amending ss. 945.091(2) and 958.09(2), Florida Statutes, and adding a new subsection (2) to s. 951.24, Florida Statutes, declaring certain sex offenders ineligible for any extension of the limits of confinement by the state or a county or for any county work-release program; amending s. 916.11(2), Florida Statutes, 1982 Supplement, requiring the Department of Health and Rehabilitative Services' diagnosis and evaluation team to examine defendants suspected of being mentally retarded; amending s. 916.13(1), Florida Statutes, and adding subsection (3) thereto, providing for the placement of a defendant adjudicated incompetent to stand trial due to mental retardation; amending s. 916.16, Florida Statutes, including admission to retardation residential services within the jurisdiction of the committing court; creating s. 945.085, Florida Statutes, requiring Department of Corrections to notify Department of Health and Rehabilitative Services prior to the release of mentally retarded inmates; creating s. 947.185, Florida Statutes, allowing the Parole and Probation Commission to require as a condition of parole that mentally retarded inmates apply for services from Department of Health and Rehabilitative Services; providing an effective date.

—was read the first time by title. On motions by Senator Castor, the rules were waived and by two-thirds vote HB 1262 was placed on the special order calendar.

SPECIAL ORDER, continued

On motion by Senator Castor, by two-thirds vote HB 1262, a companion measure, was substituted for SB 857. On motions by Senator Castor, by two-thirds vote HB 1262 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 857 was laid on the table.

On motions by Senator Jenne, the rules were waived and by two-thirds vote CS for HB 238 was withdrawn from the Committees on Health and Rehabilitative Services, Rules and Calendar and Appropriations.

On motion by Senator Jenne—

CS for HB 238—A bill to be entitled An act relating to public health units; amending s. 20.19(3)(b), Florida Statutes, 1982 Supplement, to provide for the establishment of a public health unit subcommittee within the advisory council to the Health Program Office of the Department of Health and Rehabilitative Services and to provide for duties thereof and other matters relative thereto; amending s. 110.205(2)(p), Florida Statutes, 1982 Supplement, exempting public health unit directors and public health unit administrators from provisions of law relating to career service positions; creating s. 154.001, Florida Statutes, providing intent; amending s. 154.01, Florida Statutes; providing for a public health unit delivery system and providing for funding of same; distinguishing between “public health services,” “personal health services,” “primary care services,” and “public health unit services,” for purposes of the act; requiring certain contractual agreements and specifying component parts of the agreements; providing for use of facilities; providing for funding of construction and expansion projects; amending s. 154.02, Florida Statutes; creating the Public Health Unit Trust Fund and providing for its administration; requiring the submission of certain financial statements with respect thereto; amending s. 154.03(1), Florida Statutes, conforming terminology; amending s. 154.04, Florida Statutes, modifying provisions relating to the personnel of public health units; amending s. 154.05, Florida Statutes, conforming terminology; amending s. 154.06, Florida Statutes; providing for the establishment of fee schedules and for the collection of fees for certain services; providing for disposition of fees; amending s. 458.316(1)(a), Florida Statutes, to conform to the act; providing for review and repeal of s. 20.19(3)(b)3.f., Florida Statutes, in accordance with the Sundown Act; relating to the Health Program Office of the Department of Health and Rehabilitative Services; providing effective dates.

—a companion measure, was substituted for CS for SB 661. On motions by Senator Jenne, by two-thirds vote CS for HB 238 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Girardeau	Malchon	Plummer
Castor	Grizzle	Mann	Rehm
Childers, D.	Hair	Margolis	Scott
Crawford	Henderson	Maxwell	Stuart
Dunn	Hill	McPherson	Thurman
Fox	Jenne	Meek	Vogt
Frank	Jennings	Myers	Weinstein
Gersten	Kirkpatrick	Neal	

Nays—4

Carlucci	Childers, W. D.	Grant	Langley
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Vote after roll call:

Yea—Gordon

CS for SB 661 was laid on the table.

The Senate resumed consideration of—

HB 1169—A bill to be entitled An act relating to the investment of state funds; amending s. 215.44(2), Florida Statutes, and adding a subsection; providing for legal representation of the State Board of Administration by the Department of Legal Affairs, and providing for transition of legal service from private attorneys to the department; creating a 6-member advisory council to advise the State Board of Administration on investment matters; providing for membership and meetings; providing travel expense reimbursement for members; providing for review and repeal in accordance with the Sundown Act; amending s. 215.47, Florida Statutes, 1982 Supplement; establishing the “prudent expert rule” as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System, and eliminating certain limitations on such investments; requiring the Board to adopt and maintain an investment policy; authorizing the use of outside investment advisors and managers; providing intent; requiring annual independent audits; requiring annual performance reports; amending ss. 197.0168(2)(b) and 242.331(5)(e), Florida Statutes, and s. 218.407(1), Florida Statutes, 1982 Supplement, relating to purchase of deferred payment tax certificates, investments by the Board of Trustees for the Florida School for the Deaf and the Blind, and investments by local governments, conforming language; providing an effective date.

Senator Maxwell moved the following amendments which were adopted:

Amendment 1—On page 2, strike everything after the enacting clause and insert:

Section 1. Subsections (5), (6), and (7) are added to section 215.44, Florida Statutes, to read:

215.44 Board of Administration; powers and duties in relation to investment of ~~retirement~~ trust funds.—

(5)(a) *There is created a 6-member Investment Advisory Council to review the investments made by the board's staff and make recommendations to the board regarding investment policy, strategy, and procedures.*

(b) *The members of the council shall be appointed by the board, and shall be subject to confirmation by the Senate. Initially, the board shall appoint two members for terms of 3 years, two members for terms of 2 years, and two members for terms of 1 year. Thereafter, members shall be appointed for 3-year terms. A vacancy shall be filled for the remainder of the unexpired term. No member shall serve for more than one 3-year term.*

(6) *On March 1 of each year, the board shall provide to the Legislature a report which includes an analysis of fund performance, annual beginning and ending portfolio distribution, changes in investment policy, compliance with investment strategy, and an analysis of the cost, return, and risk of each portfolio under internal or external fund management.*

(7) *The Auditor General shall audit annually the board's entire operations. In addition to his regular financial and compliance audit, the Auditor General shall also perform or cause to be performed a performance audit of the board's management of investments, including among other things his independent verification of the data included by the board in its reports to the Legislature required by subsection (6). The Auditor General may elect to contract with a private professional firm qualified in investment portfolio management to conduct the performance audit of investment management required by this subsection.*

Section 2. Subsection (3) of section 215.47, Florida Statutes, 1982 Supplement, is amended, and subsection (8) is added to said section to read:

215.47 Investments; authorized securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(3) Not more than 60 40 percent of any fund in common stock, preferred stock, and interest-bearing obligations of a corporation having an option to convert into common stock, provided:

(a) ~~The corporation is listed on any one or more of the recognized national stock exchanges in the United States and is organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia; or~~

(b) The corporation is listed on any one or more of the recognized national stock exchanges in the United States and conforms with the periodic reporting requirements under the Securities Exchange Act of 1934.

(c) *Not more than 40 percent of the fund may be in internally managed common stock.*

The board shall not invest more than 10 percent of the equity assets of any fund in the common stock, preferred stock, and interest-bearing obligations having an option to convert into common stock, of any one issuing corporation; and the board shall not invest more than 3 percent of the equity assets of any fund in such securities of any one issuing corporation except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, at least as broad as the Standard and Poor's Composite Index of 500 Companies, or except upon a specific finding by the board that such higher percentage is in the best interest of the fund. ~~The aggregate investment of any fund in any one issuing corporation shall not exceed 3 percent of the outstanding capital stock of that corporation.~~ The board may only sell listed options to reduce investment risk, to improve cash flow, or to provide alternative means for the purchase and sale of underlying investment securities. Reversing transactions may be made to close out existing option positions.

(8) *In exercising investment authority pursuant to this section, the board may retain investment advisors or managers, or both, external to inhouse staff, to assist the board in carrying out the power specified in s. 215.44(2).*

Section 3. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the investment of state funds; adding s. 215.44(5), (6), (7), Florida Statutes; creating an advisory council to advise the State Board of Administration on investment matters; providing for membership and meetings; providing travel expense reimbursement for members; requiring annual performance reports; providing for audits; amending s. 215.47(3), Florida Statutes, 1982 Supplement; revising the criteria for investment in certain types of stock and corporate obligations; authorizing unlisted securities; adding s. 215.47(8), Florida Statutes; authorizing the use of outside investment advisors and managers; providing an effective date.

On motion by Senator Maxwell, by two-thirds vote HB 1169 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Frank	Langley	Plummer
Beard	Gersten	Malchon	Scott
Carlucci	Girardeau	Mann	Stuart
Castor	Grant	Margolis	Thurman
Childers, D.	Grizzle	Maxwell	Vogt
Childers, W. D.	Hair	McPherson	Weinstein
Crawford	Hill	Meek	
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—None

SB 1095 was laid on the table.

On motion by Senator Barron, the rules were waived and time of adjournment was extended until 6:30 p.m.

On motions by Senator Fox, by two-thirds vote—

CS for SJR 118—A joint resolution proposing an amendment to Section 8, Article V of the State Constitution, relating to eligibility for office of justice or judge.

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

That the following amendment to Section 8 of Article V of the State Constitution is hereby agreed to and shall be submitted to the electors of

this state for approval or rejection at a special election to be held in conjunction with the presidential preference primary election on March 13, 1984, and such amendment shall take effect upon approval.

ARTICLE V
JUDICIARY

SECTION 8. Eligibility.—No person shall be eligible for office of justice or judge of any court unless he is an elector of the state and resides in the territorial jurisdiction of his court. No justice or judge shall be eligible to begin a term of office or to be appointed to fill a vacancy ~~serve~~ after attaining the age of seventy-two years, and, in any event, he shall not serve beyond the age of seventy-five years, ~~seventy years~~ except upon temporary assignment ~~or to complete a term, one half of which he has served.~~ No person is eligible for the office of justice of the supreme court or judge of a district court of appeal unless he is, and has been for the preceding ten years, a member of the bar of Florida. No person is eligible for the office of circuit judge unless he is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a county court judge must be a member of the bar of Florida.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE V, SECTION 8

RETIREMENT AGE FOR JUSTICES AND JUDGES.—Proposing an amendment to the State Constitution to provide that no justice or judge shall be eligible to begin a term of office or to be appointed to fill a vacancy after attaining the age of seventy-two years, and, in any event, shall not serve beyond the age of seventy-five years, except upon temporary assignment. The amendment takes effect upon approval.

—was read the second time in full, and by two-thirds vote read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

CS for SB 119—A bill to be entitled An act relating to a special election for the approval or rejection by the electors of a joint resolution relating to eligibility for the office of justice or judge; providing for publication of notice and for procedures; providing an effective date.

—was read the second time by title. On motion by Senator Fox, by two-thirds vote CS for SB 119 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Thomas

HB 1149—A bill to be entitled An act relating to hazardous materials safety; amending s. 404.30, Florida Statutes, 1982 Supplement, changing the name of the Southeast Interstate Low-Level Radioactive Waste Com-

compact to the Southeast Interstate Low-Level Radioactive Waste Management Compact; providing legislative policy and purpose; providing definitions; providing for rights and obligations of party states; creating the Southeast Interstate Low-Level Radioactive Waste Management Commission; directing the commission to identify a host state for the development of a second regional disposal facility under certain circumstances; authorizing the commission to prohibit the exportation of waste from a region for the purposes of management subsequent to January 1, 1986; providing for the development and operation of facilities; providing for the effect of the compact on other laws, rules and regulations; including Virginia within the list of parties to the compact; providing for revocation, entry into force and termination of the compact; amending s. 404.31, Florida Statutes, 1982 Supplement, relating to Florida's participation in the compact; providing for two alternate members to the commission; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote HB 1149 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for HB 54—A bill to be entitled An act relating to firearm ammunition; creating s. 790.31, Florida Statutes, prohibiting the manufacture, possession, sale, or delivery of armor-piercing or exploding bullets; providing penalties; providing exemptions; providing an effective date.

—was read the second time by title.

Senators Gordon, Castor and Meek offered the following amendment which was moved by Senator Gordon and failed:

Amendment 1—On page 2, strike all of lines 20-23.

On motion by Senator Carlucci, by two-thirds vote CS for HB 54 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Beard

On motion by Senator Scott, the rules were waived and by two-thirds vote HB 1305 was withdrawn from the Committee on Judiciary-Civil.

On motions by Senator Scott—

HB 1305—A bill to be entitled An act relating to elections; amending s. 99.061(1), (2), (3), and (4), Florida Statutes, as amended, relating to the qualifying period for candidates; amending s. 99.103(2), Florida Statutes, relating to the remitting of fees to the state executive committees by the Department of State; amending s. 100.021, Florida Statutes, relating to the notice of general election; amending s. 100.061, Florida Statutes, changing the date of the first primary election; amending s. 100.091(1), Florida Statutes, changing the date of the second primary election; amending s. 101.62, Florida Statutes; providing time period for delivery

or mailing of absentee ballots; authorizing the Department of State to prescribe certain rules for a ballot to be sent to absent electors overseas under certain circumstances; amending s. 101.65, Florida Statutes, 1982 Supplement; providing instructions to absent electors; amending ss. 103.021(3) and 103.022, Florida Statutes, relating to candidates for President and Vice President; amending s. 105.031(1), Florida Statutes, relating to the qualifying period for judicial candidates; amending s. 106.07(1), Florida Statutes, 1982 Supplement, relating to campaign reports; providing an effective date.

—a companion measure, was substituted for CS for SB 14 by two-thirds vote and read the second time by title.

Senator Scott moved the following amendments which were adopted:

Amendment 1—On page 2, lines 13-18, strike all of said lines and insert:

for qualifying, which shall be as follows: the 57th 77th day prior to the first primary, but not later than noon of the 53rd 63rd day prior to the date of the first primary, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th 63rd day prior to the first primary, but not later than noon of the 46th 49th day

Amendment 2—On page 3, lines 3-16, strike all of said lines and insert: qualifying, which shall be the 50th 63rd day prior to the first primary, but not later than noon the 46th 49th day prior to the date of the first primary. The supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs, within 30 days after the closing of qualifying time, the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(3)(a) Each person seeking to qualify for election to office as a write-in candidate shall file his qualification papers with the respective qualifying officer at any time after noon of the 1st day for qualifying, which shall be the 50th 63rd day prior to the first primary, but not later than noon of the 39th 42nd day prior to the date of the first primary.

Senator Barron presiding

Amendment 3—On page 9, lines 15-30, strike all of said lines and insert: the Department of State at any time after the 57th 63rd day prior to the first primary election in the year in which a presidential election is held, but before noon of the 49th day prior to the date of the first primary election. The Department of State shall prescribe the form to be used in administering the oath. The candidates shall file with the department a certificate naming the required number of persons to serve as electors. Such write-in candidates shall not be entitled to have their names on the ballot.

Section 10. Subsection (1) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath.—

(1) **TIME OF QUALIFYING.**—Candidates for judicial office shall qualify with the Division of Elections of the Department of State no earlier than noon of the 50th 63rd day, and no later than noon of the 46th 49th day, before the first

Senator Girardeau moved the following amendment which failed:

Amendment 4—On page 11, between lines 13 and 14, insert:

Section 12. Subsection (1) of section 97.041, Florida Statutes, is amended to read:

97.041 Qualifications to register or vote.—

(1)(a) Any person at least 18 years of age who is a citizen of the United States and a permanent resident of Florida and of the county where he wishes to register is eligible to register with the supervisor or by mail when the registration books are open. Upon registration, such person shall be a qualified elector of that county.

(b) Any person who will become 18 years of age on or before the date of any election and who is otherwise qualified shall be entitled, within 180 days preceding his 18th birthday, to preregister with the supervisor or by mail for any election occurring on or after his 18th birthday, when the registration books are open.

Section 13. Section 97.0625, Florida Statutes, is created to read:

97.0625 Registration of electors by mail.—

(1) **INTENT.**—Any person qualified to register to vote as provided in s. 97.041 may register by mail as provided in this section. In addition, a federal postcard application, as provided by 42 U.S.C. s. 1973cc-14, shall be accepted as a request for a mail registration application form, as provided in this section, when duly executed by members of the Armed Forces while in the active service and their spouses and dependents; by members of the Merchant Marine of the United States and their spouses and dependents; or by citizens of the United States who are permanent residents of the state and are residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them. Upon receipt of the duly executed federal postcard application, the supervisor of elections shall mail to the applicant a mail registration application form if the applicant has never registered in the county or if the applicant has registered and has failed to reregister.

(2) **MAIL REGISTRATION APPLICATION FORM.**—For the purpose of providing a supplemental and alternative procedure for the registration of electors, the Department of State shall prescribe an application form for registration of electors by mail. No such form may be used unless same was approved by the Department of State and furnished by the supervisor of elections. To permit and insure compatibility with local systems of voter registration data collection and storage, the supervisors may vary the physical configuration and layout of these forms, which variations must be approved by the Department of State.

(3) **CONTENT.**—The supervisor shall make available to the public consecutively numbered mail registration application forms, each of which shall include: The information required in s. 98.111 along with the cancellation requirements in s. 97.051(2); a clear disclosure of the felony penalty as provided in s. 104.011 for fraudulently swearing to an application; protection against duplication; provisions for change of name, party, or address; an optional provision for a telephone number; a numbered detachable receipt; and such other information as the supervisor of elections deems reasonable and necessary. The form shall also include the qualifications necessary to be a registered elector; shall list instructions for the completion and return of the form; and shall be suitable for mailing and addressed to the office of the supervisor of elections. The Department of State shall adopt uniform rules to provide for mail registration application forms, to require every applicant to supply such information as is deemed necessary to ascertain the qualifications of the person applying for voter registration by mail, and to prevent fraudulent registration and the fraudulent use or misuse of the registration form.

(4) **COMPLETENESS.**—The mail registration form shall be deemed complete when all of the information requested on the form is provided by the applicant and when the form is either signed and sworn to by the applicant before a notary, supervisor or deputy supervisor of elections, deputy voter registrar, or other official authorized to administer oaths, or is signed by the applicant and is witnessed by two persons 18 years of age or older. The form shall then be presented in person or by mail to the supervisor or his deputy, to the office of the supervisor, or to an authorized location. If mailed, the applicant shall be responsible for affixing the proper postage and mailing the registration form to the office of the supervisor of elections.

(5) **TIMELY PRESENTATION.**—Upon receipt of a registration form by the supervisor or his deputy, by the office of the supervisor, or from an authorized location, the form shall be dated, and the registration date shall be said date of receipt. Pursuant thereto:

(a) A registration form that is received while the registration books are open shall be deemed timely. A registration form, when timely received, shall be checked for completeness. Upon determining the completeness of the registration form, the supervisor shall forthwith properly register the applicant's name in the registration books of the county and shall maintain on file, as the basis for such registration, the properly filled-in form received from the applicant.

(b) A registration form that is received while the registration books are closed pursuant to s. 98.051(3) shall be held in abeyance and the registration shall not be effective for any election occurring during such period of closure, but shall be effective for subsequent elections, and the applicant shall be so notified by the supervisor. For purposes of subsequent elections, upon determining the completeness of the registration form, the supervisor shall, immediately following such period of closure,

properly register the applicant's name in the registration books of the county and shall maintain on file, as the basis for such registration, the properly filled-in form received from the applicant.

(6) **CORRECTION OF DEFICIENCIES.**—

(a) Within 10 days after receipt of a registration form, upon a determination that the application is substantially deficient, the supervisor of elections shall contact the applicant by telephone, or process and forward to the applicant by mail a notification form, explaining the deficiency and seeking such information or directing such action as may be necessary to correct the deficiency. Upon correction of the deficiency, the applicant shall be registered as provided in subsection (5).

(b) If a registration form is determined to be incomplete or deficient and the deficiency has not been corrected on or before the 15th day prior to the state, county, or municipal election, the applicant shall not be entitled to vote at such election. However, after said date, the applicant may correct the deficiencies and the registration shall be effective for subsequent elections.

(c) Any application for registration determined to be incomplete or substantially deficient, with respect to which deficiency notice was provided as required by paragraph (a), shall, upon failure of the applicant to correct such deficiency on or before the general election next following receipt of such application, be filed with the permanent removals, and thereafter the applicant shall be required to reregister.

(7) **REGISTRATION IDENTIFICATION CARDS.**—As soon as practicable after properly registering an applicant's name in the registration books as provided herein, the supervisor of elections shall mail a nonforwardable registration identification card, as provided in s. 97.071, to the applicant at the address shown on the application for registration. If the registration identification card is returned as nondeliverable, the applicant's name shall be temporarily withdrawn from the registration books as provided in s. 98.081. Notice of this requirement shall be on the registration form. Any name temporarily withdrawn under this subsection may be immediately reinstated in the same manner as provided in s. 97.091(3) or s. 98.081.

(8) **AVAILABILITY OF FORMS.**—

(a) The supervisor of elections shall make available to prospective electors, at the office of the supervisor and each branch office thereof, if any, application forms for registration of electors by mail. Mail registration application forms shall also, upon request, be made available in any public or governmental building, in any commercial facility, and in any additional locations throughout the county which are accessible to the public as deemed appropriate by the Department of State.

(b) Any prospective voter may obtain a mail registration application form by writing to or telephoning the supervisor of elections in the county of his permanent residence requesting that the form be provided to him. The supervisor shall mail the applicant a mail registration application form as soon as possible after receipt of the request.

(c) In those locations throughout the county where mail registration application forms will be available, the prospective voter shall be allowed to pick up only enough registration forms for himself and for members of his immediate family. For purposes of this section, immediate family members shall be limited to spouse and children.

(d) If a prospective voter registers to vote at a branch office location, the deputy voter registrar shall sign and date the numbered receipt attached to the application form, shall legibly print, type, or stamp thereon his name, address, and telephone number, if any, and shall detach such numbered receipt and give it to the prospective voter. He shall be instructed to keep the receipt in his possession as proof of his registration until he receives his registration identification card as provided in subsection (7). A notice shall be printed on the detachable receipt informing the prospective voter that a voter registration identification card will be forwarded to him within 3-4 weeks after the application form is received by the supervisor. If the applicant does not receive an identification card within the specified period, it is the applicant's responsibility to contact the supervisor's office to inquire about the status of his mail registration application form.

(e) The Department of State shall prescribe rules to achieve and maintain uniform availability of mail registration forms and to establish appropriate procedures for collection of same.

(9) *PENALTIES.*—The provisions of s. 104.012, relating to the prohibition against offering consideration for registration, or attempting to influence, deceive, or deter a person with respect to registration, the penalty for which is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, shall be applicable to this section.

(10) *RULES.*—In addition to the specific rulemaking authority granted herein, the Department of State shall have the authority to promulgate such additional rules as are deemed necessary for the proper and equitable implementation of this section.

Section 14. Subsections (1) and (2) of section 98.051, Florida Statutes, are amended to read:

98.051 Registration books for permanent registration system; when open.—

(1)(a) The office of the supervisor of elections shall be open Monday through Friday, excluding legal holidays, for a period of not less than 8 hours per day, beginning no later than 9 a.m.

(b) A supervisor may keep his office and any branch offices open on any weekday, excluding legal holidays, for 10 hours in addition to the 8 hours specified in paragraph (a), provided notice of the time and place shall be published at least once, not less than 1 day prior to such extension of time, in a newspaper of general circulation in the county in which such offices are to be located. However, if the publication deadline for such notice cannot be met, the public notice shall be posted at the courthouse and may be advertised in the news media.

(c) During the 30-day period prior to the closing of the registration books for any statewide or federal election, the supervisor, in addition to the requirements of paragraphs (a) and (b), shall provide for registration each weekday, excluding legal holidays, for a period not less than 8 hours per day.

(2) When registration books are open, voter registration and changes in registration shall be accepted in the office or branch office of the supervisor and each branch office thereof, if any, and in such additional locations as may be provided throughout the county when such offices and locations are open as provided by law.

Section 15. Subsections (2) and (3) of section 98.111, Florida Statutes, are renumbered subsections (3) and (4), respectively, and a new subsection (2) is added to said section to read:

98.111 Registration form; Department of State to prescribe; information required.—

(1) The Department of State shall prescribe the registration form, and the form shall be prepared to elicit the following information:

- (a) Registration number;
- (b) Date of registration;
- (c) Full name;
- (d) Sex;
- (e) Party affiliation;
- (f) Date of birth;
- (g) Race;
- (h) State or country of birth;
- (i) Residence address at time of registering;
- (j) Post office mailing address at time of registering;
- (k) Precinct number;

(l) If the registrant is able to write his name or mark his ballot, and if not, the reason therefor; and

(m) Other information deemed necessary by the Department of State.

(2) *The prospective elector shall not be responsible for providing the information for paragraphs (1)(a), (b), and (k); however, the supervisor of elections shall fill in the spaces with the proper information at the time the registration form is being processed.*

Section 16. Subsection (2) of section 98.271, Florida Statutes, 1982 Supplement, is amended to read:

98.271 Appointment of deputy supervisors and registrars, authority; compensation.—

(2) The supervisor may appoint any registered elector in the county as a deputy voter registrar and may appoint as many deputy voter registrars ~~supervisors~~ as he deems necessary for the purpose of registering voters and accepting changes in registration and may limit the authority of such registrars ~~deputies~~ to such duties. *The supervisor may, in his own discretion, provide a training class of no longer than 1 hour in which the laws, rules, and procedures relating to being a deputy voter registrar are explained.*

Section 17. Section 104.012, Florida Statutes, is amended to read:

104.012 Consideration for registration.—

(1) Any person who gives anything of value that is redeemable in cash to any person in consideration for his becoming a registered voter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section shall not be interpreted, however, to exclude such services as transportation to the place of registration or baby-sitting in connection with the absence of an elector from home for registering.

(2) *Whoever, by bribery, menace, threat, or other corruption, directly or indirectly, either attempts to influence, deceive, or deter any person in registering or interferes with the free exercise of any person's right to register at any time is, for the first conviction, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 and, for the second or any subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 18. Section 97.063, Florida Statutes, as amended by chapter 81-304, Laws of Florida, is hereby repealed.

(Renumber subsequent section.)

Senator Grizzle moved the following amendments which were adopted:

Amendment 5—On page 11, between lines 13-14, insert:

Section 12. Subsections (2), (4), and (5) of section 100.371, Florida Statutes, are amended to read:

100.371 Initiatives; procedure for placement on ballot.—

(2) Such certification shall be issued when the Secretary of State has received verification certificates from the supervisors of elections indicating that the requisite number and distribution of *valid* signatures of electors have been submitted to and verified by the supervisors. *Every signature shall be dated when made and shall be valid for a period of 4 years following said date, provided all other requirements of law are complied with.*

(4) The sponsor shall submit signed and dated forms to the appropriate supervisor of elections for verification as to the number of registered electors whose *valid* signatures appear thereon. The supervisor shall promptly verify the signatures upon payment of the fee required by s. 99.097. Upon completion of verification, the supervisor shall execute a certificate indicating the total number of signatures checked, the number verified as *valid* and as being of registered electors, and the distribution by congressional district. This certificate shall be immediately transmitted to the Secretary of State. The supervisor shall retain the signature forms for at least 1 year.

(5) The Secretary of State shall determine from the verification certificates received from supervisors of elections the total number of verified *valid* signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of *valid* signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by the secretary of a certificate or certificates from supervisors of elections indicating the petition has been signed by the constitutionally required number of electors.

Section 13. Any petition form which has been approved by the Secretary of State and is being circulated on or before the date on which this act takes effect shall be considered in compliance with this section for a period of 4 years following the effective date of this act.

Renumber subsequent sections.

Amendment 6—In title, on page 1, line 29, after the semicolon insert: requiring that signatures on initiative petitions proposing constitutional amendments be dated and providing that such dated signatures shall be valid for a period of 4 years following said date; providing for any petition form to be in compliance with the act if it has been approved and circulated on or before the effective date of this act;

On motion by Senator Jenne, by two-thirds vote HB 1305 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

CS for SB 14 was laid on the table.

On motion by Senator Vogt, the rules were waived and by two-thirds vote HB 985 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Vogt—

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.

—a companion measure, was substituted for CS for SB 860 and read the second time by title. On motion by Senator Vogt, by two-thirds vote HB 985 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Frank	Jennings	Neal
Beard	Gersten	Langley	Plummer
Carlucci	Girardeau	Malchon	Rehm
Castor	Grizzle	Mann	Stuart
Childers, D.	Hair	Maxwell	Thomas
Crawford	Henderson	McPherson	Thurman
Dunn	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Scott

CS for SB 860 was laid on the table.

CS for SB 829—A bill to be entitled An act relating to custody and support of children; amending s. 61.13(2)(b), Florida Statutes, 1982 Supplement; providing that the court, in a dissolution proceeding, shall consider evidence of spouse abuse as evidence of detriment to a child; providing discretionary authority for the award of sole parental responsibility in the event of spouse abuse; renumbering s. 61.13(4), (5), Florida Statutes, 1982 Supplement, and adding a new subsection (4) to said section; prohibiting a custodial parent from removing a minor child more than 50 miles from the residence occupied by the family unit prior to separation or dissolution under certain circumstances; providing that the act shall apply to certain pending proceedings; providing for severability; providing an effective date.

—was read the second time by title.

Senators Langley and Johnston offered the following amendments which were moved by Senator Langley and adopted:

Amendment 1—On page 2, lines 16-24, strike all of said lines and insert: would be detrimental to the child. If the court determines that shared parental responsibility would be detrimental to the child, the court may order sole parental responsibility. *If the court finds that spouse abuse has occurred between the parties and that such conduct has been detrimental to the child, the court may award sole parental responsibility to the abused spouse, and make such arrangements for visitation as will best protect the child and abused spouse from further harm.*

Amendment 2—On page 3, lines 29-31, and on page 4, lines 1-24, strike all of said lines and insert:

(4) *In all instances where, following separation or dissolution of marriage:*

(a) *The child has maintained frequent and continuing contact with both parents; and*

(b) *Both parents are in substantial compliance with their respective support obligation, if any, neither parent shall be permitted to remove the child more than 100 miles from the residence occupied by the family unit prior to separation or dissolution, either within or without the state, if the intended move would cause the established frequent and continuing contact between the child and the other parent to be unreasonably hampered, hindered, or destroyed, unless the parent seeking to remove the child secures, in writing, the consent of the other parent or the court enters an order finding the intended move is in the best interests of the child. This subsection shall not be construed to authorize a parent to remove a child if the parent has not maintained frequent contact with the child or is not in substantial compliance with his support obligation.*

Amendment 3—In title, on page 1, lines 13 and 14, strike all of said lines and insert: parent from removing a minor child more than 100 miles from the residence occupied

Amendment 4—On page 1, strike lines 13 and 14, and insert: parent from removing a minor child more than 100 miles from the residence occupied

On motion by Senator Langley, by two-thirds vote CS for SB 829 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Barron	Gersten	Malchon	Rehm
Beard	Girardeau	Mann	Scott
Carlucci	Grizzle	Margolis	Stuart
Castor	Hair	Maxwell	Thurman
Childers, D.	Hill	McPherson	Vogt
Crawford	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnston	Neal	
Frank	Langley	Plummer	

Nays—None

CS for SB 20—A bill to be entitled An act relating to elections; amending s. 99.092(1), Florida Statutes, relating to party assessments; amending s. 103.121(1) and (5), Florida Statutes, 1982 Supplement, and adding a subsection thereto, relating to powers and duties of state and county executive committees with respect to party assessments; repealing s. 103.091(7), Florida Statutes, relating to endorsement of candidates in primary elections by political party executive committees; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 20 to conform the bill to CS for HB 602.

Pending further consideration of CS for SB 20, on motion by Senator Frank, by two-thirds vote CS for HB 602 was withdrawn from the Committee on Judiciary-Civil.

On motions by Senator Frank—

CS for HB 602—A bill to be entitled An act relating to elections; amending s. 99.092(1), Florida Statutes, relating to party assessments; amending s. 103.121(1) and (5), Florida Statutes, 1982 Supplement, and adding a subsection thereto, relating to powers and duties of state and county executive committees with respect to party assessments; repealing s. 103.091(4) and (7), Florida Statutes, relating to endorsement of candidates in primary elections by political party executive committees; providing an effective date.

—a companion measure, was substituted for CS for SB 20 and by two-thirds vote read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 5, line 28, strike all of Section 3

Amendment 2—On page 6, line 22, after “Statutes,” insert: 1982 Supplement,

Amendment 3—In title, on page 1, line 9, strike “(4) and”

Senator Scott moved the following amendment which was adopted:

Amendment 4—On page 1, lines 14-27, strike all of said lines.

Senator Myers moved the following amendment which failed:

Amendment 5—On page 1, line 23, strike everything after the enactment clause and insert:

A bill to be entitled An act relating to elections; repealing s. 103.091(7), Florida Statutes, as amended, relating to endorsement of candidates in primary elections by political party executive committees; providing an effective date.

WHEREAS, subsection (7) of section 103.091, Florida Statutes, prohibits political party executive committees from endorsing or opposing any candidate of that party seeking nomination in a primary election, and

WHEREAS, the United States District Court for the Southern District of Florida, in the case of *Abrams v. Reno*, 452 F.Supp. 1166 (S.D. Fla., 1978), held that the prohibition, then appearing as subsection (6), was an unconstitutional violation of freedom of speech, and

WHEREAS, the Legislature, recognizing that the prohibition is a violation of the fundamental right of free speech, wishes to avoid confusion and further litigation by removing the unconstitutional provision from the Florida Statutes, NOW, THEREFORE,

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

Section 1. Subsection (7) of section 103.091, Florida Statutes, as amended by chapter 82-143, Laws of Florida, is hereby repealed.

Section 2. This act shall take effect October 1, 1983.

On motion by Senator Frank, by two-thirds vote CS for HB 602 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Barron	Frank	Jennings	Plummer
Beard	Girardeau	Johnston	Scott
Carlucci	Gordon	Kirkpatrick	Thurman
Childers, D.	Grant	Langley	Vogt
Childers, W. D.	Grizzle	Margolis	Weinstein
Crawford	Hair	Maxwell	
Dunn	Hill	Neal	

Nays—2

Castor Malchon

CS for SB 20 was laid on the table.

SB 343—A bill to be entitled An act relating to clerks of the circuit court; amending s. 28.24(4), Florida Statutes, 1982 Supplement; revising service charge for preparing, numbering, and indexing an original record of appellate proceedings; providing an effective date.

—was read the second time by title. On motion by Senator Scott, by two-thirds vote SB 343 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 473—A bill to be entitled An act relating to judges; amending s. 38.07, Florida Statutes, providing that the chief judge of the circuit may reconsider certain orders entered by a disqualified judge; amending s. 38.09, Florida Statutes, providing that an order of assignment shall be entered pursuant to an order of disqualification as provided for in the Florida Rules of Judicial Administration; providing an effective date.

—was read the second time by title.

Senator Gersten moved the following amendment which was adopted:

Amendment 1—On page 2, between lines 26 and 27, insert:

Section 3. Section 38.10, Florida Statutes, is amended to read:

38.10 Disqualification of judge for prejudice; application; affidavits; etc.—Whenever a party to any action or proceeding, shall make and file an affidavit that he fears that he will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of said court against the applicant, or in favor of the adverse party, such judge shall proceed no further therein, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes where the presiding judge is disqualified. Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists, ~~and such affidavit shall be filed not less than 10 days before the beginning of the term of court, or good cause shown for the failure to so file same within such time.~~ Any such affidavit so filed shall be accompanied by a certificate of counsel of record that such affidavit and application are made in good faith, ~~and the facts stated as a basis for making the said affidavit shall be supported in substance by affidavit of at least two reputable citizens of the county not of kin to defendant or counsel for the defendant;~~ provided, however, that when any party to any action shall have suggested the disqualification of a trial judge and an order shall have been made admitting the disqualification of such judge and another judge shall have been assigned and transferred to act in lieu of the judge so held to be disqualified the judge so assigned and transferred shall not be disqualified on account of alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party, unless such judge shall admit and hold that it is then a fact that he, the said judge, does not stand fair and impartial between the parties, and if such judge shall hold, rule, and adjudge that he does stand fair and impartial as between the parties and their respective interests he shall cause such ruling to be entered on the minutes of the court and shall proceed to preside as judge in the pending cause. The ruling of such judge may be assigned as error, and be reviewed as are other rulings of the trial court.

(Renumber subsequent section.)

Senator Langley moved the following amendment which was adopted:

Amendment 2—On page 2, between lines 26 and 27, insert:

Section 3. Section 25.073, Florida Statutes, is amended to read:

25.073 Retired justices or judges assigned to *temporary duty active judicial service*; additional compensation; appropriation.—

(1) For purposes of this section, “retired justice” or “judge” means any former justice or judge who has neither been defeated nor failed to be retained in seeking reelection or retention to his last judicial office; and is not engaged in the practice of law.

(2) Any retired justice of the Supreme Court or retired judge of a district court of appeal or circuit or county court assigned to *temporary duty active judicial service* in any of said courts, pursuant to Art. V of the State Constitution, shall be compensated as follows:

(a)(1) Any such justice or judge shall be paid \$100 for each day or portion of a day that such justice or judge is assigned to *temporary duty active judicial service*.

(b)(2) Necessary travel expense incident to the performance of duties required by assignment of such justice or judge to *temporary duty active judicial service* shall be paid by the state in accordance with the provisions of s. 112.061.

(c)(3) If any judge becomes 70 during his term of office, the Chief Justice may appoint that judge to a *temporary duty position* for the remainder of that term at full salary, which salary shall be funded from the circuit judges' salary account.

(d)(4) Payments required under this section shall be made from moneys to be appropriated for this purpose.

(Renumber subsequent section.)

Senator Gersten moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 10, after "Administration;" insert: amending s. 38.10, Florida Statutes, relating to disqualification of a judge for prejudice;

Senator Langley moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 25.073, Florida Statutes; providing a definition;

On motion by Senator Scott, by two-thirds vote HB 473 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Gersten	Langley	Rehm
Beard	Gordon	Malchon	Scott
Castor	Grant	Mann	Stuart
Childers, D.	Grizzle	Maxwell	Thomas
Childers, W. D.	Henderson	McPherson	Thurman
Crawford	Hill	Meek	Vogt
Dunn	Jenne	Myers	
Fox	Jennings	Neal	
Frank	Johnston	Plummer	

Nays—3

Carlucci	Hair	Weinstein
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Vote after roll call:

Yea—Girardeau

Consideration of SB 249 was deferred.

On motion by Senator Thomas, by two-thirds vote—

HB 1277—A bill to be entitled An act relating to workers' compensation; amending s. 440.02(1)(c) and (2)(d), Florida Statutes, redefining "employment" and "volunteer"; amending s. 440.021, Florida Statutes, changing the types of communications exempt from administrative procedures; amending s. 440.11(3), Florida Statutes, reiterating the exclusiveness of liability provisions of workers' compensation laws; amending s. 440.13, Florida Statutes, 1982 Supplement, transferring certain definitions and defining "medically necessary"; requiring treatment and care for employees to be medically necessary; requiring health care providers and facilities to provide certain treatment information; restricting the payment of services provided by such providers and facilities; providing for a payment schedule; abolishing an advisory committee; amending s. 440.15(3)(b), (9), and (10)(b), Florida Statutes, 1982 Supplement, changing employee entitlement to wage-loss benefit to employees receiving certain retirement benefits; providing for the effect of wage-loss benefit reductions upon certain minimum compensation provisions and upon temporary partial benefits; amending s. 440.185(2), (4), and (5), Florida Statutes, changing certain notice of claims procedures; providing for obtaining medical records; amending s. 440.19, Florida Statutes, including claims for rehabilitative services within claims procedures; providing

for amended claims; amending s. 440.20(7), (9), (12), and (13)(c), Florida Statutes, changing late compensation payment penalties; changing the persons who may approve certain advance payments; authorizing lump sum future medical expense payments under certain circumstances; providing for certain reports of lump sum settlements; increasing the discount factor of lump sum payments; amending s. 440.25(3)(b) and (d) and (4)(b), Florida Statutes, transferring certain claims duties to the Chief Commissioner; changing provisions relating to claims costs of indigents; amending s. 440.29(2), Florida Statutes, changing procedures relating to the reporting of hearings; amending s. 440.33(1), Florida Statutes, providing the effect of certain orders of deputy commissioners; amending s. 440.34(5), Florida Statutes, clarifying judicial authority to award attorney's fees on appeal; amending s. 440.38(5), Florida Statutes, 1982 Supplement, deleting a restriction upon the issuance of policies not containing a coinsurance provision; amending s. 440.39(3)(a), Florida Statutes, imposing a pro rata share of certain costs upon employers and carriers recovering from third party payments; amending s. 440.45(3)(b), (c), (e), (g), and (j), Florida Statutes, providing for recommendations of removal of deputy commissioners from office; amending s. 440.49(1)(b) and (e) and (2)(c) and (f), Florida Statutes, authorizing the Division of Workers' Compensation to approve rehabilitation service providers used by carriers; providing standards and exceptions; providing fees for certain listing; providing for certain employer reimbursement with respect to liability for certain permanent injuries; amending s. 440.57(1), Florida Statutes, increasing the maximum liability for employer participants under liability pooling agreements; repealing s. 440.02(19), Florida Statutes, which defines "registered mail"; repealing s. 440.56(7), Florida Statutes, which provides for a full-time administrator of industrial safety; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Thomas and adopted:

Amendment 1—On page 17, line 25, after the period (.) insert: *It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident, is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment.*

Amendment 2—On page 19, between lines 14 and 15, insert:

(4) TEMPORARY PARTIAL DISABILITY.—

(a) In case of temporary partial disability, benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). *It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident, is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment.* The compensation shall be equal to 95 percent of the difference between 85 percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn, as compared on a weekly basis; however, the weekly wage-loss benefits shall not exceed an amount equal to 66²/₃ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn, the division may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods.

(b) The amount determined to be the salary, wages, and other remuneration the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, the salary, wages, and other remuneration the employee is able to earn shall be deemed to be the amount which would have been earned if the employee did not limit his income or accepted appropriate employment. Whenever a wage-loss benefit as set forth in paragraph (a) may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury.

(c) Such benefits shall be paid during the continuance of such disability, not to exceed a period of 5 years.

Amendment 3—On page 39, between lines 22 and 23, insert:

(3) If the claimant should prevail in any proceedings before a deputy commissioner or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom he successfully asserts a claim for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; or

(b) In cases where the deputy commissioner issues an order finding that a carrier has acted in bad faith with regard to handling an injured worker's claim and the injured worker has suffered economic loss. For the purposes of this paragraph, "bad faith" means conduct by the carrier in the handling of a claim which amounts to fraud; malice; oppression; or willful, wanton, or reckless disregard of the rights of the claimant. Any determination of bad faith shall be made by the deputy commissioner through a separate fact-finding proceeding. *The deputy commissioner shall issue a separate order which shall expressly state the specific findings of fact upon which the determination of bad faith is based; or*

(c) In a proceeding where a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability.

In the situations set forth in paragraph (b), the payment of such attorney's fees shall not be recouped, directly or indirectly, by any carrier in the rate base, the premium, or any rate filing.

Amendment 4—On page 5, between lines 27 and 28, insert:

(7)(a) The term "carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes self-insurers.

(b) The term "self-insurer" means:

1. Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;
2. Any employer who has secured payment of compensation through a group self-insurer pursuant to s. 440.57; or
3. Any group self-insurer established pursuant to s. 440.57.
4. A public utility as defined in s. 364.02 or s. 366.02, that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 440.571.

Amendment 5—On page 35, between lines 15 and 16, insert:

(d) When an application for an advance payment in excess of \$2,000 is opposed by the employer or carrier, it shall be heard by a deputy commissioner after giving the interested parties not less than 10 days' notice of such hearing by mail, unless such notice is waived. In his discretion, the deputy commissioner may have an investigation of the matter made by the Rehabilitation Section of the division, in which event the report and recommendation of said section will be deemed a part of the record of the proceedings. If the deputy commissioner finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, he may order the same paid. *Provided, however, in no event shall any such advance payment under this paragraph be granted for a period in excess of \$7,500 or twenty-six (26) weeks of benefits in any forty-eight (48) month period, whichever is greater, from the date of the last advance payment.*

Amendment 6—On page 52, between lines 2 and 3, insert:

Section 18. Section 440.571, Florida Statutes, is created to read:

440.571 *Self Insured Public Utilities*

A self insured public utility as authorized by s. 440.38(b) may assume by contract the liabilities under this chapter of contractors and subcontractors, or each of them, employed by or on behalf of such public utility when performing work on or adjacent to property owned or used by the public utility.

(Renumber subsequent sections)

Amendment 7—On page 41, between lines 2 and 3, insert:

Section 14. Subsection (1) of section 440.38, Florida Statutes, is amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(c) *By entering into a contract with a public utility under an approved utility provided self-insured program as set forth in s. 440.571 in effect as of July 1, 1983. The division shall adopt rules to implement this paragraph*

(Renumber subsequent sections.)

Amendment 8—On page 11, lines 21-31, and on page 12, lines 1-22, strike all of said lines

Amendment 9—On page 11, line 21, insert:

(4)(3)(a) All fees and other charges for such treatment or service, including treatment or service provided by any hospital or other health care provider, shall be limited to such charges as prevail in the state ~~same~~ ~~community~~ for similar treatment of injured persons of like ~~standard~~ ~~of living~~ and shall be subject to rules adopted by the division, which shall annually incorporate a ~~schedule~~ ~~schedules~~ of maximum ~~reimbursement allowances~~ ~~charges~~ for such treatment or service as determined by a three-member panel, consisting of ~~the Secretary of Labor and Employment Security~~, the Insurance Commissioner and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who on account of previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees, ~~and the state medical consultant of the Division of Workers' Compensation.~~ The schedule shall have statewide applicability and shall be uniform throughout the state. An individual health care provider shall be paid either his usual ~~and customary~~ charge for a treatment or service or the maximum ~~reimbursement allowance~~ ~~charge~~, whichever is less. *In determining the prevailing charges for the schedule, the panel shall first approve the body of medical and hospital data which it finds representative of charges for such treatment. Using the approved body of data when arrayed, the panel shall establish a percentile upon which a schedule of maximum reimbursement will be calculated. In establishing the maximum reimbursement schedule, the panel shall consider the following:*

1. The usual remuneration for service or treatment;
2. Impact upon cost to employers; and
3. Impact upon cost to the health care system.

(b) There is created an advisory committee to aid and assist the ~~panel~~ ~~Department of Labor and Employment Security~~ in ~~determining~~ ~~adopting~~ ~~schedules~~ of maximum charges for hospital treatment and services payable through workers' compensation benefits to be appointed by and serve at the pleasure of the ~~Insurance Commissioner~~ ~~Secretary of Labor and Employment Security~~.

The President presiding

Amendment 10—On page 19, lines 15-31, on page 20, lines 1-31, on page 21, lines 1 and 2, strike all of said lines and insert:

(9) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and his dependents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. ss. 423 and 402, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than they would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits shall not be applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(b) If the provisions of 42 U.S.C. s. 424(a) are amended to provide for a reduction or increase of the percentage of average current earnings that the sum of compensation benefits payable under this chapter and the benefits payable under 42 U.S.C. s. 423 and s. 402 can equal, the amount of the reduction of benefits provided in this subsection shall be reduced or increased accordingly.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(e), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 423 and 402 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the division, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to him and authorize the Division of Employment Security to release unemployment compensation information relating to him, in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(e) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by said rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the division may prescribe by rule.

Senator Thomas moved the following amendment which was adopted:

Amendment 11—On page 52, line 6, strike “October 1, 1983” and insert: upon becoming law

The Committee on Commerce recommended the following amendments which were moved by Senator Thomas and adopted:

Amendment 12—In title, on page 1, lines 18 and 19, strike “providing for a payment schedule”

Amendment 13—In title, on page 1, line 21, after “1982 Supplement,” insert: eliminating certain unavailability of employment as a factor in wage-loss calculations;

Amendment 14—In title, on page 1, line 27, after “benefits;” insert: limiting, applicability of benefits for temporary partial disability;

Amendment 15—In title, on page 2, line 20, after “Florida Statutes,” insert: requiring certain orders of deputy commissioners

Amendment 16—In title, on page 39, strike all of lines 19 and 20 and insert:

Section 12. Section (3) and (5) of section 440.34, Florida Statutes, are amended to read:

On motion by Senator Thomas, by two-thirds vote HB 1277 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

On motion by Senator Langley, the Senate reconsidered the vote by which CS for SB 829 as amended passed this day.

Pending further consideration of CS for SB 829 as amended, on motion by Senator Langley, the rules were waived and by two-thirds vote HB 769 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Langley—

HB 769—A bill to be entitled An act relating to custody and support of children; amending s. 61.13(2)(b), Florida Statutes, 1982 Supplement; providing that the court, in a dissolution proceeding, shall consider evidence of spouse abuse as evidence of detriment to a child; providing discretionary authority for the award of sole parental responsibility in the event of spouse abuse; renumbering s. 61.13(4), (5), Florida Statutes, 1982 Supplement, and adding a new subsection (4) to said section; requiring the custodial parent to give the noncustodial parent certain notice of any intended move removing the child more than 150 miles from the residence occupied by the family prior to separation or dissolution; providing for court action where the parties cannot agree concerning the removal of the child; providing factors for the court to consider; providing for severability; providing an effective date.

—a companion measure, was substituted for CS for SB 829 and read the second time by title.

Senators Langley and Johnston offered the following amendments which were moved by Senator Langley and adopted:

Amendment 1—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, 1982 Supplement, is amended, and present subsections (4) and (5) of said section are renumbered as subsections (5) and (6) and a new subsection (4) is added to said section to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)1. The court shall determine all matters relating to custody of each minor child of the parties as a part of any proceeding under this chapter in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure each minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and to encourage parents to share the rights and responsibilities of child-rearing. Upon considering all relevant factors, the father of the child shall be given the same consideration as the mother in determining custody without regard to the age of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. If the court determines that shared parental responsibility would be detrimental to the child, the court may order sole parental responsibility. *If the court finds that spouse abuse has occurred between the parties and that such conduct has been detrimental to the child, the court may award sole parental responsibility to the abused spouse, and make such arrangements for visitation as will best protect the child and abused spouse from further harm.*

a. “Shared parental responsibility” means that both parents retain full parental rights and responsibilities with respect to their child and requires both parents to confer so that major decisions affecting the welfare of the child will be determined jointly. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child’s welfare or may divide those aspects between the parties based on the best interests of the child. When it appears to the court to be in the best interests of the child, the court may order or the parties may agree how any such responsibility will be divided. Such areas of responsibility may include primary physical residence, education, medical and dental care, and any other responsibilities which the court finds unique to a particular family and/or in the best interests of the child.

b. “Sole parental responsibility” means that responsibility for the minor child is given to one parent by the court, with or without rights of visitation to the other parent.

c. The court may award the grandparents visitation rights of a minor child if it is deemed by the court to be in the child’s best interest. Grandparents shall have legal standing to seek judicial enforcement of such an award. Nothing in this section shall be construed to require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor shall such grandparents have legal standing as “contestants” as defined in s. 61.1306. No court shall order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. Access to records and information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to a parent because such parent is not the child's primary residential parent.

(4) *In all instances where, following separation or dissolution of marriage:*

(a) *The child has maintained frequent and continuing contact with both parents; and*

(b) *Both parents are in substantial compliance with their respective support obligation, if any,*

neither parent shall be permitted to remove the child more than 100 miles from the residence occupied by the family unit prior to separation or dissolution, either within or without the state, if the intended move would cause the established frequent and continuing contact between the child and the other parent to be unreasonably hampered, hindered, or destroyed, unless the parent seeking to remove the child secures, in writing, the consent of the other parent or the court enters an order finding the intended move is in the best interests of the child. This subsection shall not be construed to authorize a parent to remove a child if the parent has not maintained frequent contact with the child or is not in substantial compliance with his support obligation.

(5)(4) *In any proceeding under this chapter, the court, at any stage of the proceeding and after final judgment, may make such orders about what security is to be given for the care, custody, and support of the minor children of the marriage as from the circumstances of the parties and the nature of the case is equitable.*

(6)(5) *The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act.*

Section 2. The provisions of this act shall apply to all pending proceedings seeking the return of children taken from this state under circumstances that would be contrary to the provisions of this act.

Section 3. If any provision of this act or the application thereof to any person or circumstances 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 4. This act shall take effect July 1, 1983.

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to custody and support of children; amending s. 61.13(2)(b), Florida Statutes, 1982 Supplement; providing discretionary authority for the award of sole parental responsibility if the court finds that spouse abuse has occurred and that such conduct has been detrimental to the child; renumbering s. 61.13(4), (5), Florida Statutes, 1982 Supplement, and adding a new subsection (4) to said section; prohibiting a parent from removing a minor child more than 100 miles from the residence occupied by the family unit prior to separation or dissolution under certain circumstances; providing that the act shall apply to certain pending proceedings; providing for severability; providing an effective date.

On motion by Senator Langley, by two-thirds vote HB 769 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 829 was laid on the table.

SB 159—A bill to be entitled An act relating to criminal proceedings; amending s. 27.56(1)(a), Florida Statutes; requiring certain defense attorneys to move for assessment of attorney's fees and costs under certain circumstances; amending s. 947.18, Florida Statutes; authorizing the Parole and Probation Commission to make the payment of certain attorney's fees and costs a condition of parole; adding s. 948.03(1)(j), Florida Statutes; authorizing the court to require as a condition of probation that the probationer pay certain attorney's fees and costs; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 159 to conform the bill to HB 254.

Pending further consideration of SB 159 as amended, on motion by Senator Jennings, 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 as amended HB 254 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Drage—

HB 254—A bill to be entitled An act relating to criminal proceedings; amending s. 27.56(1)(a), Florida Statutes; requiring certain defense attorneys to move for assessment of attorney's fees and costs under certain circumstances; amending s. 947.18, Florida Statutes; authorizing the Parole and Probation Commission to make the payment of certain attorney's fees and costs a condition of parole; adding s. 948.03(1)(j), Florida Statutes; authorizing the court to require as a condition of probation that the probationer pay certain attorney's fees and costs; paragraph (g) of subsection 1 of s. 948.03, Florida Statutes, is amended and paragraph (j) is added to said subsection relating to the terms and conditions of probation; providing for reparation or restitution; providing an effective date.

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

SPECIAL ORDER, continued

On motions by Senator Jennings, by two-thirds vote HB 254, a companion measure, was withdrawn from the Committee on Commerce and by two-thirds vote substituted for SB 159. On motions by Senator Jennings, by two-thirds vote HB 254 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

SB 159 was laid on the table.

On motion by Senator Dunn, by unanimous consent, the Senate resumed consideration of SB 249.

Pending further consideration of SB 249, on motions by Senator Dunn, the rules were waived and by two-thirds vote HB 213 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Dunn—

HB 213—A bill to be entitled An act relating to workers' compensation; amending s. 440.51(1)(a), Florida Statutes, modifying the current method of deriving administrative costs; reenacting s. 440.56(6), Florida Statutes, to incorporate the amendment to s. 440.51(1)(a), Florida Statutes, in a reference thereto; providing an effective date.

—a companion measure, was substituted for SB 249 and read the second time by title.

Senator Dunn moved the following amendment which was adopted:

Amendment 1—On page 1, between lines 11 and 12, insert:

Section 1. Subsection (13) of Section 440.20, Florida Statutes, is amended to read:

(13)(a) Liability of an employer for future payments of compensation shall not be discharged by advance payment unless prior approval of a deputy commissioner or the division has been obtained as hereinafter provided. The approval shall not constitute an adjudication of the claimant's percentage of disability.

(b) When the claimant has reached maximum recovery and returned to his former or equivalent employment with no substantial reduction in wages, such approval of a reasonable advance payment of a part of the compensation payable to the claimant may be given informally by letter by a deputy commissioner, by the division director, or by the administrator of claims of the division.

(c) In the event the claimant has not returned to the same or equivalent employment with no substantial reduction in wages or has suffered a substantial loss of earning capacity or a physical impairment, actual or apparent:

1. An advance payment of compensation not in excess of \$2,000 may be approved informally by letter, without hearing, by any deputy commissioner, by the division director, or by the administrator of claims of the division.

2. An advance payment of compensation not in excess of \$2,000 may be ordered by any deputy commissioner after giving the interested parties opportunity for a hearing thereon pursuant to not less than 10 days' notice by mail, unless such notice is waived, and after giving due consideration to the interests of the person entitled thereto. When the parties have stipulated to an advance payment of compensation not in excess of \$2,000, such advance may be approved by an order of a deputy commissioner, with or without hearing, or informally by letter by any such deputy commissioner, or by the division director, if such advance is found to be for the best interests of the person entitled thereto.

3. When the parties have stipulated to an advance payment in excess of \$2,000, subject to the approval of the division, said payment may be approved by a deputy commissioner by order if he finds that same is for the best interests of the person entitled thereto and is reasonable under the circumstances of the particular case. The deputy commissioner shall make or cause to be made such investigations as he considers necessary concerning the stipulation and, in his discretion, may have an investigation of the matter made by the Rehabilitation Section of the division. The stipulation and the report of any investigation shall be deemed a part of the record of the proceedings.

(d) When an application for an advance payment in excess of \$2,000 is opposed by the employer or carrier, it shall be heard by a deputy commissioner after giving the interested parties not less than 10 days' notice of such hearing by mail, unless such notice is waived. In his discretion, the deputy commissioner may have an investigation of the matter made by the Rehabilitation Section of the division, in which event the report and recommendation of said section will be deemed a part of the record of the proceedings. If the deputy commissioner finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, he may order the same paid. *Provided however in no event shall any such advance payment under this paragraph be granted for a period in excess of \$7,500 or twenty-six (26) weeks of benefits, in any forty-eight (48) month period, whichever is greater, from the date of the last advance payment.*

(Renumber subsequent sections.)

Senator Thomas offered the following amendment which was moved by Senator Dunn and adopted:

Amendment 2—On page 1, lines 26 and 27, insert:

(b) The ~~total~~ expenses of administration, *except for payments required by s. 440.15(1)(e)*, shall be prorated among the *insurers and self-insurers* ~~insurance companies~~ writing compensation insurance in this state ~~and self-insurers~~. The net premiums collected by *insurers and*

~~group self-insurers the companies~~ and the amount of premiums an individual a self-insurer would have to pay if insured are the basis for computing the amount to be assessed. This amount ~~shall~~ *may* be assessed as a ~~specific amount or~~ as a percentage of net premiums ~~payable as the division may direct~~, provided such amount so assessed shall not exceed 24 percent of such net premiums. ~~The insurance companies may elect to make the payments required under s. 440.15(1)(e) rather than having these payments made by the division. In that event, such payments will be credited to the insurance companies, and the amount due by the insurance company under this section will be reduced accordingly.~~

(2)(a) *The division shall levy a supplemental benefits assessment only for the claim payments required by 440.15(1)(e) for accidents occurring before July 1, 1983 and not for any other purpose. The assessment formula shall be prorated among insurers and self-insurers. This amount shall be assessed as a percentage of net premiums collected by insurers and group self-insurers and the amount of premiums an individual self-insurer would have to pay if insured. The assessment calculation methodology shall be the same methodology used to calculate assessments required by s. 440.51(1)(b). Such assessment shall be deemed repealed in the year final payment is made by the division for those injuries covered by section 440.15(1)(e) occurring prior to July 1, 1983. For those injuries occurring prior to July 1, 1983 insurers and self-insurers may elect to make the payments required under s. 440.15(1)(e) rather than having these payments made by the division. In that event, such payments will be credited to the insurers or self-insurers, and the amount due by the insurers or self-insurers under this subsection will be reduced accordingly.*

(b) *Notwithstanding the provisions of s. 440.15(1)(e)1, for injuries occurring on or after July 1, 1983, insurers and self-insurers shall make benefit payments required under s. 440.15(1)(e) directly to the injured employee. Such benefit payments for injuries on or after July 1, 1983 may be reflected in any subsequent rate changes.*

(c) *The assessment imposed by this subsection shall not be allowed as a reduction or credit against any taxes imposed by this state on any insurer or self-insurer.*

(3)(2) *The division shall provide by regulation for the collection of the amounts assessed against each insurer or self-insurer carrier. If such amounts are not paid within such period, there may be assessed for each 30 days the amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount so unpaid, which shall be collected at the same time and a part of the amount assessed.*

(4)(3) *If any insurer carrier fails to pay the amount assessed against him under the provisions of this section within 60 days from the time such notice is served upon him, the Department of Insurance upon being advised by the division may suspend or revoke the authorization to insure compensation in accordance with the procedure in s. 440.38(3)(a).*

(5)(4) *All amounts collected under the provisions of this section shall be paid into the fund established in s. 440.50.*

(6)(5) *Any amount so assessed against and paid by an insurer insurance carrier shall be allowed as a deduction against the amount of any other levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of insurers said insurance carrier.*

(7)(a)(6)(a) *The division may require from each insurer and self-insurer, carrier, at such time and in accordance with such regulations as the division may prescribe, reports with in respect to all gross earned premiums and of all payments of compensation made by an insurer or self-insurer such carrier during each prior period, and may determine the amounts paid by each insurer or self-insurer carrier and the amounts paid by insurers and self-insurers all carriers during such period.*

(b) *The division may require from each self-insurer, at such time and in accordance with such regulations as the division may prescribe, reports in respect to wages paid, the amount of premiums such self-insurer would have to pay if insured, and all payments of compensation made by such self-insurer during each prior period, and may determine the amounts paid by each self-insurer and the amounts paid by all self-insurers during such period.*

(c) *For the purposes of this section, the payroll records of each self-insurer's self-insurer shall be open to annual inspection and audit by the division or its authorized representative, during regular business*

hours; and if any audit of such records of ~~a~~ *an individual* self-insurer discloses a deficiency in the amounts reported to the division or in the amounts paid to the division by *an individual* ~~such~~ self-insurer pursuant to this section, the division may assess the cost of such audit against ~~such~~ *that individual* self-insurer.

(8)(7) The division shall keep accumulated cost records of all injuries occurring within the state coming within the purview of this chapter on a policy and calendar year basis. For the purpose of this chapter, a "calendar year" is defined as the year in which the injury is reported to the division; "policy year" is defined as that calendar year in which the policy becomes effective, and the losses under such policy shall be chargeable against the policy year so defined.

(9)(8) The division shall assign an account number to each employer under this chapter and an account number to each *insurer and self-insurer* ~~insurance carrier~~ authorized to write workers' compensation insurance in the state; and it shall be the duty of the division under the account number so assigned to keep the cost experience of each *insurer and self-insurer* ~~carrier~~ and the cost experience of each employer under the account number so assigned by calendar and policy year, as above defined

(10)(9) In addition to the above, it shall be the duty of the division to keep the accident experience, as classified by the division, by industry as follows:

- (a) Cause of the injury;
- (b) Nature of the injury; and
- (c) Type of disability.

(11)(10) In every case where the duration of disability exceeds 30 days, the carrier shall establish a sufficient reserve to pay all benefits to which the injured employee, or in case of death, his dependents, may be entitled to under the law. In establishing the reserve, consideration shall be given to the nature of the injury, the probable period of disability, and the estimated cost of medical benefits.

(12)(a)(11) ~~The Division shall adopt the necessary rules to establish requirements for obtaining timely individual policyholder experience data from statistical and rating organizations when requested by the division or by an individual policyholder. The division shall furnish to any employer or carrier, upon request, its individual experience.~~ The division shall furnish to the Department of Insurance, upon request, the Florida experience as developed under accident year or calendar year.

(b) *Beginning with the first day of a group self-insurers fiscal year commencing immediately following July 1, 1984, a workers' compensation statistical organization shall be used by group self-insurers defined by s. 440.02(7)(b)3. for purposes of complying with the requirements of chapter 440 and s. 627.914 provided such statistical organization is not directly or indirectly owned or controlled by any insurer, carrier, self-insurer, or group thereof, or by any other statistical or rating organization.*

(c) *For purposes of this chapter a statistical organization shall meet the requirements of 607.004(1) and file with the division the following information for approval prior to commencing business:*

(1) *A copy of its constitution or articles of incorporation and any by-laws, plan of operation, rules and regulations governing the conduct of its business;*

(2) *The name and address of a resident of this state*

(3) *The name and address of a resident of this state upon whom notices or orders of the department or process affecting such statistical organization may be served.*

(d) *Any changes to the plan of operation, rules and regulations governing the conduct of a statistical organization's business shall be submitted to the division for approval prior to implementation.*

(13)(12) In addition to any other penalties provided by this law, the failure to submit any report or other information required by this law shall be just cause to suspend the right of a self-insurer to operate as such, or, upon certification by the division to the Department of Insurance that *an insurer a carrier* has failed or refused to furnish such reports, shall be just cause for the Department of Insurance to suspend or revoke the license of such *insurer carrier*.

Section 3. Section 440.515, Florida Statutes is created to read: *The division shall maintain the reports filed other than annual financial statements filed by group self-insurers in accordance with sections 440.51(7)(b) and 440.57(2) and (3), and 440.38(1)(b), and (2)(a) and (b), as confidential records. The reports shall be released only for bona fide research or educational purposes. However, such information shall be furnished for purposes of carrying out the provisions of s. 440.385. In addition, a policyholder's confidential information maintained in accordance with this section shall be released by the division after receipt of written consent from that policyholder, or its insurer or its self-insurer.*

(Renumber subsequent sections.)

Senator Dunn moved the following amendments which were adopted:

Amendment 3—On page 2, between lines 12-13, insert:

Section 3. Paragraph (b) of subsection (7) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(7)(a) The term "carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes self-insurers.

(b) The term "self-insurer" means:

1. Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;

2. Any employer who has secured payment of compensation through a group self-insurer pursuant to s. 440.57; or

3. Any group self-insurer established pursuant to s. 440.57.

4. *A public utility as defined in s. 362.02 or s. 366.02, that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 440.571.*

Section 4. Section 440.571, Florida Statutes, is created to read:

440.571 *Self Insured Public Utilities*

A self insured public utility as authorized by s. 440.38(b) may assume by contract the liabilities under this chapter of contractors and subcontractors, or each of them, employed by or on behalf of such public utility when performing work on or adjacent to property owned or used by the public utility.

Section 5. Paragraph (c) is added to subsection (1) of section 440.38, Florida Statutes, to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(c) *By entering into a contract with a public utility under an approved utility provided self-insured program as set forth in s. 440.571 in effect as of July 1, 1983. The division shall adopt rules to implement this paragraph*

(Renumber subsequent sections.)

Amendment 4—On page 2, line 13, before the period insert: , except that this section and section 1 shall take effect upon becoming a law

Senator Hair moved the following amendment with was adopted:

Amendment 5—On page 2, between lines 12 and 13, insert:

Section 3. Subsection (4) of section 440.45, Florida Statutes, is amended to read:

440.45 Deputy commissioner, Chief commissioner.—

(4) Each full-time deputy commissioner shall receive a salary *equal to* ~~of \$4,000 less per year than~~ that paid to a ~~full-time district court of appeal county court~~ judge, payable out of the fund established in s. 440.50. The Chief Commissioner shall receive a salary of \$1,000 more per year than paid to a full-time deputy commissioner.

(Renumber subsequent sections.)

Senator Dunn moved the following amendments which were adopted:

Amendment 6—In title, on page 1, line 8, after “thereto;” insert: amending s. 440.02(7), Florida Statutes, providing definitions; creating s. 440.571, Florida Statutes, providing for certain contracts by public utilities; amending s. 440.38, Florida Statutes, providing for certain security for compensation.

Amendment 7—In title, on page 1, line 5, after “costs;” insert: modifying the maximum assessment rate; provides for payment of supplemental benefits; provides for use of a statistical organization; provides confidentiality of certain records.

Amendment 8—In title, on page 1, between lines 2 and 3, insert: amending s. 440.20(13), Florida Statutes, providing for certain advance payments;

Amendment 9—In title, on page 1, line 8, after the semicolon (;), insert: amending s. 440.02(7)(6), Florida Statutes; defining “carrier”; creating s. 440.571, Florida Statutes; providing for assumption of liabilities by self insured public utilities; adding s. 440.38 (1)(c), Florida Statutes; conforming language;

Amendment 10—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 440.45(4), Florida Statutes; providing for salaries for deputy commissioners;

On motion by Senator Dunn, by two-thirds vote HB 213 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 249 was laid on the table.

On motion by Senator Fox, 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 as amended HB 1106 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce—

HB 1106—A bill to be entitled An act relating to mortgages; amending s. 95.281(1)(b) and (2)(b), Florida Statutes, permitting mortgagees to record and secure obligations of more than 20 years when the original record of the obligation secured by a mortgage is not ascertainable from the record of it; amending ss. 199.052(7)(d), 201.08(1), and 201.09(3), Florida Statutes, 1982 Supplement, eliminating a requirement that certain mortgages be secured by a one-to-four family structure with respect to the law governing returns on intangible taxes and the law governing the documentary stamp tax on mortgages; amending s. 199.062(5)(a), Florida Statutes, and s. 199.062(6)(a), Florida Statutes, as amended; revising penalties for failure to file required information with the Department of Revenue or with stockholders; providing for application to the 1983 tax year; amending s. 665.0731(5), Florida Statutes, deleting a provision authorizing the mortgagor or his successor to file a notice limiting optional future advances; amending s. 697.04(1), Florida Statutes, permitting mortgagors or their successors in title to limit the principal amount secured by the mortgage and thereby preclude future advances; exempting negative amortization and construction loan agreements therefrom; amending s. 697.05(2), Florida Statutes, providing a method

for calculating the final payment on an adjustable rate balloon mortgage; requiring disclosure; directing the Department of Community Affairs to conduct a study into the use of reverse annuity mortgages or similar instruments in this state; providing an appropriation; requiring a written report to the Legislature; providing an effective date.

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

SPECIAL ORDER, continued

On motion by Senator Fox, by two-thirds vote HB 1106, a companion measure, was withdrawn from the Committee on Commerce. On motion by Senator Fox, the rules were waived and HB 1106 was substituted for SB 1135. On motions by Senator Fox, by two-thirds vote HB 1106 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Gordon

SB 1135 was laid on the table.

On motions by Senator Kirkpatrick, the rules were waived and by two-thirds vote HB 1060 was withdrawn from the Committees on Agriculture and Appropriations.

On motion by Senator Kirkpatrick—

HB 1060—A bill to be entitled An act relating to citrus; amending s. 601.15(2) and (7)(d), (e) and (f), Florida Statutes, 1982 Supplement; providing authority of the Department of Citrus to conduct campaigns to encourage noncommodity advertising and deleting certain limitations on expenditures for such advertising; providing for annual proration of moneys between commodity and noncommodity programs and among types of citrus products; providing requirements for noncommodity programs; providing for establishment of incentive programs and related requirements by rule; authorizing the department to require certain information from participants in noncommodity programs and providing for confidentiality of trade secrets; revising provisions relating to commodity advertising of oranges and orange products; amending s. 601.157(4)(c), Florida Statutes; revising the limitation on rebates that may be received by handlers of processed grapefruit products from the Processed Grapefruit Rebate Fund; providing an effective date.

—a companion measure, was substituted for SB 642 and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 1060 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

SB 642 was laid on the table.

On motions by Senator Hair, the rules were waived and by two-thirds vote CS for HB 208 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Hair—

CS for HB 208—A bill to be entitled An act relating to sheriffs; amending s. 30.231(1), Florida Statutes, 1982 Supplement; increasing sheriffs' fees for service of writs, subpoenas, and executions; adding s. 39.405(12), Florida Statutes; providing that certain dependency orders need not be served under specified circumstances; amending s. 76.13, Florida Statutes; clarifying duties of the sheriff with respect to writs of attachment; creating s. 76.151, Florida Statutes; providing for service of writs of attachment upon property passing into possession of third persons; amending s. 78.065(2)(a), Florida Statutes; deleting a restriction upon show cause order hearings relating to property to be taken under a writ of replevin; amending s. 78.08, Florida Statutes; clarifying sheriffs' duties with respect to such a writ; amending s. 78.10, Florida Statutes; providing a procedure for the execution of a writ of replevin on property where there are no reasonable grounds to believe it is located in certain enclosures; amending ss. 83.13, 83.14, and 83.19(2), Florida Statutes, 1982 Supplement; clarifying sheriffs' duties in the execution of writs pursuant to distress for rent actions against commercial tenants; expanding the locations of sale of property levied pursuant to such writs; amending s. 559.23, Florida Statutes; increasing the permit fee for fire and going-out-of-business sales; providing an effective date.

—a companion measure, was substituted for CS for SB 293 and read the second time by title. On motion by Senator Hair, by two-thirds vote CS for HB 208 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

CS for SB 293 was laid on the table.

CS for SB 736—A bill to be entitled An act relating to state administered retirement systems; providing for the development of a plan for health insurance for retirees of such systems; providing an appropriation; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 736 to conform the bill to HB 1284.

Pending further consideration of CS for SB 736 as amended, on motions by Senator Myers, the rules were waived and by two-thirds vote HB 1284 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; Rules and Calendar; and Appropriations.

On motion by Senator Myers—

HB 1284—A bill to be entitled An act relating to state administered retirement systems; providing for the development of recommendations for a health insurance plan for retirees of the systems; providing an appropriation; providing an effective date.

—a companion measure, was substituted for CS for SB 736 and read the second time by title. On motion by Senator Myers, by two-thirds vote HB 1284 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

CS for SB 736 was laid on the table.

CS for SB 1002—A bill to be entitled An act relating to dentistry; amending s. 466.006(1), (3), Florida Statutes, 1982 Supplement, and adding paragraph (c) to subsection (4) of said section; requiring submission of reasonable and reliable evidence of the educational credentials of graduates of nonaccredited dental schools prior to taking the dental examination; providing exceptions; requiring successful completion of diagnostic skills test as a condition of licensure; providing exceptions; providing for examination fees; amending s. 466.028(1)(n), (t), Florida Statutes, and adding paragraph (ee) to said subsection; providing for disciplinary actions; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 1002 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Fox

SB 1130—A bill to be entitled An act relating to publicly owned and operated airports; providing for the imposition of a lien on certain aircraft landing on certain publicly owned and operated airports; prohibiting the removal of such aircraft after notice of lien has been served or posted; providing penalties; repealing s. 125.021, Florida Statutes, relating to liens on aircraft landing at county airports; providing an effective date.

—was read the second time by title.

Six amendments were adopted to SB 1130. The bill was subsequently reconsidered and HB 1239 was substituted therefor.

On motion by Senator Plummer, by two-thirds vote SB 1130 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Fox, Stuart

SB 952—A bill to be entitled An act relating to pari-mutuel wagering; creating s. 550.333, Florida Statutes, providing legislative intent with respect to permits and licenses issued by the Division of Pari-mutuel Wagering; authorizing the division to issue permits to nonprofit corporations to conduct certain horseracing meets without pari-mutuel wagering conducted in conjunction therewith; providing certain requirements for the issuance of nonwagering permits; requiring horses in nonwagering meets to be registered with certain breed registration organizations; requiring approval by the Florida Pari-mutuel Commission for racing dates by nonwagering permit holders; providing for the restriction of dates to those not in conflict with dates of any other pari-mutuel permit-

holders within 50 miles of the nonwagering permitholders under certain circumstances; requiring the commission to notify certain pari-mutuel permitholders of applications for nonwagering racing dates; authorizing issuance of an annual nonwagering license; authorizing the division to exclude persons not of good moral character from participating in nonwagering meets; authorizing the division to order nonwagering meets to cease operation if found to be for any illegal purpose; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Thurman and adopted:

Amendment 1—On page 2, line 29, strike “nonracing” and insert: nonwagering

Senator McPherson moved the following amendment which was adopted:

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

Section 2. Section 550.08, Florida Statutes, 1982 Supplement, is amended to read:

550.08 Maximum length of race meeting.—*Unless otherwise provided in this chapter*, no license shall be granted to any person or to any racetrack for a meet or meeting in any county to extend longer than an aggregate of 50 racing days for thoroughbred horse racing, 120 days for quarter horse racing and harness horse racing, and 105 days for dogracing in any racing season.

Section 3 Paragraph (a) of subsection (2) of section 550.16, Florida Statutes, 1982 Supplement, is amended to read: 550.16 Pari-mutuel pool authorized within track enclosure; commissions; capital improvement withholdings; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.—

(2) The “commission” is the percentage of the contributions to pari-mutuel pools which a permitholder is permitted to withhold from the contributions before making redistribution to the contributors. The permitholder’s share of the commission is that portion of the commission which remains after the pari-mutuel tax imposed upon the contributions to the pari-mutuel pool is deducted from the commission and paid by the permitholder. The commission is deducted from all pari-mutuel pools but may be different depending on the type of pari-mutuel pool. For the purpose of this chapter, contributions to pari-mutuel pools involving wagers on a single animal in a single race, such as the win pool, the place pool, or the show pool, shall be referred to as “regular wagering,” and contributions to all other types of pari-mutuel pools, including, but not limited to, the daily double, perfecta, quiniela, trifecta, or the Big “Q” pools, shall be referred to as “exotic wagering.”

(a) The commission which a permitholder who conducts horseracing under the provisions of this chapter may withhold from contributions to pari-mutuel pools shall not exceed 17.6 percent on regular wagering and shall not exceed 19 percent on exotic wagering, except that up to an additional 0.5 percent of the handle on regular wagering and up to an additional 1 percent of the handle on exotic wagering may be withheld by the permitholder to be used for capital improvements or to reduce capital improvement debt, provided that harness racing permitholders may withhold an additional 1 percent of the handle, 50 percent to be used for capital improvements and 50 percent to be used for purses.

Section 4. Subsection (3) of section 550.162, Florida Statutes, 1982 Supplement, is amended to read:

550.162 Dogracing; taxes; purse allowance; hours of operation.—

(3) In addition to the sums permitted to be withheld from pari-mutuel pools under subsection (2), a permitholder may withhold, for capital improvements or to reduce capital improvement debt, 1 percent from pari-mutuel pools on ~~triples, trifectas, or other similar wagers involving three or more greyhounds in any race and on pie-six wagering. If a permitholder is unequipped to hold triples, trifectas, or similar wagers on three greyhounds in one race, the permitholder may withhold, in addition to the sums permitted to be withheld under subsection (2), 1 percent, for capital improvements or to reduce capital improvement debt, from pari-mutuel pools on the following exotic wagers only: quinielas, perfectas; Big “Q”s; and pie-six wagering. If a permitholder becomes equipped to hold triples, trifectas, or similar wagers on three greyhounds~~

~~in one race, the permitholder is authorized to withhold the additional 1 percent authorized in this subsection only from pools on triples, trifectas, and similar three greyhound wagers and on pie-six wagering, and not from pools on any other type of exotic wagering. The permitholder who withholds additional sums under the provisions of this section for capital improvements or to reduce capital improvement debt shall be bound by the definition of capital improvements and capital improvement debt and the use of these sums as it appears in s. 550.16. In no event shall the total sums withheld on any type of exotic wagering on greyhounds exceed 20 percent of the total contributions to such pools.~~

Section 5. It is intended that the additional racing days authorized by this act for harness racing shall be run during the first part of the winter racing season rather than causing an extension of the meet further into the spring dates.

Section 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not effect 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.

(Renumber subsequent section.)

Senator Thurman moved the following amendments which were adopted:

Amendment 3—On page 2, line 17, after “permit” strike “.” and insert: Nothing in this subsection shall prohibit horseracing for any stake, purse, prize, or premium.

Amendment 4—On page 2, line 18, strike “nonprofit”

Amendment 5—On page 2, line 29, strike “nonracing” and insert: nonwagering

Amendment 6—On page 3, line 8, strike “Nonprofit”

Senator Jennings moved the following amendment which was adopted:

Amendment 7—On page 4, between lines 3 and 4, insert:

Section 2. Paragraph (i) is added to subsection (4) of Section 550.262, Florida Statutes, to read:

550.62 Horseracing; minimum purse requirement and Florida breeders’ awards.—

(4) Each permitholder conducting a harness horse race meet under the provisions of this chapter shall pay to the Division of Pari-mutuel Wagering a sum equal to the breaks on all pari-mutuel pools conducted during the race meet. The payments shall be remitted to the division by the fifth day of each calendar month for sums accruing during the preceding calendar month. The division shall deposit these collections to the credit of the Florida Harness Horse Racing Promotion Trust Fund. The Department of Agriculture and Consumer Services shall administer such funds and prescribe suitable and reasonable rules for the administration thereof. Moneys in the Florida Harness Horse Racing Promotion Trust Fund shall be allocated first for the payment of breeders’ awards, stallion awards, additional purses and prizes for Florida-bred standardbred horses; thereafter, such moneys shall be allocated for the general promotion of owning and breeding of standardbred horses in this state. Payments from this fund for breeders’ awards and stallion awards shall be in accordance with the following provisions:

(i) The Department of Agriculture and Consumer Services may authorize the release of up to 25 percent of the available funds in the Florida Harness Horse Racing Promotion Trust Fund to be used for purses for Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless and to the extent such release would render the funds available in the Trust Fund insufficient to pay a 15 percent breeders’ or stallion award as required by paragraph (h), above. Any such funds so released and used for purses shall not be considered to be “announced gross purse,” as that term is defined in paragraphs (a) and (b) above, and no breeders’ stallion awards shall be required to be paid from the Trust Fund for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released from the Trust Fund and the meets eligible to receive such funds for purses shall be approved by the Board of Directors of the Standardbred Breeders and Owners Association.

(Renumber subsequent sections.)

Senator McPherson moved the following amendments which were adopted:

Amendment 8—On page 4, between lines 3 and 4, insert:

Section 2. Subsection (5) of section 550.262, Florida Statutes, is amended to read:

550.262 Horseracing; minimum purse requirement and Florida breeders' awards.—

(5) Each permitholder conducting a quarter horse race meet under the provisions of this chapter shall pay to the Division of Pari-mutuel Wagering a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to all pari-mutuel pools conducted. Such payments shall be remitted to the division by the fifth day of each calendar month for sums accruing during the preceding calendar month. The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund. The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. ~~It is the intention of the Legislature that~~ The moneys in the Florida Quarter Horse Racing Promotion Trust Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state and shall not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter, except that the moneys generated by quarter horse registration fees received pursuant to s. 550.265 may be used as provided in subsection (6)(b) thereof.

Section 3. Paragraph (b) of subsection (6) of section 550.265, Florida Statutes, 1982 Supplement, is amended to read:

550.265 Quarter horse racing; breeders' awards; Quarter Horse Advisory Council; horse registration fees; deposits in Florida Quarter Horse Racing Promotion Trust Fund.—

(6) REGISTRATION FEES.—

(b) The fees collected hereunder shall be deposited in the Florida Quarter Horse Racing Promotion Trust Fund and ~~General Inspection Trust Fund of the State Treasury in a special account to be known as the "Quarter Horse Racing Fund"~~ and shall be used to defray the necessary expenses incurred by the Department of Agriculture and Consumer Services in the administration of this section shall be paid out of the fund only up to the amount of deposited registration fees.

(Renumber subsequent section.)

Amendment 9—In title, on page 1, line 29, after the semicolon (;) insert: amending s. 550.262(5), Florida Statutes; providing restrictions on the use of moneys in the Florida Quarter Horse Racing Promotion Trust Fund; amending s. 550.265(6)(b), Florida Statutes, 1982 Supplement; providing for deposit of registration fees into said fund; restricting the use of such deposited fees;

Senator Thurman moved the following amendment which was adopted:

Amendment 10—In title, line 7, strike "nonprofit"

Senator Jennings moved the following amendment which was adopted:

Amendment 11—In title, on page 1, line 29, after the semicolon (;) insert: Amending section 550.262(4) to permit harness racing without pari-mutuel wagering.

Senator McPherson moved the following amendments which were adopted:

Amendment 12—In title, on page 1, line 29, after "purposes;" insert: amending s. 550.08, Florida Statutes; 1982 Supplement; providing 120 racing days for harness horse racing; amending s. 550.16(2)(a), Florida Statutes, 1982 Supplement, authorizing harness racing permitholder to withhold an additional 1 percent of the handle; amending s. 550.162(3), Florida Statutes, 1982 Supplement; authorizing certain permitholders to withhold for capital improvements or to reduce capital improvement debt, 1 percent from pari-mutuel pools on exotic wagering; providing for severability;

Amendment 13—In title, on page 1, line 2, strike "pari-mutuel wagering" and insert: racing

On motion by Senator Thurman, by two-thirds vote SB 952 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Johnston, CS for SB's 963, 999, 1079 and 1098 was withdrawn from the Committee on Appropriations.

SPECIAL ORDER, continued

CS for SB 218—A bill to be entitled An act relating to the Florida Housing Finance Agency Act; amending ss. 420.503(9), Florida Statutes, 1982 Supplement, and s. 420.508(3)(a), Florida Statutes; amending the definition of "mortgage" by redefining what constitutes adequate security for such an instrument; clarifying that the agency may make mortgage loans for permanent financing or construction financing and defining what constitutes adequate security for such loans; amending s. 420.509(7), Florida Statutes, 1982 Supplement, and adding new subsections thereto; allowing the agency to determine that a negotiated sale of revenue bonds issued on its behalf is preferable to a public sale and to authorize the Division of Bond Finance of the Department of General Services to negotiate such sale with agency-designated underwriters; requiring submission of disclosure statements; specifying contents; providing a restriction upon future sales in certain cases; defining "finder" and providing restrictions upon the use thereof; providing a penalty; creating s. 420.516, Florida Statutes, prohibiting discrimination by certain persons; providing an effective date.

—was read the second time by title.

One amendment to CS for SB 218 failed.

Pending further consideration of CS for SB 218, on motions by Senator Stuart, the rules were waived and by two-thirds vote CS for HB 365 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations.

On motion by Senator Stuart—

CS for HB 365—A bill to be entitled An act relating to the Florida Housing Finance Agency Act; amending ss. 420.503(9), Florida Statutes, 1982 Supplement, and s. 420.508(3)(a), Florida Statutes; amending the definition of "mortgage" by redefining what constitutes adequate security for such an instrument; clarifying that the agency may make mortgage loans for permanent financing or construction financing and defining what constitutes adequate security for such loans; amending s. 420.509(7), Florida Statutes, 1982 Supplement, and adding new subsections thereto; allowing the agency to determine that a negotiated sale of revenue bonds issued on its behalf is preferable to a public sale and to authorize the Division of Bond Finance of the Department of General Services to negotiate such sale with agency-designated underwriters; requiring submission of disclosure statements; specifying contents; providing a restriction upon future sales in certain cases; defining "finder" and providing restrictions upon the use thereof; providing a penalty; creating s. 420.516, Florida Statutes, prohibiting discrimination by certain persons; providing an effective date.

—a companion measure, was substituted for CS for SB 218 and read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for HB 365 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 218 was laid on the table.

SB 85—A bill to be entitled An act relating to legislative review of regulatory programs and functions and legislative review of advisory bodies, commissions, and boards of trustees adjunct to executive agencies; amending s. 11.61(3)(n), (6)(j), and adding (10) to said section, Florida Statutes, as amended by ch. 81-318, Laws of Florida; and amending s. 11.611(14)(b), (c), (d), (f), (15)(c), (h), (16)(b), (c), (17)(b), (18), (20)(d), and (21), Florida Statutes, as amended by ch. 82-46, Laws of Florida; providing for the future repeal and review by the Legislature of certain provisions of law relating to regulatory programs and functions and to advisory bodies, commissions, and boards of trustees adjunct to executive agencies; removing certain provisions of law from those scheduled for future repeal and review; repealing various provisions of the Laws of Florida, which repeal various laws relating to regulatory programs and functions and which require such laws to be reviewed pursuant to the Regulatory Sunset Act; repealing various provisions of the Laws of Florida which repeal various laws relating to advisory bodies, commissions, and boards of trustees adjunct to executive agencies and which require such laws to be reviewed pursuant to the Sundown Act; providing that a list of advisory bodies, commissions, and boards of trustees scheduled for review be published in the Florida Statutes; providing an effective date.

—was read the second time by title.

One amendment was adopted to SB 85 to conform the bill to HB 1074.

On motion by Senator Henderson, 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 as amended HB 1074 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Regulatory Reform—

HB 1074—A bill to be entitled An act relating to legislative review of regulatory programs and functions and legislative review of advisory bodies, commissions, and boards of trustees adjunct to executive agencies; amending s. 11.6105(3)(n), (6)(j), and adding (10) to said section, Florida Statutes, as amended by ch. 81-318, Laws of Florida; and amending s. 11.611(14)(b), (c), (d), (f), (15)(c), (h), (16)(b), (c), (17)(b), (18), (20)(d), and (21), Florida Statutes, as amended by ch. 82-46, Laws of Florida; providing for the future repeal and review by the Legislature of certain provisions of law relating to regulatory programs and functions and to advisory bodies, commissions, and boards of trustees adjunct to executive agencies; removing certain provisions of law from those scheduled for future repeal and review; repealing various provisions of the Laws of Florida, which repeal various laws relating to regulatory programs and functions and which require such laws to be reviewed pursuant to the Regulatory Sunset Act; repealing various provisions of the Laws of Florida which repeal various laws relating to advisory bodies, commissions, and boards of trustees adjunct to executive agencies and which require such laws to be reviewed pursuant to the Sundown Act; providing an effective date.

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

SPECIAL ORDER, continued

On motions by Senator Henderson, by two-thirds vote HB 1074, a companion measure, was withdrawn from the Committee on Governmental Operations and substituted for SB 85. On motions by Senator Henderson, by two-thirds vote HB 1074 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

SB 85 was laid on the table.

The Senate resumed consideration of—

CS for HB's 32 & 49—A bill to be entitled An act relating to education; amending s. 228.061(1), Florida Statutes, conforming terminology; amending s. 232.01, Florida Statutes, 1982 Supplement, deleting obsolete provisions and provisions authorizing early entrance to first grade, and establishing eligibility for admission to kindergarten; amending s. 232.03, Florida Statutes, removing an obsolete reference; amending s. 232.05, Florida Statutes, establishing eligibility for admission to nursery schools and deleting obsolete provisions; amending s. 232.245(1), Florida Statutes, specifying that the pupil progression plan include grades kindergarten through 12 and expanding parameters of each district's comprehensive program; amending s. 402.22(2), Florida Statutes, 1982 Supplement, correcting a cross-reference; repealing s. 232.04, Florida Statutes, relating to eligibility for admission to kindergarten; providing an effective date.

—which was taken up with pending Amendment 6 which was withdrawn.

Senator Langley moved the following amendment which was adopted:

Amendment 7—On page 3, line 3, insert: Provided however that any child who will attain the age of five years prior to January 1, 1984, and who has passed the readiness test may enter kindergarten for the 1983-1984 school year. The respective school districts shall offer such readiness tests to these children for the 1983-1984 school year.

On motion by Senator Langley, by two-thirds vote CS for HB's 32 and 49 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gersten	Johnston	Plummer
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	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	

Nays—None

On motion by Senator Frank, by two-thirds vote HB 348 was withdrawn from the Committee on Judiciary-Criminal.

On motions by Senator Frank—

HB 348—A bill to be entitled An act relating to sexual battery; amending s. 794.022, Florida Statutes; deleting the authority of a judge to give certain jury instructions; providing that evidence of specific instances of prior consensual sexual activity may be admitted in certain circumstances; limiting the admissibility of certain evidence; providing an effective date.

—a companion measure, was substituted for CS for SB 206 and by two-thirds vote read the second time by title. On motion by Senator Frank, by two-thirds vote HB 348 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Childers, D.

CS for SB 206 was laid on the table.

On motion by Senator Barron, time of adjournment was extended until completion of the special order calendar.

On motion by Senator Neal, 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 as amended HB 1290 and requests the concurrence of the Senate.

Allen Morris, Clerk

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

HB 1290—A bill to be entitled An act relating to federal block grants to aid small cities; creating the Florida Small Cities Community Development Block Grant Program; providing legislative intent and definitions; requiring the Department of Community Affairs to administer the program; creating and providing for the administration of the Florida Small Cities Community Development Block Grant Program Fund; providing for distribution of funds; providing for program categories; providing requirements and procedures for applying for grants; providing criteria for evaluating applications; providing for the establishment of grant ceilings; providing for documentation of administrative costs; providing powers of the department; providing for an advisory council and providing for review and repeal; requiring an interagency agreement between the Department of Community Affairs and the Department of Commerce requiring the Departments to submit reports to the Legislature; providing for allocation of certain federal funds; providing appropriations; providing an effective date.

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

SPECIAL ORDER, continued

On motions by Senator Neal, by two-thirds vote HB 1290, was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Neal, the rules were waived and HB 1290, a companion measure, was substituted for CS for SB 164. On motions by Senator Neal, by two-thirds vote HB 1290 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Childers, W. D.	Grant	Jennings
Barron	Crawford	Hair	Johnston
Beard	Fox	Henderson	Kirkpatrick
Carlucci	Frank	Hill	Langley
Castor	Girardeau	Jenne	Meek

Myers	Rehm	Thomas	Weinstein
Neal	Scott	Thurman	
Plummer	Stuart	Vogt	

Nays—4

Gersten	Gordon	Malchon	Margolis
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CS for SB 164 was laid on the table.

Consideration of SB 145 was deferred.

On motions by Senator Stuart, by two-thirds vote HB 42 was withdrawn from the Committees on Governmental Operations, Rules and Calendar and Appropriations.

On motion by Senator Stuart—

HB 42—A bill to be entitled An act relating to public printing; creating a new chapter 283, Florida Statutes; providing definitions; providing for internal printing oversight committees within state agencies; providing for certain records and reports; providing for use of recycled paper; providing that all public printing be let to lowest bidder and prohibiting state officers from having an interest in such contracts; exempting contract documents from certain requirements and requiring justification for such exemptions; providing for preference to in-state bidders; providing for three classes of public printing; providing exceptions with respect to Class C printing; providing notice requirements for Class A printing; providing that the Joint Legislative Management Committee shall contract for Class A printing and providing bid requirements; providing that bids may be required to be accompanied by certified check; providing for future repeal and review; providing terms of new contracts; requiring bidders to file certain statement under oath and providing penalty for false statement; providing for rejection of unacceptable printing and providing a penalty; providing bid requirements for Class B printing; providing for public information program printing services; providing for classification and publication of legislative acts; providing for distribution of legislative journals, pamphlet copies of laws and session laws; providing for republication of session laws; providing for delivery of session laws; providing for receipt of public documents by university libraries; designating certain law libraries as state legal depositories; providing for furnishing of public documents to the Library of Congress; authorizing certain activities by University of Florida and Florida State University Law Reviews; requiring statement of cost and purpose on public documents; providing for report to Legislature by Auditor General; providing for purging of publication mailing lists; providing for furnishing of publications to State Library; amending s. 287.102, Florida Statutes, conforming bid requirements for Class B printing and correcting a cross reference; amending ss. 288.012(2) and 601.10(8), Florida Statutes, 1982 Supplement, correcting cross references; repealing present chapter 283, Florida Statutes, relating to the same matters; providing an effective date.

—a companion measure, was substituted for CS for SB 509. On motions by Senator Stuart, by two-thirds vote HB 42 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 509 was laid on the table.

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.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote CS for CS for SB 110 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

On motion by Senator Gersten, by two-thirds vote CS for HB 56 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Gersten—

CS for HB 56—A bill to be entitled An act relating to contracts for health studio services; amending s. 501.012(3), (6), and (8), Florida Statutes, renumbering subsections (7) and (10) thereof, and adding new subsections; authorizing the cancellation of such contracts if the buyer becomes physically unable to avail himself of a substantial portion of the services, rather than totally and permanently disabled; requiring certification of disability; requiring filing of certain surety information with the Department of Agriculture and Consumer Services; authorizing the department to decrease the surety requirements; providing cancellation of the contract upon closing of health studio for more than certain time periods; providing for rules by the department; providing certain personal applicability of criminal penalties; prohibiting certain representations by a health studio concerning the term of the contract; providing an effective date.

—a companion measure, was substituted for CS for SB 539 and read the second time by title. On motion by Senator Gersten, by two-thirds vote CS for HB 56 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Jennings	Myers
Beard	Gersten	Johnston	Plummer
Carlucci	Gordon	Kirkpatrick	Rehm
Childers, D.	Grant	Langley	Stuart
Childers, W. D.	Grizzle	Malchon	Thomas
Crawford	Henderson	Mann	Vogt
Dunn	Hill	Margolis	Weinstein
Fox	Jenne	Meek	

Nays—None

Vote after roll call:

Yea—Castor, Girardeau, Hair, Scott

CS for SB 539 was laid on the table.

On motion by Senator D. Childers, 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 as amended HB 1161 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce—

HB 1161—A bill to be entitled An act relating to the Hospital Cost Containment Board; amending s. 395.017(3), Florida Statutes, 1982 Supplement; authorizing disclosure of patient records by hospitals to the Hospital Cost Containment Board; adding paragraph (m) to s. 119.07(3), Florida Statutes, 1982 Supplement; providing for the confidentiality of certain patient records in possession of the board; amending s. 395.503(1), Florida Statutes, 1982 Supplement; providing for the appointment of two

representatives to the board, each representing a major nonhealth and noninsurance Florida employer; amending s. 395.504(1), Florida Statutes, 1982 Supplement; providing for the submission of case-mix data to the board and specifying items included thereunder; amending s. 395.503 (3), Florida Statutes, 1982 Supplement, increasing to six the number of members of the Hospital Cost Containment Board needed for a quorum; amending s. 17, chapter 82-182, Laws of Florida; deleting a prohibition relating to a statewide case-mix project by the board; amending s. 395.514, Florida Statutes; specifying that penalties apply to filing false or incomplete reports with the board; increasing the membership of the Florida Task Force on Competition and Consumer Choices in Health Care and providing additional duties; authorizing the Health Care Cost Containment Board to require hospitals to submit certain information; providing an appropriation; providing an effective date.

—was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

SPECIAL ORDER, continued

On motions by Senator D. Childers, by two-thirds vote HB 1161, a companion measure, was withdrawn from the Committee on Health and Rehabilitative Services and substituted for SB 848. On motions by Senator D. Childers, by two-thirds vote HB 1161 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 848 was laid on the table.

HB 184—A bill to be entitled An act relating to public officers and employees; amending s. 112.061(3)(e), Florida Statutes; revising the time period covered by, and information required to be contained in, state agency reports of out-of-state travel by such persons; assigning responsibility for the format of the report; amending s. 288.011(3), Florida Statutes; specifying that the Department of Commerce is not exempt from such reporting requirements; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations recommended the following amendments which were moved by Senator Henderson and adopted:

Amendment 1—On page 2, between lines 14 and 15, insert:

Section 2. Subsections (8), (9), and (13) of section 112.061, Florida Statutes, are amended to read:

112.061 Per diem and traveling expenses of public officers, employees, and authorized persons.—

(8) OTHER EXPENSES.—The following incidental traveling expenses of the traveler may be reimbursed:

(e) Convention registration fee while attending a convention or conference which will serve a direct public purpose with relation to the public agency served by the person attending such meetings. *A traveler may be reimbursed the actual and necessary fees for attending events which are not included in a basic registration fee that directly enhance the public purpose of the agency's participation in the conference. Such expenses may include, but not be limited to, banquets and other meal functions. It shall be the traveler's responsibility to substantiate that the charges were proper and necessary.* However, any meals or lodging included in the registration fee will be deducted in accordance with the allowances provided in subsection (6).

(9) RULES AND REGULATIONS.—

(a) The Department of Banking and Finance shall promulgate such rules and regulations, including, but not limited to, the general criteria to

be used by a state agency to predetermine justification for attendance by state officers and employees and authorized persons at conventions and conferences, and prescribe such forms as may be necessary to effectuate the purposes of this section. *The department may also adopt rules prescribing the proper disposition and use of promotional items and rebates offered by common carriers and other entities in connection with travel at public expense, however, before adopting such rules, the department shall consult with the appropriation committees of the Legislature.*

(13) DIRECT PAYMENT OF EXPENSES BY AGENCY.—Whenever an agency requires an employee to incur either Class A or Class B travel on emergency notice to the employee, such employee may request the agency to pay his expenses for meals and lodging directly to the vendor, and the agency may pay the vendor the actual expenses for his meals and lodging during the travel period, limited to an amount not to exceed that authorized pursuant to this section for per diem for such period. *The Comptroller may grant prior approval to a State agency to make direct payments of travel expenses in other situations that result in cost savings to the State.* The provisions of this subsection shall not be deemed to apply to any legislator or to any employee of either house of the Legislature or of the Joint Legislative Management Committee.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 112.061(8), (9), (13), Florida Statutes; providing reimbursement for travel expenses, authorizing the Department of Banking and Finance to prescribe rules regarding promotional programs and items in connection with travel at public expense; authorizing prior approval to make direct payments of travel expenses;

On motion by Senator Henderson, by two-thirds vote HB 184 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

SB 1149—A bill to be entitled An act relating to the Department of Transportation; amending s. 334.21(9), Florida Statutes, 1982 Supplement; authorizing the department to amend its final annual program budget and 5-year construction plan during the fiscal year by adding certain projects, and by adding to, deleting from, or rescheduling certain projects in said plan; requiring notification to legislative committees and members under certain circumstances; amending s. 334.2105, Florida Statutes; providing for a single cash control account for charges incurred by certain budget entities to other budget entities; requiring adequate records and reports; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendments which were moved by Senator Johnston and adopted:

Amendment 1—On page 1, between lines 11 and 12, insert:

Section 1. Subsection (9) of section 334.21, Florida Statutes, 1982 Supplement, is amended to read:

334.21 Budgets; preparation; adoption; execution; and amendment.—

(9) AMENDMENT OF THE FINAL ANNUAL PROGRAM BUDGET.—The department shall have the authority to amend its final annual program budget and 5-year construction plan at any time during the fiscal year as follows. It may:

(a) Transfer within the same fund any unencumbered budget item, or any portion thereof, from one activity to another.;

(b) Transfer between the state road fund and the restricted funds or between restricted funds, within the provisions of the restrictions by law or by agreement as to the expenditure of such funds, any unencumbered funds.;

(c) Budget in the proper fund and expend any receipts not anticipated in the adoption of the budget or receipts in excess of the total anticipated receipts in the adopted budget.;

(d) Substitute a project in the funded 5-year construction plan for any other project in the 5-year construction plan; however, when any such substitution results in the delay of the right-of-way or construction phases of a project estimated to cost in excess of \$500,000, the department shall notify the legislative appropriations committees and transportation committees. The transportation committees shall notify each member of the Legislature who represents the district or districts affected by the substitution. Such notification shall include the name, location, and estimated costs of any project that is advanced in the 5-year construction plan as a result of the delay of another project.

(e) Add a project as approved by the department within funds available where the project is less than \$150,000 in cost and where the addition would not cause a delay of existing projects, or add a project as approved by the department where the project is not funded with state transportation trust fund moneys.

(f) Add to, delete from, or reschedule in the funded 5-year construction plan projects implemented from aid to local governments-public transportation matching grants in order to reflect local government decisions; however, when any such addition, deletion or rescheduling results in the delay of the right-of-way or construction phases of a project estimated to cost in excess of \$500,000, the notification process required in paragraph (d) shall be observed.

(Renumber subsequent sections.)

Amendment 2—On page 2, line 4, strike "changes" and insert: charges

Amendment 3—In title, on page 1, line 3, after the semicolon (;) insert: amending s. 334.21(9), Florida Statutes, 1982 Supplement; authorizing the department to amend its final annual program budget and 5-year construction plan during the fiscal year by adding certain projects, and by adding to, deleting from or rescheduling certain projects in said plan; requiring notification to legislative committees and members under certain circumstances;

On motion by Senator Johnston, by two-thirds vote SB 1149 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

HB 408—A bill to be entitled An act relating to public fairs and exhibitions; reviving and readopting, notwithstanding the Regulatory Sunset Act and the Sundown Act, chapter 616, Florida Statutes; amending ss. 616.001, 616.01, 616.02, 616.03, 616.05, 616.051, 616.091, 616.101, 616.12, 616.13, 616.14, 616.15, 616.17(1), 616.19, 616.22, 616.23, 616.251, 616.252(1), 616.255(3), 616.265, Florida Statutes; amending s. 616.21, Florida Statutes, 1982 Supplement; creating ss. 616.002, 616.003, Florida Statutes; providing definitions; providing for enforcement; providing for rules; requiring departmental approval for charters, amendments thereto, and dissolution thereof; providing standards and requirements for operation; providing for audits; providing for licensing of certain shows; providing for revocation of charter; providing for permits and fees; restrict-

ing use of the word "fair"; deleting designation of Florida State Fair; providing for an advisory council; providing for use of buildings; providing that the Florida State Fair Authority is an instrumentality of the state; providing for beverage licenses; repealing s. 6 of chapter 81-81, Laws of Florida, and s. 6 of chapter 81-297, Laws of Florida, which provide for review and repeal of the Florida State Fair Authority and the Agricultural and Livestock Fair Council, respectively; providing for legislative review; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendments which were moved by Senator Kirkpatrick and adopted:

Amendment 1—On page 24, lines 14-19, strike all of subsection (4)

Amendment 2—In title, on page 1, line 21, strike "restricting use of the word 'fair';"

On motion by Senator Kirkpatrick, by two-thirds vote HB 408 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—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	

Nays—None

On motion by Senator Margolis, 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 as amended CS for HB 758 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Tourism & Economic Development and Representative Simon—

CS for HB 758—A bill to be entitled An act relating to commercial development; creating s. 288.062, Florida Statutes; directing the Department of Education in consultation with the Department of Commerce to develop a comprehensive plan to promote better relations between certain organizations in the state and foreign nations; requiring completion of the plan by February 1, 1984; providing for the required elements of the plan; providing for a statewide conference; providing applicability; providing an appropriation; providing an effective date.

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

SPECIAL ORDER, continued

On motions by Senator Margolis, by two-thirds vote CS for HB 758, a companion measure, was withdrawn from the Committee on Commerce.

On motion by Senator Margolis, the rules were waived and CS for HB 758 was substituted for SB 684. On motions by Senator Margolis, by two-thirds vote CS for HB 758 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Hair	Kirkpatrick	Meek	Stuart
Henderson	Malchon	Myers	Thomas
Hill	Mann	Neal	Thurman
Jenne	Margolis	Plummer	Vogt
Jennings	Maxwell	Rehm	Weinstein
Johnston	McPherson	Scott	

Nays—None

SB 684 was laid on the table.

On motions by Senator Barron, the rules were waived and by two-thirds vote HB 1251 was withdrawn from the Committee on Judiciary-Civil, HB 591 was withdrawn from the Committee on Commerce and House Bills 1071 and 1003 were withdrawn from the Committee on Natural Resources and Conservation and placed on the local calendar.

On motion by Senator Barron, the rules were waived and by two-thirds vote SB 1142 was placed on the revised special order calendar.

On motions by Senator Barron, the rules were waived and by two-thirds vote CS for SB 512 was withdrawn from the Committee on Finance, Taxation and Claims and by two-thirds vote placed on the revised special order calendar.

On motion by Senator Johnston, the rules were waived and by two-thirds vote SB 688 was withdrawn from the Committee on Appropriations.

On motions by Senator D. Childers, the rules were waived and by two-thirds vote HB 1109 was withdrawn from the Committees on Health and Rehabilitative Services and Appropriations.

On motion by Senator D. Childers, the rules were waived and—

HB 1109—A bill to be entitled An act relating to cancer control and research; amending s. 381.3712(4)(a), Florida Statutes, 1982 Supplement, expanding the membership of the Florida Cancer Control and Research Advisory Board; amending s. 381.3812(4), Florida Statutes, 1982 Supplement; eliminating the proportional utilization requirement with respect to funds for the statewide cancer registry program; requiring reimbursement of reasonable costs to reporting hospitals; providing an effective date.

—a companion measure, was substituted for CS for SB 777 and read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 1109 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

CS for SB 777 was laid on the table.

On motion by Senator Thomas, the rules were waived and by two-thirds vote HB 1302 was withdrawn from the Committee on Commerce.

On motion by Senator Thomas—

HB 1302—A bill to be entitled An act relating to medical malpractice insurance; 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, podiatrists, hospitals, and ambulatory surgical centers; increasing potential assessments against members; providing immunity from suit to certain persons relating to actions taken in performance of duties; providing for departmental approval of rates; deleting obsolete language; amending s. 768.54(2) and (3), Florida Statutes, 1982 Supplement; permitting the Florida Patient's Compensation Fund to reject certain risks; changing liability limits of the fund; increasing financial responsibility

limits for hospitals not participating in the fund; increasing the fund entry level; providing for reimbursement of board members; providing immunity from liability for certain actions of board members and others; granting certain powers to the fund; requiring approval of fund membership fees and assessments by the Insurance Commissioner; providing that fund members must pay protested assessment prior to filing suit; removing limitations on deficit assessments to fund members; prohibiting execution against the fund due to insufficient assets; providing for stay of execution absent posting of supersedeas bond; providing for a stay of execution against fund members; providing for termination of coverage by the fund under certain conditions and for cessation of coverage by the fund; providing effective dates.

—was read the second time by title.

Senator Thomas moved the following amendment:

Amendment 1—On page 2, line 9, strike everything after the enacting clause and insert:

Section 1. Subsection (4) of section 627.351, Florida Statutes, 1982 Supplement, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(a) The department shall, after consultation with insurers as set forth in paragraph (b), adopt a joint underwriting plan as set forth in paragraph (d).

(b) Entities licensed to issue casualty insurance as defined in s. 624.605(1)(b), (k), and (q) and self-insurers authorized to issue medical malpractice insurance under s. 627.357 shall participate in the plan and shall be members of the Joint Underwriting Association.

(c) The Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of representatives of five of the insurers participating in the Joint Underwriting Association, an attorney to be named by The Florida Bar, a physician to be named by the Florida Medical Association, and a hospital representative to be named by the Florida Hospital Association. The board of governors shall choose, during the first meeting of the board after June 30 of each year, one of its members to serve as chairman of the board and another member to serve as vice chairman of the board. *There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, self-insurer, or its agents or employees, the Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their powers and duties under this subsection.*

(d) The plan shall provide coverage for claims arising out of the rendering of, or failure to render, medical care or services and, in the case of health care facilities, coverage for bodily injury or property damage to the person or property of any patient arising out of the insured's activities, in appropriate policy forms for all health care providers as defined in paragraph (h). The plan shall include, but shall not be limited to:

1. Classifications of risks and rates which reflect past and prospective loss and expense experience in different areas of practice and in different geographical areas. *To assure that plan rates are adequate to pay claims and expenses, the Joint Underwriting Association shall develop a means of obtaining loss and expense experience; and the plan shall file such experience, when available, with the department in sufficient detail to make a determination of rate adequacy. Within 60 days after a rate filing, the department shall approve such rates or rate revisions as are fully supported by the filing. In addition to provisions for claims and expenses, the rate-making formula may include a factor for projected claims trending and a margin for contingencies. The use of trend factors shall not be found to be inappropriate.*

2. A rating plan which reasonably recognizes the prior claims experience of insureds.

3. Provisions as to rates for:

- a. Insureds who are retired or semiretired.
- b. The estates of deceased insureds.
- c. Part-time professionals.

4. Protection in an amount not to exceed \$250,000 per claim, \$750,000 annual aggregate for health-care providers other than hospitals, and for hospitals an amount not to exceed \$10,000 per bed per claim, not to exceed \$2.5 million annual aggregate. Such coverage for non-hospital health care providers shall be available as primary coverage and as excess coverage for the layer of coverage between the primary coverage and total limits of \$250,000 per claim, \$750,000 annual aggregate to be determined by the Insurance Commissioner.

~~5. Protection to members of the Florida Patient's Compensation Fund established under s. 768.54, which will cover the full amount of any or all deficit assessments issued by the fund against a member for the 1982-1983 fiscal year. The premium contingency assessment against policyholders authorized in paragraph (e) does not apply to policies issued pursuant to this paragraph. The rate charged for such protection shall not exceed one-third of the membership fee charged the member by the fund. This protection shall only be available to fund members as defined in s. 768.54(1)(b)2., 3., 4., and 8. A request for this protection must be made in writing to an agent. Such coverage shall be made available no later than the first day of the fiscal year being covered and shall be purchased, if at all, no later than the last day of such fiscal year. This subparagraph shall stand repealed July 1, 1983.~~

The Insurance Commissioner may, in his discretion, require that insurers participating in the Joint Underwriting Association offer excess coverage.

Section 2. Subsections (2) and (3) of section 768.54, Florida Statutes, 1982 Supplement, are amended to read:

768.54 Limitation of liability and Patient's compensation fund.—

(2) COVERAGE LIABILITY.—

(a) All hospitals, unless exempted under this paragraph or paragraph (c), shall, and all health care providers other than hospitals may, pay the yearly fee and assessment or, in cases in which such hospital or health care provider joined the fund after the fiscal year had begun, a prorated fee or assessment into the fund pursuant to subsection (3). Any hospital operated by an agency of the state shall be exempt from the provisions of this section and shall not be required to participate in the fund.

(b) Whenever a claim covered under subsection (3) results in a settlement or judgment against a health care provider, the fund shall pay to the extent of its coverage ~~shall be liable to the extent of the coverage~~ if the health care provider has paid the fees and any assessments required pursuant to subsection (3) for the year in which the incident occurred for which the claim is filed, provides an adequate defense for the fund, and pays the initial amount of the claim up to the applicable amount set forth in paragraph (f) or the maximum limit of the underlying coverage maintained by the health care provider on the date when the incident occurred for which the claim is filed, whichever is greater. *Coverages for such claims shall be provided on an occurrence basis by the fund independently for each fiscal year, such fiscal year to run from July 1 to June 30. The fund may also provide coverages for portions of each fiscal year. The limits maximum limit of such coverage afforded by liability of the fund for each health care provider other than a hospital shall not exceed total limits for both entry level and fund coverage of be \$1 million per claim with a \$3 million annual aggregate, or \$2 million per claim with a \$4 million annual aggregate, \$3 million per claim, \$5 million per claim, \$8 million per claim, or \$10 million per claim, as selected elected by the health care provider. In the case of coverage for a hospital, the limit of coverage afforded by the fund shall not exceed total limits for both entry level and fund coverage of \$2.5 million per claim with no annual aggregate. The health care provider who makes such election is responsible for the payment of liable for any amount of a claim in excess of the elected limit. The fund shall not be responsible for payment of punitive damages awarded for actual or direct negligence of the health care provider member. The health care provider shall have the same responsibility for punitive damages it would have if it were not a member of the fund. A health care provider may have the necessary funds available for payment when due or may provide underlying financial responsibility by one of the following methods:*

1. A bond in the applicable amount set forth in paragraph (f) per claim and 3 times the applicable per-claim limit in the aggregate per year, plus an additional amount which is sufficient to meet claims defense and expenses; however a total bond amount for all years equal to reserved loss and expense amounts for known cases plus three times the applicable amount set forth in paragraph (f) plus \$45,000 shall be the maximum bond amount required. The bond shall be purchased from a licensed surety company;

2. An adequate escrow account in the applicable amount set forth in paragraph (f) per claim and 3 times the per-claim limit in the aggregate per year, plus an additional amount which is sufficient to meet claims defense and expenses; however a total escrow account for all years equal to reserved loss and expense amounts for known cases plus three times the applicable amount set forth in paragraph (f) plus \$45,000 shall be the maximum escrow amount required;

3. Medical malpractice insurance in the applicable amount set forth in paragraph (f) or more per claim from private insurers or the Joint Underwriting Association established under s. 627.351(7); or

4. Self-insurance as provided in s. 627.357, providing coverage in the applicable amount set forth in paragraph (f) or more per claim and 3 times the applicable per-claim limit in the aggregate per year.

(c) Any hospital that can meet one of the following provisions demonstrating financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or the failure to render medical care or services and for bodily injury or property damage to the person or property of any patient arising out of the activities of the hospital in this state or arising out of the activities of covered individuals listed in paragraph (e) shall not be required to participate in the fund:

1. Post bond in an amount equivalent to \$10,000 per claim for each hospital bed in such hospital, not to exceed a \$2,500,000 annual aggregate.

2. Establish an escrow account in an amount equivalent to \$10,000 per claim for each hospital bed in such hospital, not to exceed a \$2,500,000 annual aggregate, to the satisfaction of the Department of Health and Rehabilitative Services.

3. Obtain professional liability coverage in an amount equivalent to \$10,000 or more per claim for each bed in such hospital from a private insurer, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357. However, no hospital shall be required to obtain such coverage in an amount exceeding a \$2,500,000 annual aggregate.

(d)1. Any health care provider who ~~does not participate in the fund, or participates in the fund and who~~ does not meet the provisions of paragraph (b), shall ~~not be covered by the fund~~ ~~be subject to liability under law without regard to the provisions of this section.~~

2. Annually, the Department of Health and Rehabilitative Services shall require documentation by each hospital that such hospital is in compliance, and shall remain in compliance, with the provisions of this section. The department shall review the documentation and then deliver the documentation to the board of governors. At least 60 days prior to the time a license will be issued or renewed, the department shall request from the board of governors a certification that each hospital is in compliance with the provisions of this section. The board of governors shall not be liable under the law for any erroneous certification. The department shall not issue or renew the license of any hospital which has not been certified by the board of governors. The license of any hospital that fails to remain in compliance or fails to provide such documentation shall be revoked or suspended by the department.

(e) The coverage afforded by the fund for a participating hospital or ambulatory surgical center shall apply to the officers, trustees, volunteer workers, trainees, committee members (including physicians, osteopaths, podiatrists, and dentists), and employees of the hospital or ambulatory surgical center, other than employed physicians licensed under chapter 458, physician's assistants licensed under chapter 458, osteopaths licensed under chapter 459, dentists licensed under chapter 466, and podiatrists licensed under chapter 461. However, the coverage afforded by the fund for a participating hospital shall apply to house physicians, interns, employed ~~physician residents~~ physicians in a resident training program, or physicians performing purely administrative duties for the participating hospitals other than the treatment of patients. This coverage shall apply to the hospital or ambulatory surgical center and those included in this subsection as one health care provider.

(f) Each health care provider shall be responsible for paying the amount of each settlement or judgment for each claim up to the fund entry level ~~initial~~ amount it selects. The selected entry level shall be not less than of each claim up to the following amounts:

1.—As of July 1, 1982: \$100,000 per claim or \$500,000 per occurrence.

1.2: As of July 1, 1983: \$150,000 per claim or \$500,000 per occurrence.

2.3: As of July 1, 1986: \$200,000 per claim or \$500,000 per occurrence.

3.4: As of July 1, 1989: \$250,000 per claim or \$500,000 per occurrence.

As of July 1, 1989 the minimum entry level amount shall be indexed to the medical component of the consumer price index and shall be adjusted by the fund each year thereafter accordingly.

(3) PATIENT'S COMPENSATION FUND.—

(a) The fund.—There is created a "Florida Patient's Compensation Fund" for the purpose of paying that portion of any claim arising out of the rendering of or failure to render medical care or services, or arising out of activities of committees, for health care providers or any claim for bodily injury or property damage to the person or property of any patient, including all patient injuries and deaths, arising out of the members' activities for those health care providers set forth in subparagraphs (1)(b)1., 5., 6., and 7. which is in excess of the *fund entry level selected limits as set forth in paragraph (2)(f)* and less than the ~~maximum~~ *selected elected* limit under paragraph (2)(b). The fund shall be *responsible* ~~liable~~ only for payment of claims against health care providers who are in compliance with the provisions of paragraph (2)(b), of reasonable and necessary expenses incurred in the payment of claims, and of fund administrative expenses.

(b) Fund administration and operation.—The fund shall operate subject to the supervision and approval of a board of governors consisting of a representative of the insurance industry appointed by the Insurance Commissioner, an attorney appointed by The Florida Bar, a representative of physicians appointed by the Florida Medical Association, a representative of physicians' insurance appointed by the Insurance Commissioner, a representative of physicians' self-insurance appointed by the Insurance Commissioner, two representatives of hospitals appointed by the Florida Hospital Association, a representative of hospital insurance appointed by the Insurance Commissioner, a representative of hospital self-insurance appointed by the Insurance Commissioner, a representative of the osteopathic physicians' or podiatrists' insurance or self-insurance appointed by the Insurance Commissioner, and a representative of the general public appointed by the Insurance Commissioner. The board of governors shall, during the first meeting after June 30 of each year, choose one of its members to serve as chairman of the board and another member to serve as vice chairman of the board. The members of the board shall be appointed to serve terms of 4 years, except that the initial appointment of a representative of the general public by the Insurance Commissioner, an attorney by The Florida Bar, a representative of physicians by the Florida Medical Association, and one of the two representatives of the Florida Hospital Association shall be for terms of 3 years, and thereafter they shall be appointed for terms of 4 years. Subsequent to an initial appointment for a 4-year term, the representative of the osteopathic physicians' or podiatrists' insurance or self-insurance appointed by the Insurance Commissioner and the representative of hospital self-insurance appointed by the Insurance Commissioner shall be appointed for 2-year terms, and thereafter they shall be appointed for terms of 4 years. The members appointed during 1979 who have not resigned shall automatically, and without further action of their respective appointing authorities, be the initial appointees hereunder and shall continue their present service to serve the terms specified herein. Each appointed member may designate in writing to the chairman an alternate to act in the member's absence or incapacity. *Members of the board and their alternates may be reimbursed from the assets of the fund for expenses incurred by them as members and alternates to the board of governors and for committee work, but they shall not otherwise be compensated by the fund for their services as a board member or alternate. There shall be no liability on the part of, and no cause of action of any nature shall arise against the fund or its agents or employees, professional advisors or consultants, members of the board of governors or their alternates, or the Department of Insurance or its representatives for any action taken by them in the performance of their powers and duties pursuant to this section.*

(c) *The fund shall have the power to:*

1. *Sue and be sued and appear and defend in all actions and proceedings in its name to the same extent as a natural person.*

2. *Adopt, change, amend, and repeal a plan of operation, not inconsistent with law, for the regulation and administration of the affairs of the fund. The plan and any changes thereto shall be filed with the Insurance Commissioner and are all subject to his approval prior to implementation by the fund. All fund members, board members, and employees shall comply with the plan of operation.*

3. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the fund is created.

4. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.

5. Employ or retain such persons as are necessary to perform the administrative and financial transactions and responsibilities of the fund and to perform other necessary or proper functions unless prohibited by law.

6. Take such legal action as may be necessary to avoid payment of improper claims.

7. Indemnify an employee, agent, member of the board of governors and any alternate, or any person acting on behalf of the fund in an official capacity, for expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with any action, suit, or proceeding, including any appeal thereof arising out of his capacity in acting on behalf of the fund, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the fund and, with respect to any criminal action or proceeding, had reasonable cause to believe his conduct was lawful.

(d) Fees and assessments.—Each health care provider, as set forth in subsection (2), electing to comply with paragraph (2)(b) for a given fiscal year shall pay the fees and any assessments established under this section relative to such fiscal year ~~act~~, for deposit into the fund, which shall be remitted for deposit in a manner prescribed by the Insurance Commissioner. Those entering the fund after the fiscal year has begun shall pay a prorated share of the yearly fees for a prorated membership. Actuarially sound membership fees payable annually, semiannually, or quarterly with appropriate service charges shall be established by the fund prior to July 1 of each fiscal year, based on the following considerations:

1. Past and prospective loss and expense experience in different types of practice and in different geographical areas within the state;
2. The prior claims experience of the members covered under the fund; and
3. Risk factors for persons who are retired, semiretired, or part-time professionals.

~~Such fees may be adjusted downward for any fiscal year in which a lesser amount would be adequate and in which the additional fee would not be necessary to maintain the solvency of the fund. Such fees shall be based on not more than three geographical areas, not necessarily contiguous, with five categories of practice and with categories which contemplate separate risk ratings for hospitals, for health maintenance organizations, for ambulatory surgical facilities, and for other medical facilities. The fund is authorized to adjust the fees of an individual member to reflect the claims experience of such member. Each fiscal year of the fund shall operate independently of preceding fiscal years. Participants shall only be liable for assessments for claims from years during which they were members of the fund; in cases in which a participant is a member of the fund for less than the total fiscal year, a member shall be subject to assessments for that year on a pro rata basis determined by the percentage of participation for the year. The fund shall submit to the Insurance Commissioner the classifications and membership fees to be charged, and the Insurance Commissioner shall review such fees and shall approve them if they comply with all the requirements of this section and fairly reflect the considerations provided for in this section. If the classifications or membership fees do not comply with this section, the Insurance Commissioner shall set classifications or membership fees which do comply and which give due recognition to all considerations provided for in this section. Fees, assessments, or refunds shall be set by the Insurance Commissioner after consultation with the board of governors of the fund. Nothing contained herein shall be construed as imposing liability for payment of any part of a fund deficit on the Joint Underwriting Association authorized by s. 627.351(4)(7) or its member insurers. If the fund determines that the amount of money in an account for a given fiscal year is in excess of or not sufficient to satisfy the claims made against the account, the fund shall certify the amount of the projected excess or insufficiency to the Insurance Commissioner and request the Insurance Commissioner to levy an assessment against or refund to all participants in the fund for that fiscal year, prorated, based on the number of days of participation during the year in question. The Insur-~~

~~ance Commissioner shall approve the fund's request to refund to, or levy any assessment against, the participants, provided that the refund or assessment fairly reflects the same considerations and classifications upon which the membership fees were based. The assessment shall be in an amount sufficient to satisfy reserve requirements for known claims including expenses to satisfy the claims made against the account for a given fiscal year. In any proceeding to challenge the amount of the refund or assessment it is presumed that the amount of refund or assessment requested by the fund is correct, if the fund demonstrates that it has used reasonable claims handling and reserving procedures. Additional assessments may be certified and levied in accordance with this paragraph as necessary for any fiscal year. If a fund member objects to his assessment, he shall, as a condition precedent to bringing legal action contesting the assessment, pay the assessment, under protest, to the fund. If necessary to pay claims and related expenses, fees, and costs timely for a given fiscal year, the fund may borrow money needed for current operations from an account for another fiscal year until such time as sufficient funds have been obtained through the assessment process. Any such money, together with interest at the mean interest rate earned on the investment portfolio of the fund, shall be repaid from the next assessment for the given fiscal year. The Insurance Commissioner shall order such refund to, or levy such assessment against, such participants in amounts that fairly reflect the classifications prescribed above and are sufficient to obtain the money necessary to meet all claims for that fiscal year. In no case shall any assessment for a particular year against any health care provider, other than those health care providers defined in subparagraphs (1)(b)1., 5., 6., and 7., exceed an amount equal to 2 times the fees originally paid by such health care provider for participation in the fund for the fund year giving rise to such assessment. If any assessments are levied in accordance with this subsection as a result of claims in excess of \$500,000 per occurrence, and such assessments are a result of the liability of certain individuals and entities specified in paragraph (2)(e), only hospitals shall be subject to such assessments. Prior to approving the fund's request to charge membership fees, issue refunds, or levy assessments, the Insurance Commissioner shall publish notice of the request in the Florida Administrative Weekly. Pursuant to chapter 120, all parties substantially affected may request appropriate proceedings. Petitions for such proceedings shall be filed with the Department of Insurance within 21 days after the date of publication of notice in the Florida Administrative Weekly.~~

(e)(d) Fund accounting and audit.—

1. ~~Money~~ Moneys shall be withdrawn from the fund only upon vouchers as authorized by the board of governors.

2. All books, records, and audits of the fund shall be open for reasonable inspection to the general public, except that a claim file in possession of the fund, fund members, and their insurers shall not be available for review during processing of that claim. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the board of governors, which shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Department of Insurance and the Joint Legislative Auditing Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Department of Insurance or the Joint Legislative Auditing Committee.

5. ~~Money~~ Moneys held in the fund shall be invested in interest-bearing investments by the board of governors of the fund as administrator. However, in no case shall such moneys be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by s. 627.351(4) or in the parent company or company owning a controlling interest of such insurer. All income derived from such investments shall be credited to the fund.

6. Any health care provider participating in the fund may withdraw from such participation only at the end of a fiscal year; however, such health care provider shall remain subject to any assessment or any refund pertaining to any year in which such member participated in the fund.

(f)(e) Claims procedures.—

1. Any person may file an action against a participating health care provider for damages covered under the fund, except that the person filing the claim shall not recover against the fund unless the fund was named as a defendant in the suit. The fund is not required to actively defend a claim until the fund is named therein. If, after the facts upon which the claim is based are reviewed, it appears that the claim will exceed the applicable amount set forth in paragraph (2)(f) or, if greater, the amount of the health care provider's basic coverage, the fund shall appear and actively defend itself when named as a defendant in the suit. In so defending, the fund shall retain counsel and pay out of the account for the appropriate year attorneys' fees and expenses, including court costs incurred in defending the fund. In any claim, the attorney or law firm retained to defend the fund shall not be retained to defend the Joint Underwriting Association authorized by s. 627.351(4). The fund is authorized to negotiate with any claimants having a judgment exceeding the applicable amount set forth in paragraph (2)(f) to reach an agreement as to the manner in which that portion of the judgment exceeding such amount is to be paid. Any judgment affecting the fund may be appealed under the Florida Appellate Rules of Procedure, as with any defendant.

2. It shall be the responsibility of the insurer or self-insurer providing insurance or self-insurance for a health care provider who is also covered by the fund to provide an adequate defense on any claim filed which potentially affects the fund, with respect to such insurance contract or self-insurance contract. The insurer or self-insurer shall act in a fiduciary relationship toward the fund with respect to any claim affecting the fund. No settlement exceeding the applicable amount set forth in paragraph (2)(f), or any other amount which could require payment by the fund, shall be agreed to unless approved by the fund.

3. A person who has recovered a final judgment against the fund or against a health care provider who is covered by the fund may file a claim with the fund to recover that portion of such judgment which is in excess of the applicable amount set forth in paragraph (2)(f) or the amount of the health care provider's basic coverage, if greater, as set forth in paragraph (2)(b). The amount of liability of the fund under a judgment, including court costs, reasonable attorney's fees, and interest, shall be paid in a lump sum, except that any claims for future special damages, as set forth in s. 768.48(1)(a) and (b), shall be paid periodically as they are incurred by the claimant. If a claimant dies while receiving periodic payments, payment for future medical expenses shall cease, but payment for future wage loss, if any, shall continue at a rate of not more than \$100,000 per year. The fund may pay a lump sum reflecting the present value of future wage losses in lieu of continuing the periodic payments.

4. Payment of settlements or judgments involving the fund shall be paid in the order received within 60 days after the date of settlement or judgment, unless appealed by the fund. If the account for a given year does not have enough money to pay all of the settlements or judgments, those claims received after the funds are exhausted shall be payable in the order in which they are received. *However, no claimant shall have the right to execute against the fund to the extent that the judgment is for a claim covered in a membership year for which the fund has insufficient assets to pay the claim, as determined by membership fees for such year, investment income generated by such fees, and assessments collected from members of such year. When a fund year has insufficient assets to pay claims, the fund shall not be required to post a supersedeas bond in order to stay execution of a judgment pending appeal. The fund shall retain a reasonable sum of money for payment of administrative and claims expense which money shall not be subject to execution.*

5. *Except to the extent of the appropriate fund entry level amount selected, if a judgment is entered against the fund for a year in which there are insufficient assets to satisfy the claim, an automatic stay of execution and collection in favor of the fund member shall exist for that portion of the judgment which exceeds the selected entry level amount, and for which fund coverage exists. Such stay shall only be granted to those members who have fully complied with the requirements of fund membership, and shall be in effect until adequate assessments are collected by the fund to pay the claim. Upon competent proof that the portion of any claim covered by the fund is uncollectible from the fund, the member's stay of execution may be vacated by the court, upon application by the plaintiff and hearing thereon.*

6.5. If a health care provider participating in the fund has coverage in excess of the applicable amount set forth in paragraph (2)(f), such health care provider shall be liable for losses up to the amount of his coverage, and such health care provider shall receive an appropriate reduction of the fees and assessments for participation in the fund. Such reduction

shall be granted only after that health care provider has proved to the satisfaction of the fund that such health care provider had such coverage during the period of membership of the fiscal year.

7.6. The manager of the fund or his assistant is the agent for service of process for the plan.

(g)(f) The fund shall establish a risk management program by July 1, 1982, as a part of its administrative functions. All health care providers, as defined in subparagraphs (1)(b)1., 5., 6., and 7., participating in the fund shall comply with the provisions of the risk management program established by the fund. The risk management program shall include the following components:

1. The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents causing injury to patients;
2. The development of appropriate measures to minimize the risk of injuries and adverse incidents to patients;
3. The analysis of patient grievances which relate to patient care and the quality of medical services;
4. The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of health care providers and health care facilities to report injuries and incidents; and
5. Auditing of participating health care providers to assure compliance with the provisions of the risk management program.

The fund shall establish a schedule of fee surcharges which it shall levy upon participating health care providers which are found to be in violation of the provisions of the risk management program. Such schedule shall be subject to approval by the department and shall provide an escalating scale of surcharges based upon frequency and severity of the incidents in violation of the risk management program. No health care provider shall be required to pay a surcharge if it has corrected all violations of the provisions of the risk management program and established an affirmative program to remain in compliance by the time its next fee or assessment is due.

(h) *The fund shall determine, no later than 7 days prior to the beginning of each fiscal year, whether the total of the membership fees to be charged for the fiscal year to health care provider applicants other than hospitals exceeds \$5 million and whether the total of the membership fees to be charged to hospital applicants exceeds \$12.5 million. If the total of the membership fees to be charged to health care provider applicants other than hospitals does not exceed \$5 million, the fund shall return the membership fees collected from such providers and shall, not later than the day prior to the beginning of the fiscal year, notify all such providers, advising them that coverage will not be available from the fund. Thereafter, the fund may not issue coverage to any health care provider, including any hospital, for that fiscal year. If the total of the membership fees to be charged to hospital applicants for the fiscal year does not exceed \$12.5 million, the fund shall return the membership fees collected from the hospitals and shall, not later than the day prior to the beginning of the fiscal year, notify such hospitals that coverage of hospitals will not be available from the fund. Thereafter, the fund may not issue coverage to any hospital for that fiscal year. If the fund ceases to provide coverage to hospitals, hospitals shall continue to meet the financial responsibility requirements of subparagraphs (2)(c)1., 2., or 3. An application for fund membership for a particular fiscal year does not guarantee coverage for that year, and the fund is not liable for coverage of an applicant for any fiscal year in which the fund does not provide coverage in accordance with the provisions of this paragraph.*

Section 3. This act shall take effect upon becoming law.

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

Amendment 1A—On page 4, line 28, after "agency" insert: , *subdi-
vision, or instrumentality*

Amendment 1 as amended was adopted.

Senator Thomas moved the following amendment which was adopted:

Amendment 2—In title, on pages 1 and 2, strike everything before the enacting clause and insert: 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 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 for minimum fee requirements for fund to offer coverage; providing effective dates.

Further consideration of HB 1302 was deferred.

On motion by Senator Jenne, the Senate reconsidered the vote by which SB 1130 passed this day.

Pending further consideration of SB 1130 as amended, on motion by Senator Jenne, the rules were waived and by two-thirds vote HB 1239 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Jenne, the rules were waived and—

HB 1239—A bill to be entitled An act relating to liens; creating s. 713.79, Florida Statutes, providing that a lien for certain charges and fees of any publicly owned and operated airport attaches to any aircraft owned or operated by a person owing such charges and fees; providing a penalty; creating s. 713.792, Florida Statutes, providing for enforceability of certain liens with respect to aircraft; providing for required notice; providing for applicability; providing an effective date.

—a companion measure, was substituted for SB 1130 and read the second time by title.

Senator Jenne moved the following amendments which were adopted:

Amendment 1—On page 1, line 16, strike everything after the enacting clause and insert:

Section 1. Airport facilities; lien for landing and other fees.—

(1) The governing body of any publicly owned and operated airport shall have a lien upon all aircraft landing upon any airport owned and operated by it for all charges for landing fees and other fees and charges for the use of the facilities of such airport by any such aircraft, when payment of such charges and fees is not made immediately upon demand therefor to the operator or owner of the aircraft by a duly authorized employee of the airport. The lien for the full amount of the charges and fees due to the airport or governing body of any publicly owned and operated airport attaches to any aircraft owned or operated by the person owing such charges and fees. Such lien may be enforced as provided by law for the enforcement of warehousemen's liens in this state.

(2) It is unlawful for any person to remove or attempt to remove any such aircraft from such airport after notice of the lien has been served upon the owner or operator thereof or after posting of such notice upon

such aircraft. Any person who removes or attempts to remove any such aircraft from such airport after service or posting of the notice of lien as herein provided, and before payment of the amount due to the airport for landing fees and charges incurred by such aircraft, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Subsection (1) of section 713.58, Florida Statutes, is amended to read:

713.58 Liens for labor, ~~or services, or material on personal property.~~

(1) ~~Any person who furnishes in favor of persons performing labor, or services, or material to for any other person shall have a lien, upon the personal property for which the labor, services, or material is furnished, of the latter upon which the labor or services is performed, or which is used in the business, occupation, or employment in which the labor, or services, or material is furnished performed.~~

Section 3. Section 713.792, Florida Statutes, is created to read:

713.792 Liens for aircraft; notice.—Any lien claimed on an aircraft pursuant to s. 713.58 is enforceable when the lienor records a verified lien notice with the clerk of the circuit court in the county where the aircraft was located at the time the labor, services, or material was last furnished. The notice shall state the name of the lienor; the name of the owner; a description of the aircraft upon which the lienor has expended labor, services, or material; the amount for which the lien is claimed; and the date the expenditure was completed. This section does not affect the priority of competing interests in any aircraft or the lienor's obligation to record his lien pursuant to s. 329.01.

Section 4. Section 125.021, Florida Statutes, is hereby repealed.

Section 5. This act shall take effect October 1, 1983.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to liens; providing for the imposition of a lien on certain aircraft landing on certain publicly owned and operated airports; prohibiting the removal of such aircraft after notice of lien has been served or posted; providing penalties; amending s. 713.58(1), Florida Statutes; providing for liens upon personal property for labor, services, or material; creating s. 713.792, Florida Statutes; providing for notice of liens for aircraft; repealing s. 125.021, Florida Statutes, relating to liens on aircraft landing at county airports; providing an effective date.

On motion by Senator Thomas, by two-thirds vote HB 1239 as amended was read the third time by title.

Further consideration of HB 1239 was deferred.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 1 was corrected and approved.

On motion by Senator Barron, the Senate adjourned at 7:11 p.m. to reconvene at 9:30 a.m., Friday, June 3.