Journal of the Senate

Number 27 **Thursday, May 31, 1984**

The Senate was called to order by the President at 10:00 a.m. A quorum present—39:

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

Excused periodically: Mr. President and the following conferees and alternates on the General Appropriations Bill, the education package and implementing bill: Senators Neal, Scott, Thomas, Beard, Hair, Gordon, Castor, Kirkpatrick, Vogt, Grizzle, Margolis, Crawford; Senator Henderson for the morning session.

Prayer by Jackie Sharkey, Administrative Assistant, Sergeant-At-Arms, Tallahassee:

Dear God, we thank you for this day. We praise your holy name and ask your blessed guidance, especially upon this group.

Help us to remember these words written by an anonymous poet:

Slow us down, Lord. Ease the pounding of our hearts; steady our hurried pace; give us calmness; break the tensions of our nerves and muscles.

Teach us the art of taking minute vacations—of slowing down to look at a flower, to chat with a friend, to read a few lines from the Good Book.

Thank you, dear God, for your many blessings and the peace you give—which passes all understanding.

May you bless us and keep us and cause your face to shine upon us now and forever. Amen.

Votes Recorded

Senator Neal was recorded as voting yea on the following measures which were considered May 30: Senate Bills 183, 693, 10, 546, 1155, 1140, 1076, 756, 1157, 604, 180, 759, 818; House Bills 822, 508, 1327, 937, 744, 10, 1246, 1306, 224, 619, 326, 698, 302, 89, 1204; CS for SB 573, CS for SB 762, CS for SB 230, CS for SB 700, CS for SB 497, CS for SB 712, CS for SB 716, CS for SB 1152, CS for SB 799, CS for SB 143, CS for SB 541, CS for SB 238, CS for CS for SB 775, CS for HB 570, CS for HB 520, CS for HB 437, CS for HB 837, CS for HB 431, CS for HB 269.

Senator Crawford was recorded as voting yea on SB 99, HB 916, SCR 588, CS for HB's 114 and 158, CS for CS for SB 159, HB 305, SB 758, and CS for CS for SJR 612, which were considered May 29; SB 759 on May 30 and CS for SB 100 on May 24.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Margolis, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet at 5:00 p.m. to take up the proposal of the business community for replacement of dollars on the unitary tax.

On motion by Senator Thomas, by two-thirds vote CS for HB 1196 was placed on the special order calendar following HB 191.

On motion by Senator Carlucci, the rules were waived and the Committee on Economic, Community and Consumer Affairs was granted permission to meet at 12:30 p.m. to consider HB 64.

On motion by Senator Jennings, the rules were waived and by two-thirds vote SB 485 was withdrawn from the Committee on Personnel, Retirement and Collective Bargaining.

On motion by Senator Scott, the rules were waived and by two-thirds vote SB 877 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Scott, by two-thirds vote HB 69 was placed on the special order calendar following CS for HB 1196.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State CS for SB 390 which became law on May 30, 1984; and CS for SB 1077 which became law without his signature on May 30, 1984; Senate Bills 219, 346, 362, CS for SB 427, Senate Bills 466, 474, 531 and 870 which became law on May 31, 1984.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the special order calendar for Thursday, May 31, 1984: CS for SB 797, CS for SB 231, SJR 570, SB 625, CS for SB 701, SB 202, CS for CS for SB 532, HB 191, CS for SB 943, HB 1262, CS for CS for SB 70, CS for SB 448, SB 549, SB 553, SB 948, HB 1068, HB 231, SB 997, CS for SB 199, CS for CS for SB 550, CS for SB 687, SB 279, CS for SB 601, SB 668, CS for SB 651, CS for CS for SB 326, SB 827, SB 898, CS for SB's 1028 and 1095, CS for SB 748, CS for SB 875, CS for SB 913, HB 248, SB 896, SB 763, SB 339

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, May 31, 1984: SB 513, HB 548, HB 583, HB 674, HB 676, HB 682, HB 908, HB 926, HB 927, HB 945, HB 980, HB 1084, HB 1107, HB 1276, HB 1279

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: SB 727

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

The Committee on Finance, Taxation and Claims recommends the following pass: HB 18 with 1 amendment, HB 77 with 2 amendments, HB 344, HB 393, HB 534

The bills were placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

May 31, 1984

The Committee on Economic, Community and Consumer Affairs requests an extension of 15 days for consideration of the following: Senate Bills 5, 248, 449, 1013, 1048, 1050

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 15 days for consideration of the following: Senate Bill 653

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 amendment—

CS for CS for SB 803—A bill to be entitled An act relating to land reclamation and acquisition; amending s. 378.031, F.S.; providing legislative intent; creating ss. 378.032-378.038, F.S.; providing definitions; creating the Nonmandatory Land Reclamation Committee; providing application procedures; providing powers and duties of the Department of Natural Resources; providing for land acquisitions; providing responsibilities and duties of the Comptroller; providing rulemaking authority; amending s. 211.3103, F.S., relating to the excise tax on the severance of phosphate rock; revising the date after which the base rate is reduced under certain circumstances; amending s. 253.023, F.S.; increasing the limitation on the amount of money which may be credited to the Conservation and Recreation Lands Trust Fund; providing for the acquisition of inholdings or additions to existing projects; providing for repeal and review pursuant to the Sundown Act; amending s. 125.01, F.S.; providing for county use of ad valorem tax revenue to purchase certain lands; amending s. 253.01, F.S.; providing for the placement of certain fees into the Internal Improvement Trust Fund; amending s. 253.025, F.S.; providing for the waiver of acquisition procedures under certain circumstances; providing for the confidentiality of certain appraisal reports; providing for the release of appraisal reports under certain circumstances; providing for final offers in the form of option contracts; amending s. 375.031, F.S.; providing for disclosure of certain financial transactions; providing for option contracts; amending s. 380.08, F.S.; providing for disclosure of certain financial transactions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 15, lines 5-11, strike everything to the period on line 11, and insert: *$25 million in fiscal year 1984-85, $35 million in fiscal year 1985-86, or $40 million in any fiscal year thereafter, the department shall deposit the excess into the General Revenue Fund.*

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

CS for CS for SB 803 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Fox	Kirkpatrick	Plummer
Beard	Frank	Langley	Rehm
Carlucci	Girardeau	Mann	Stuart
Castor	Gordon	Margolis	Thomas
Childers, D.	Grant	McPherson	Thurman
Childers, W. D.	Grizzle	Meek	Vogt
Crawford	Hair	Myers	Weinstein
Dunn	Hill	Neal	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Scott

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 594—A bill to be entitled An act relating to agriculture; creating the Formosan Termite Coordinating Council; providing for membership and duties; providing an appropriation; providing effective and expiration dates.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, between lines 25 and 26 insert:

(2) The Commissioner of Agriculture shall appoint a nonvoting member of the Formosan Termite Coordinating Council who shall hold a four year college degree in Entomology and shall have been a certified operator as provided for in s. 452.091, Florida Stuatues, for not less than 5 years, who shall advise the council on technical matters.

(Renumber subsequent sections.)

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

SB 594 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Hair, Scott

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—

CS for SB 986—A bill to be entitled An act relating to environmental regulation; amending s. 403.021, F.S.; applying certain provisions about authorized channel depth to additional entities; amending s. 403.061, F.S.; applying certain classifications, standards, and criteria for waters used for deepwater shipping to additional entities; amending s. 403.0876, F.S.; specifying procedures for obtaining underground well permits; amending s. 403.091, F.S.; broadening the authority for the Department of Environmental Regulation to conduct inspections; providing guidelines; providing for inspection warrants; amending s. 403.1826, F.S.; authorizing a maximum grant for each local government agency; amending s. 403.1838, F.S.; clarifying language; amending s. 403.707, F.S.; deleting a temporary operating permit time limit; specifying certain considerations relating to construction permits; amending s. 403.702, F.S.; assuring economic, cost effective, and environmental considerations; amending s. 403.704, F.S.; requiring landfill construction and closure alternatives research and subsequent report; creating an oversight committee; requiring certain revisions of department rules; authorizing certain variance; amending s. 403.7225, F.S.; specifying public information program requirements; extending the deadline for completing certain county hazardous waste management plans; adding a requirement for updates of hazardous waste assessments; amending s. 403.7264, F.S.; changing amnesty days time periods; amending s. 403.727, F.S.; correcting a cross-reference; amending and renumbering s. 501.118, F.S.; deleting references to hazardous substances and materials; amending s. 403.804, F.S.; correcting a cross-reference; amending s. 403.816, F.S.; applying certain provisions about maintenance dredging of deepwater ports to additional entities; amending s. 403.853, F.S.; authorizing testing for certain contaminants at certain intervals; amending s. 403.862, F.S.; requiring certain funding; providing an appropriation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 19, strike everything after the enacting clause and insert the following:

Section 1. Legislative intent.—It is the intent of the Legislature to protect the natural functions of Florida's estuaries and lagoons. Restricting or prohibiting certain activities waterward of the established bulkhead line, pursuant to s. 253.1221, Florida Statutes, on abutting properties of estuaries or lagoons is of the essence to achieving these goals.

Section 2. Definitions.—As used in this act:

(1) "Estuary" means a naturally existing semi-enclosed coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(2) "Lagoon" means a naturally existing costal zone depression below mean high high water having permanent or ephemeral communications with the sea, but protected from the sea by some type of naturally existing barrier.

(3) "Seawall" means a man-made wall or embankment, except rip-rap, constructed in order to break the force of waves and to protect the shore from erosion.

Section 3. Department of Environmental Regulation; duties.—The Department of Environmental Regulation shall grant no permit pursuant to its authority as granted by s. 253.123 and 253.124, Florida Statutes, for the following construction on lands abutting estuaries or lagoons:

(1) Sea walls.

(2) "Fingers" resulting from the filling of submerged land.

Section 4. Application of act.—

(1) Public lands whose title is vested in port authorities as defined in s. 315.02, Florida Statutes, are exempt from the provisions of this act.

(2) This act shall in no way hinder any existing permitted activity pursuant to the provisions of s. 253.123, Florida Statutes, from replacement, routine maintenance, or repair activities.

(3) Lands owned by a publicly or privately owned public utility are exempt from the provisions of this act when the utility is acting in the performance of its obligation to provide service to the public.

Section 5. Subsection (1) of section 381.272, Florida Statutes, is amended to read:

381.272 Onsite sewage disposal systems; installations; conditions.—

(1) The Legislature declares that it is the policy of this state to require that every onsite sewage disposal system, except approved onsite graywater systems, developed under the provisions of this act connect to a publicly owned or investor-owned sewerage system within 365 days after notification that such a system is available. Where a publicly owned or investor-owned sewerage system is not available, the Department of Health and Rehabilitative Services may issue permits for the construction or installation of onsite sewage disposal systems under conditions as described in this section. Provision shall be made, such as the inclusion of sewer utility easements and rights-of-way in a subdivision, to assure the eventual construction and utilization of a sewerage system in such subdivision. The developer of any lot that is developed under the provisions of this section shall provide advance notice of this requirement to the purchaser of such lot. *The provisions of this subsection or any other provision of law to the contrary notwithstanding, a publicly owned or investor-owned sewerage system may, with the approval of the department, waive the requirement of mandatory onsite sewage disposal connection if it determines that such connection is not required in the public interest due to financial or public health considerations.*

Section 6. Subsections (7) and (11) of section 403.061, Florida Statutes, are amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it, and for this purpose to:

(7) Adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this act. Any rules or regulations adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions~~.~~*, nor shall discharges from steam electric generating plants existing or licensed under this chapter on the effective date of this act be required to be treated to a greater extent than may be necessary to assure:*

(a) That the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the make-up waters; or

(b) That the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or

(c) That the quality of noncooling system discharges which receive make-up water from a receiving body of water that does not meet applicable department water quality standards is as high as the quality of the receiving body of water.

The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters.

(a) Where a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam-electric generating plant discharge of pollutants that is existing or licensed under this chapter on the effective date of this act may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge; and

2. The discharge is in compliance with all applicable technology-based effluent limitations; and

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zones for point source discharges shall be permitted in outstanding Florida waters except for:

1.~~(a)~~ Sources which have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2.~~(b)~~ Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act; and

3.~~(c)~~ Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

Section 7. Subsection (2) of section 373.106, Florida Statutes, is amended to read:

373.106 Permit required for construction involving underground formation.—

(2) Each water management district shall have the exclusive authority to process and issue permits under this section and permits and licenses delegated under s. 403.812, except permits required by the department pursuant to 42 U.S.C. s. 300*h*~~(1)~~ until delegated by the department to the districts.

Section 8. Subsection (2) of section 373.333, Florida Statutes, is amended to read:

373.333 Enforcement.—

(2) Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the *water management district* ~~department~~ requiring ~~described~~ remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order.

Section 9. Paragraphs (a) and (g) of subsection (5) of section 376.11, Florida Statutes, are amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(5) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21 subject to s. 376.185~~, until July 1, 1984~~.

(g) An annual expenditure of *up to* 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund when the balance is greater than $30 million, to the Water Quality Assurance Trust Fund created pursuant to s. 376.307*; however, this expenditure shall be reduced by any administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21.*

Section 10. Paragraph (c) of subsection (3) of section 376.30, Florida Statutes, is amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(3) The Legislature intends by the enactment of ss. 376.30-376.315 to exercise the police power of the state by conferring upon the Department of Environmental Regulation the power to:

(c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable *costs* ~~damage claims~~ resulting therefrom.

Section 11. Subsections (4), (10) and (11) of section 376.301, Florida Statutes, are amended to read:

376.301 Definitions of terms used in ss. 376.30-376.315.—When used in ss. 376.30-376.315, unless the context clearly requires otherwise, the term:

(4) "Facility" means any nonresidential location containing stationary tank or tanks not covered by ss. 376.011-376.21*, except for aboveground crude oil storage tanks covered by chapter 377,* which contain pollutants and which have *individual* storage capacities greater than 550 gallons*, or any nonresidential location which contains or stores solid or gaseous pollutants in containers which have individual storage capacities greater than 550 gallons.*

(10) "Pollutants" includes *products as defined in s. 377.19(11),* ~~oil of any kind and in any form, gasoline,~~ pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(11) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property *or* which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Section 12. Paragraph (w) is added to subsection (2) of section 377.22, Florida Statutes, to read:

377.22 Rules, regulations, and orders.—

(2) The department shall adopt such rules and regulations, and shall issue such orders, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter. Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise such rules and regulations from time to time as may be necessary for the proper administration and enforcement of this chapter. Rules, regulations, and orders promulgated in accordance with this section shall be for, but shall not be limited to, the following purposes:

(w) To regulate aboveground crude oil storage tanks in a manner to protect the water resources of the state.

Section 13. Section 376.302, Florida Statutes, is amended to read:

376.302 ~~Pollutive~~ Discharge of *pollutants* ~~refined petroleum products upon waters and lands of the state~~ prohibited.—The discharge of *pollutants into or* ~~refined petroleum products~~ upon any waters *of the state or* ~~and~~ lands *in violation of department standards as defined in s. 403.803(12)* ~~of the state in the manner defined by ss. 376.30-376.315~~ is prohibited.

Section 14. Paragraphs (a) and (b) of subsection (5) and subsection (6) of section 376.307, Florida Statutes, are amended, and subsection (8) is added to said section to read:

376.307 Water Quality Assurance Trust Fund.—

(5)(a) There is hereby levied an excise tax, to be collected from and paid by each person for the privilege of operating a terminal facility, as defined in s. 376.031(9), and from each person for the privilege of operating a facility *not covered by ss. 376.011-376.21,* served by air, rail, truck, ~~or~~ pipeline located in this state*, or vessel,* used for the purpose of storing, handling, or transferring pollutants. The state and political subdivisions in the state are exempt from the excise tax.

(b) The excise tax shall be 2 cents per barrel, or equivalent measure as established by the department, coming to rest in the state, until the balance in the fund equals or exceeds an unobligated balance of $12 *million, at which time.* ~~For the fiscal year immediately following the year in which the balance in the fund equals or exceeds an unobligated balance of $12 million,~~ no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to an unobligated balance of $3 million*, in which case the 2-cent tax shall resume within 90 days following the end of the month in which such unobligated balance occurs and shall continue until the balance in the fund again equals or exceeds an unobligated balance of $12 million.* ~~For the fiscal year immediately following the year in which the balance in the fund is less than or equal to an unobligated balance of $3 million, the excise tax shall be and shall remain 2 cents per barrel coming to rest in the state, until the fund again equals or exceeds an unobligated balance of $12 million. For the fiscal year immediately following the year in which the fund again is equal to or exceeds an unobligated balance of $12 million, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded an unobligated balance of $12 million.~~

2. The fund is unable to pay any proven costs against the fund*, in which case the excise tax shall be and shall remain 5 cents per barrel, or equivalent measure established by the department, until the fund equals or exceeds $1.5 million, when the provisions of subparagraph 1. shall control.* ~~at the end of the fiscal year. Notwithstanding any other provision of this section, for the fiscal year following the year in which the fund is unable to pay any proven costs against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel until all outstanding proven costs have been paid and the fund again equals or exceeds $1.5 million, when the excise tax shall be 2 cents per barrel until the fund again equals or exceeds an unobligated balance of $12 million. For the fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds an unobligated balance of $12 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.~~

3. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue to be in effect until all such funds are repaid to the General Revenue Fund.

(6) The department shall recover to the use of the fund from *any* ~~the~~ person or persons *at any time* causing *or having caused* the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefrom, pursuant to s. 376.308(4), except that sums recovered as a result of damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection.

(8) It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement in accordance with the provisions of this section. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which such sums were expended, and not the date that the discharge occurred.

Section 15. Section 376.308, Florida Statutes, is amended to read:

376.308 Liabilities and defenses of facilities.— ~~It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sums expended from the fund for cleanup, abate-~~

~~ment, or damages in accordance with the provisions of ss. 376.30-376.315.~~ In any suit *instituted by the department* ~~to enforce claims of the fund~~ under ss. 376.30-376.315, it is not necessary for the department ~~in administering the fund~~ to plead or prove negligence in any form or manner. The department ~~in administering the fund~~ need only plead and prove that the prohibited discharge or other polluting condition has occurred. The only defenses of a person alleged to be responsible for the discharge to *any* ~~an~~ action *under ss. 376.30-376.315* ~~for damages and costs and expenses of cleanup or abatement~~ are to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(1) An act of war.

(2) An act of government, either state, federal, or municipal.

(3) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(4) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

(a) The defendant exercised due care with respect to the pollutant concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances; and

(b) The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

Section 16. Section 376.313, Florida Statutes, is amended to read:

376.313 *Nonexclusiveness of remedies and* individual cause of action for damages under ss. 376.30-376.315.—

(1) The remedies in ss. 376.30-376.315 shall be deemed to be cumulative and not exclusive.

(2) Nothing in ss. 376.30-376.315 shall require pursuit of any claim against the fund as a condition precedent to any other remedy.

(3) Notwithstanding any other provision of law, nothing contained in ss. 376.30-376.315 shall prohibit any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.315 In any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308~~(3)~~. In addition to any other remedy, the injured party shall be entitled to recover costs of the action and reasonable attorneys' fees.

Section 17. Section 376.317, Florida Statutes, is created to read:

376.317 Superseded laws; state preemption.—

(1) If any provision of ss. 376.30-376.317 or rules developed pursuant thereto pertaining to a facility which is maintained for the purpose of underground storage of petroleum products for use as fuel in vehicles, including but not limited to, those used on and off roads, aircraft, watercraft, and rail, are in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of local government, political subdivision or municipality, or any rule or regulation adopted thereunder, ss. 376.30-376.317 shall control, except as provided in subsection (3).

(2) Except as provided in subsection (3), the state hereby preempts the regulation of the prevention and removal of pollutant discharges from a facility described in 376.317(1) which has no single tank capacity exceeding 40,000 gallons at any time.

(3) County governments are authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, that are more stringent or extensive than state law or rule, provided that:

(a) The original ordinance was legally adopted and in force prior to April 1, 1984; or

(b) The ordinance establishing the local program was approved by the department. The department is authorized to adopt rules that would permit county governments to establish programs regulating underground storage tanks that are more stringent or extensive than state law or rule in accordance with s. 403.182. When adopting its rules, the department shall consider local conditions that warrant more stringent or extensive regulation of underground storage tanks including, but not limited to, the proximity of the county to a sole or single source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or groundwater, or the detection of petroleum products in public or private water supplies.

Section 18. Subsections (1) and (7) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; chapter 198, estate tax; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts tax; chapter 206, motor and other fuel taxes; chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981; chapter 208, tax on generation of hazardous wastes; chapter 211, tax on severance and production of minerals; chapter 212, tax on sales, use, and other transactions; chapter 214, administration of designated nonproperty taxes; chapter 220, income tax code; *chapter 376* ~~s. 376.11~~, pollutant spill prevention and control; and ss. 624.509-624.514: insurance code, administration and general provisions.

(7) The provisions of this section apply to all sections of:

(a) Chapter 206, motor and other fuel taxes, except for s. 206.27, records and files as public records, and s. 206.28, exchange of information among the states; and

(b) Chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981, except for s. 207.025, exchange of information.

However, nothing in this section shall prevent the department from providing information relative to chapter 208, chapter 211, chapter 377, or *chapter 376* ~~s. 376.11~~ to the proper state agency in the conduct of its official duties.

Section 19. Present subsections (29) through (53) of section 487.021, Florida Statutes, are renumbered as subsections (33) through (57), respectively, present subsections (17) through (28) are renumbered as subsections (20) through (31), respectively, present subsections (9) through (16) are renumbered as subsections (11) through (18), respectively, present subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and new subsections (7), (10), (19), and (32) are added to said section to read:

487.021 Definitions.—For the purpose of this chapter:

(7) "Antisyphon device" means a safety device used to prevent backflow of a mixture of water and chemicals into the water supply.

(10) "Chemical" means any substance which is intentionally added to water for agricultural purposes.

(19) "Emergency exemption" means an exemption as authorized in Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act.

(32) "Irrigation system" means any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground or surface water, through which water or a mixture of water and chemicals is drawn and applied for agricultural purposes. The term does not include any handheld hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

Section 20. Subsections (1), (2), and (3) of section 487.041, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

487.041 Registration.—

(1) Every pesticide which is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point

outside this state shall be registered in the office of the department, and such registration shall be renewed annually. *Emergency exemptions from registration may be authorized in accordance with the rules of the department.* The registrant shall file with the department a statement including:

(a) The name and street address of the registrant;

(b) The name of the pesticide;

(c) An ingredient statement and a complete copy of the labeling acompanying the pesticide which shall conform to the registration and a statement of all claims to be made for it including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each "added ingredient" contained therein.

(2) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this chapter, each person shall pay a registration fee of $10 for each and every brand registered annually, for the first 10 brands, and $2.50 for each and every brand in excess thereof. All registrations expire on December 31 of each year and new registrations must be filed before January 15 of the current year. Nothing in this section shall be construed as applying to *distributors* ~~jobbers~~ or retail dealers selling pesticides when such pesticides are registered *by another person.*

(3) The department, whenever it deems it necessary in the administration of this chapter, may require the registrant to submit the complete formula, evidence of the efficacy~~,~~ and ~~evidence of~~ the safety of any *pesticide, and other relevant data.* ~~In addition, each application for a special local need registration shall be supported by evidence of efficacy which shall be submitted with the application for registration. This evidence as to efficacy shall be examined by the technical council and any other governmental agency or higher education institution designated by the department, which shall make recommendations to the department as to whether or not the application for registration should be accepted or rejected. The department may issue a temporary acceptance or rejection pending receipt of the recommendation of the evaluating groups. After the technical council and other evaluating groups have made their recommendation, the department shall register or refuse to register the pesticide. However, before registration is refused, the department shall notify the applicant of its intention to refuse, giving its reasons therefor. The applicant shall have 15 days thereafter in which to request a hearing on his application for registration, and upon his failure to do so within said time, refusal shall become final without further procedure.~~ The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of any pesticide, upon notice to the applicant or registrant of its intention to so refuse or revoke, giving its reasons therefor. The applicant *may* ~~shall have 15 days~~ thereafter ~~in which to~~ request a hearing, *pursuant to chapter 120,* on the department's intention to refuse or revoke registration, and, upon his failure to do so ~~within said time~~, refusal or revocation shall become final without further procedure. In no event shall registration of a pesticide be construed as a defense for the commission of any offense prohibited under *this chapter* ~~s. 487.031~~.

(5) Each application for a special local need registration shall be supported by evidence of efficacy and safety which shall be submitted with the application for registration. This evidence shall be examined by the Institute of Food and Agricultural Services and any other governmental agency designated by the department, which shall make recommendations to the department as to whether the application shall be accepted or rejected. The department may then issue an acceptance or rejection.

(6) The department shall notify the Pesticide Review Council of action taken with regard to applications for special local need registrations as authorized by subsection (5) and emergency exemptions as authorized by subsection (1) by the first meeting of the Council following such action.

Section 21. Section 487.055, Florida Statutes, is created to read:

487.055 Antisyphon requirements for irrigation systems.—

(1) Any irrigation system used for the application of chemicals shall be equipped with an antisyphon device adequate to protect against contamination of the water supply, provided that an irrigation system installed prior to the effective date of this act shall be equipped with such a device within 18 months from the effective date of this act.

(2) It shall be unlawful for any person to apply chemicals through an irrigation system which is not equipped with an antisyphon device as required by this section.

(3) The department shall establish specific requirements for antisyphon devices by rule. The department shall adopt such rules on or before November 1, 1984.

(4) Any governmental agency requiring antisyphon devices on irrigation systems used for the application of chemicals shall use the specific antisyphon device requirements adopted by the department.

Section 22. Subsections (2) and (3) of section 487.071, Florida Statutes, are amended to read:

487.071 Enforcement, inspection, sampling, and analysis.—

(2) The department, or its agent, is authorized and directed to sample, test, inspect, and make analyses of pesticides sold, offered for sale, distributed, or used within this state, at a time and place and to such an extent as it may deem necessary, to determine whether such pesticides are in compliance with the provisions of this chapter, *rules adopted thereunder,* and the provisions of the pesticide label or labeling.

(3) The official analysis shall be made from the official sample. A sealed and identified sample, herein called "official check sample" shall be kept until the analysis on the official sample is completed. However, the registrant may obtain upon request a portion of the official sample. Upon completion of the analysis of the official sample, a true copy of the certificate of analysis shall be mailed to the registrant of the pesticide from whom the official sample was taken and also to the dealer or agent, if any, and consumer, if known. If the official analysis conforms with the provisions of this chapter, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this chapter, *rules adopted thereunder, and the provisions of the pesticide label or labeling,* the official check sample shall be retained for a period of 90 days from the date of the certificate of analysis of the official sample. If within that time the registrant of the pesticide from whom the official sample was taken makes demand for analysis by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the registrant for analysis at the expense of the registrant. The referee chemist, upon completion of his analysis, shall forward to the department and to the registrant a certificate of analysis bearing a proper identification mark or number; and such certificate of analysis shall be verified by an affidavit of the person or laboratory making the analysis. If the certificate of analysis checks within 3 percent of the state chemist's analysis on each active ingredient for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's certificate of analysis shows a variation of greater than 3 percent from the state chemist's analysis in any one or more of the active ingredients for which an analysis was made, upon demand of either the department or the registrant from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and the registrant at the expense of the party or parties requesting the referee analysis. If no demand is made for an analysis by a second referee chemist, the state chemist's certificate of analysis shall be accepted as final and binding on all concerned. The second referee chemist, upon completion of his analysis, shall make a certificate and report as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity shall be accepted as final and binding on all concerned.

Section 23. Subsections (2) and (3) of section 487.091, Florida Statutes, are amended to read:

487.091 Tolerances, deficiencies, and penalties.—

(2) Any person violating *any provision of this chapter or any rules adopted pursuant thereto shall be subject to the imposition of an administrative fine not to exceed $1,000 per violation* ~~s. 487.031(1)(a) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

(3) Any person violating any provision of this chapter *or any rules adopted pursuant thereto* ~~other than subsections (4), (5), and (6) and s. 487.031(1)(a)~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 24. Section 487.15, Florida Statutes, is created to read:

487.15 Reclamation, reimbursement, and disposal.—

(1) In the event that the use of any pesticide registered or otherwise approved for use in this state is suspended or canceled to prevent harm to the public or the environment, the registrant, at its own expense, shall reclaim the pesticide from any distributor, dealer, user, or other party possessing it in this state, provide reimbursement therefor, and provide for the proper removal or disposal of the pesticide in accordance with federal and state law.

(2) The registrant shall comply with the requirements of subsection (1) within 90 days of issuance of the order of suspension or cancellation.

Section 25. There is hereby appropriated to the Department of Agriculture and Consumer Services from the General Revenue Fund the sum of $95,832 for the purpose of indemnifying holders of ethylene dibromide (EDB), the use of which was suspended by action of the Department prior to the effective date of this act. The Department is authorized and directed to administer this appropriation. Payment shall be made only to holders of EDB below the dealer level who are not eligible for indemnification pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) or other indemnification program administered by the Environmental Protection Agency. No payment shall exceed the actual purchase price paid by the indemnitee. Entitlement to indemnification shall be conditioned on the indemnitee's furnishing to the Department satisfactory proof of the purchase price actually paid, and on the indemnitee's surrender to the Department or other party, as appropriate, of the EDB for disposal. It is the intent of the Legislature that the indemnification appropriation and procedure in this section is intended to apply solely to the existing situation involving EDB, for which existing statutes do not make adequate provision, and that any future occurrence of a similar nature shall be subject to the procedure in Section 1 of this act. Any unexpended funds from this appropriation shall revert to the General Revenue Fund on June 30, 1985.

Section 26. Paragraph (a) of subsection (5) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(5)(a) The department may require an application fee in an amount sufficient to cover the costs of reviewing and acting upon any application and the costs of surveillance and other field services associated with any permit issued; but the amount in no case shall exceed $100, except that:

1. The permit fee for any of the following permits shall not exceed $500:

a. Air pollution, operation permit.

b. Industrial waste, construction permit.

c. Domestic waste, temporary operation permit.

d. Industrial waste, temporary operation permit.

e. Stormwater, temporary operation permit.

2. The permit fee for any of the following permits shall not exceed $1,000:

a. Air pollution, construction permit.

b. Dredge and fill, standard form permit.

c. Deep well injection, construction permit.

d. Deep well injection, operation permit.

e. Hazardous waste permit.

3. The fee for permits issued pursuant to s. 403.816 shall be $5,000, and for any modification of such permit requested by the applicant, $1,000.

Section 27. Section 403.0876, Florida Statutes, is amended to read:

403.0876 Permits; processing.—Within 30 days after receipt of an application for a permit under this chapter, the department shall review the application and shall request submittal of all additional information the department is permitted by law to require. If the applicant believes any departmental request for additional information is not authorized by law or departmental rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or departmental rule, the department, at the applicant's request, shall proceed to process the permit application. Permits shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. *However, the failure of the department to approve or deny a permit for an underground injection well within the 90-day time period shall not result in the automatic approval or denial of the permit and shall not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny such a permit within the 90-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.*

Section 28. Section 403.091, Florida Statutes, is amended to read:

403.091 Inspections.—

(1) Any duly authorized representative of the department may *at any reasonable time* enter and inspect, ~~at any reasonable time~~ for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a hazardous waste generator, transporter, or facility or other air or water contaminant source*; a discharger, including any nondomestic discharge which introduces any pollutant into a publicly owned treatment works; any facility as defined in s. 376.301(4);* or a resource recovery and management facility, is located or is being constructed or installed*; or where records required under this chapter or ss. 376.30-376.315 or under department rule are kept. Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.315; inspect any monitoring equipment or method; sample for any effluents or wastes or pollutants as defined in s. 376.301(10) which the owner or operator of such source may be discharging or may otherwise be located on or underlying the owner or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.315, or department rules.* No person shall refuse *reasonable* ~~immediate~~ entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(2) Inspections pursuant to subsection (1) shall be conducted only after:

(a) Consent for the inspection from the owner, operator, or person in charge is received; or

(b) The appropriate inspection warrant as provided in this section is obtained.

(3) An inspection warrant authorized by this chapter may be issued by a judge of any county or circuit court of this state having jurisdiction where the place or thing to be searched is located.

(4) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.315:

(a) When it would appear that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.315 or any rules properly promulgated thereunder; or

(b) When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the department's continuing efforts to ensure compliance with the provisions of this chapter or ss. 376.30-376.315 and any rules adopted thereunder.

(5) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department, and may receive further testimony from witnesses or sup-

porting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in subsection (4) or for believing that such grounds exist.

(6) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant signed by him with his name of office to any department representative authorizing the representative forthwith to inspect the property described in the warrant.

Section 29. Subsections (4) and (6) of section 403.1826, Florida Statutes, are amended to read:

403.1826 Grants, requirements for eligibility.—

(4) The department shall require local governmental funds in the amount of 45 percent of eligible project costs as determined by rules of the department. The department is authorized to establish a maximum *grant* ~~amount~~ for *each local government agency* ~~a grant~~ pursuant to this act.

(6) No grant may be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources, including, but not limited to, service charges and connection fees.~~and shall reflect the amortized capital investment in existing facilities as well as the cost of the facility for which the grant is sought.~~ *The revenue generated shall provide for financing future sanitary sewerage capital improvements; the grantee shall accumulate, during the design life of the grant funded project, monies equivalent to the grant amount adjusted for inflationary cost increases.*

Section 30. Subsection (3) and paragraph (a) of subsection (4) of section 403.1838, Florida Statutes, are amended and subsection (6) is created to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3) The department may provide grants to small communities. Grants shall be made from the Small Community Sewer Construction Assistance Trust Fund in accordance with rules adopted by the Environmental Regulation Commission. *The department may* ~~No~~ grant *up to* ~~may exceed~~ $3 million *to any small community.*

(4) The Environmental Regulation Commission shall:

(a) Require a 45-percent nonstate match, except that *for* grants of less than $50,000 ~~may be funded 100 percent by the department, and~~ the commission may waive all or a part of the matching requirement:

1. Where water quality standards have been exceeded by an amount that constitutes an immediate health hazard; or

2. In communities where the gross per capita income is below the state average, as determined by the United States Department of Commerce, and where sewer systems have failed to meet department standards.

(6) No grant shall be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources, including, but not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements; the grantee shall accumulate, during the design life of the grant funded project, monies equivalent to the grant amount adjusted for inflationary cost increases.

Section 31. Paragraph (a) of subsection (2) of section 403.702, Florida Statutes, is amended to read:

403.702 Legislative findings; public purpose.—

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate *in the most economically feasible, cost effective and environmentally safe manner* the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of the state; and recover resources which have the potential for further usefulness.

Section 32. Present subsections (18), (19), (20), (21), (22), (23), (24), and (25) of section 403.704, Florida Statutes, are renumbered as subsections (20), (21), (22), (23), (24), (25), (26), and (27), respectively, and new subsections (18) and (19) are added to said section to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(18) Research alternative, economically feasible, cost-effective and environmentally safe landfill closure methods which serve to protect the health, safety, and welfare of the public and the environment, solicit public participation during the research process, create a three member research oversight review committee comprised of industry, university, and legislative staff representatives, and submit a report on these alternatives to the Legislature by February 1, 1985. The department shall be required to incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided that such variances are applied for and approved in accordance with s. 403.201, and will not result in significant threats to human health or the environment.

Section 33. Subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, shall be construed to include the control of resource recovery and management facilities. ~~However, a temporary operation permit may not be issued for more than a 3-year period.~~

Section 34. Subsection (29) is added to section 403.703, Florida Statutes, to read:

403.703 Definitions.—As used in this act:

(29) "Hazardous substance" means any substance which is defined as a hazardous substance in the Comprehensive Environmental Response Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767.

Section 35. Paragraph (a) of subsection (10) of section 403.7225, Florida Statutes, is amended to read:

403.7225 Local hazardous waste management assessments.—

(10) The schedule for completion of county hazardous waste management plans by region is as follows:

(a) For counties within the geographic areas of the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council and for Volusia County; by *January 1, 1985* ~~July 1, 1984~~.

Section 36. Subsection (1) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification program.—

(1) Each county specified in s. 403.7225(10)(a), (b), and (c) shall send *by mail* a ~~certified~~ letter to each small quantity generator, as defined pursuant to federal regulations in 40 C.F.R. pt. 261.5, on the January 1 preceding the date specified in such paragraphs for completion of its hazardous waste assessment, *and the U. S. Postal Service certificate of mailing shall be retained as proof of mailing.* In addition, within 14 days after a county completes its hazardous waste assessment, the county shall send such ~~certified~~ letters to each small quantity generator not notified on the preceding January 1. Thereafter, each county shall annually send such letters on July 1. The letter shall:

(a) Detail the legal responsibilities of the small quantity generator with regard to proper waste management practices, including penalties for noncompliance.

(b) Include a list of hazardous waste management alternatives which are available to the small quantity generator.

Section 37. Subsections (2), (3), (4), (6) and (7) of section 403.726, Florida Statutes, are amended to read:

403.726 Imminent hazard.—

(2) The department shall take any action necessary pursuant to s. 403.121 or s. 403.131 to abate or substantially reduce any imminent hazard caused by hazardous *substances* ~~waste~~, including spills into the environment of hazardous substances ~~which are included within the hazardous waste criteria or lists established pursuant to s. 403.72 and which are causing an imminent hazard~~. The department is authorized to use moneys from the Hazardous Waste Management Trust Fund *or the Water Quality Assurance Trust Fund* to finance such actions, and such expenditures from the fund shall be recoverable pursuant to s. 403.725(5) *or s. 376.307.*

(3) An imminent hazard exists if any hazardous *substance* ~~waste~~ creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than $25,000 for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

(4) The department may implement the provisions of chapter 386 and ss. 387.08 and 387.10 in its own name whenever hazardous *substances are* ~~waste is~~ being generated, transported, disposed of, stored, or treated in violation of those provisions of law.

(6) The department may remove or dispose of any hazardous *substance* ~~waste~~ which has become an imminent hazard, or take any other emergency action, when the owner or operator of a hazardous waste facility or a generator or transporter of hazardous *substances* ~~waste~~ does not take appropriate action to abate or neutralize the hazard.

(7) Where hazardous *substances are* ~~waste is~~ discharged into waters of the state and abatement action is taken pursuant to this section, the department may require that the affected body of water be restored to meet, but not exceed, either the standards established by department rule for that particular body of water or ambient water quality prior to the discharge, whichever is higher. However, under no circumstances would the subject water have to be restored to a more pure state than ambient water quality prior to the discharge.

Section 38. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to *s. 403.7234* ~~section 24 of this act~~; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 39. Section 501.118, Florida Statutes, is amended and transferred to Chapter 403, Florida Statutes, as s. 403.74, Florida Statutes, to read:

403.74 ~~501.082~~ Management of hazardous materials~~, substances, and wastes~~ by governmental agencies.—

(1) *For the purposes of this section, "hazardous materials" are those substances:*

(a) Listed as constituents of waste streams F001, F002, F003, F004 and F005 in 40 CFR, Part 261.31, or

(b) Listed in 40 CFR Part 261.33, including those substances which are pesticides as defined by section 487.021(41), Florida Statutes.

(2)~~(1)~~ All local, state and other governmental agencies and institutions of the State University System that *dispose of* ~~utilize~~ hazardous ~~substances~~ materials ~~or that generate hazardous waste~~ shall:

(a) Notify the Department of Environmental Regulation of the types and *approximate* annual quantities of each hazardous material~~, substance or waste~~ that is ~~used or~~ generated.

(b) Notify the department of the management practice used for *disposal of* their *hazardous* materials. ~~or waste, including transportation, storage, treatment, and disposal.~~

(3)~~(2)~~ Each such agency shall develop written plans for the management of *the disposal of* hazardous material. ~~substances or wastes, in conjunction with guidelines developed by the department.~~

(4)~~(3)~~ Each such agency shall develop plans for spill prevention control and countermeasures for hazardous materials incidents.

(5) Exempt from this section are hazardous materials which are used by governmental agencies in annual quantities of less than one kilogram, except for those hazardous materials listed because of reactivity.

Section 40. Subsection (14) is added to section 403.803, Florida Statutes, to read:

403.803 Definitions.—When used in this act, the term, phrase, or word:

(14) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound waters for the purpose of insect control.

Section 41. Subsection (3) of section 403.804, Florida Statutes, is amended to read:

403.804 Environmental Regulation Commission; powers and duties.—

(3) The commission shall establish priorities and have final state approval on applications for, and disbursements of, federal and state grants for the construction of wastewater or water treatment works. In establishing priorities for state grants under this act, an application shall not receive a lower priority solely because the proposed project includes reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826*(6)*~~(2)~~.

Section 42. Subsection (2) and paragraph (b) of subsection (3) of section 403.809, Florida Statutes, are amended to read:

403.809 Environmental districts; establishment; managers; functions.—

(2) There shall be a manager for each environmental district who shall be appointed by, and serve at the pleasure of, the secretary. The district manager shall maintain his office in the environmental district center, which shall be collocated with an office of a water management district. Each branch office shall have a branch office manager ~~who shall be appointed by, and serve at the pleasure of, the secretary~~. The water management districts are encouraged to collocate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned to the Division of Environmental Permitting or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of National Pollution Discharge Elimination System permits pursuant to Pub. L. No. 92-500, s. 401.

2. Construction ~~and operation~~ of major air pollution sources.

3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

Section 43. Paragraph (p) is added to subsection (2) of section 403.813, Florida Statutes, to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, or chapter 253, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection shall relieve an applicant from any requirement to obtain permission to use or occupy lands owned by any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(p) The restoration of existing insect control impoundment dikes of less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible, or operated in accordance with an impoundment management plan approved by the department. Restoration shall involve no more dredging than is necessary to restore the dike to original design specifications. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of operating insect control impoundments.

403.815 Public notice; waiver of hearings.—The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a permit submitted under this chapter or chapter 253. The notice of application shall be published within 14 days after the application is filed with the department. Notwithstanding any provision of s. 120.60, the department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of proposed agency action on any permit application submitted under this chapter or chapter 253. *The department shall require an applicant for the construction or expansion of a solid waste facility to publish such notice.* The notice of proposed agency action shall be published at least 14 days prior to final agency action. The 90-day time period specified in s. 120.60(2) shall be tolled by the request of the department for publication of notice of proposed agency action and shall resume 14 days after receipt by the department of proof of publication. However, if a petition is filed for a proceeding pursuant to s. 120.57, the time periods and tolling provisions of s. 120.60 shall apply. The cost of publication of notice under this section shall be paid by the applicant. The secretary may, by rule, specify the format and size of such notice. Within 14 days after publication of notice of proposed agency action, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. Failure to request a hearing within 14 days after publication of notice of proposed agency action shall constitute a waiver of any right to a hearing on the application under s. 120.57.

Section 44. Subsection (7) is added to section 403.853, Florida Statutes, to read:

403.853 Drinking water standards.—

(7) Unless otherwise required by federal act, the department may require testing of public water supply systems only for those contaminants for which maximum contaminant levels have been set by the administrator or the department or for which the U.S. Environmental Protection Agency or the department has established a correlation between pollutant concentration and human health effects. Testing for contaminants for which these correlations have been established shall be required for community water supply systems every 3 years, except when concentration levels or unusual conditions warrant more frequent monitoring.

Section 45. Subsection (4) of section 403.855, Florida Statutes, is amended to read:

403.855 Imminent hazards.—In coordination with the Department of Health and Rehabilitative Services, the department, upon receipt of information that a contaminant which is present in, or is likely to enter, public or private water supplies may present an imminent and substantial danger to the public health, may take such actions as it may deem necessary in order to protect the public health. Department actions shall include, but are not limited to:

(4) *Using funds from the Water Quality Assurance Trust Fund,* contracting for clinical tests on samples of the affected population if the department determines there is a real and immediate danger to the public health.

Section 46. Section 403.8635, Florida Statutes, is created to read:

403.8635 State environmental sample laboratory certification program.—

(1) In addition to laboratory certification pursuant to s. 403.863, the department and the Department of Health and Rehabilitative Services are jointly authorized to establish a periodic certification and approval program for laboratories that perform analyses of environmental samples to assure the acceptable quality, reliability, and validity of all testing results.

(2) The Department of Health and Rehabilitative Services shall have the responsibility for the operation and implementation of laboratory certification pursuant to this section, except that, upon completion of the evaluation and review of the laboratory certification application, the evaluation shall be forwarded, along with recommendations, to the department for review and comment prior to final approval or disapproval.

(3) The Department of Health and Rehabilitative Services is authorized to charge and collect fees for the evaluation and certification of laboratories pursuant to this part. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health and Rehabilitative Services in the administration and operation of this program. All fees shall be deposited in a trust fund administered by the Department of Health and Rehabilitative Services to be used for the sole purpose of this section.

Section 47. Definitions.—For the purposes of sections 40-46:

(1) "Mangrove" means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).

(2) "Alter" means to cut, remove, defoliate or otherwise destroy, but shall not mean selective trimming which does not eliminate the biological integrity of individual plants.

Section 48. Prohibitions; permit procedure.—

(1) No person shall alter or cause to be altered any mangrove in waters where permits are required for dredging or filling except pursuant to a permit issued by the department or as otherwise provided by sections 40-46. Any violation of this section shall be presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who may directly or indirectly have charge, control, or management, either exclusively or with others, of the property upon which such violation occurs. However, this presumption may be rebutted by competent, substantial evidence of unauthorized actions by third parties.

(2) No separate application for an alteration permit shall be required if alteration is addressed in an application for a dredge or fill permit or certification under Part II of Chapter 403, the procedures for dredge or fill permitting shall control in such instances.

(3) The department shall adopt a general permit in accordance with s. 403.814, Florida Statutes, authorizing alteration of mangroves in accordance with procedures designed to protect the integrity of mangrove trees.

(4) The provisions of sections 40-46 shall not apply to any alteration addressed in a dredge and fill application which was complete prior to December 31, 1983, unless the applicant chooses to come under this act.

(5) The provisions of sections 40-46 shall not preclude a landowner from making reasonable alterations to and selectively trimming individual mangroves to better enjoy the coastal water vistas and other aesthetic qualities associated with ownership of riparian lands.

Section 49. Restitution.—In the event that the violator does not restore altered mangroves to the standards of the Department of Environmental Regulation, the department may restore the altered mangroves at its own expense and the cost therefor shall become a lien upon the property of the violator.

Section 50. Enforcement.—The department's responsibility for the enforcement of the provisions of Sections 40-46 shall be pursuant to ss. 403.141 and 403.161, Florida Statutes.

Section 51. Procedural rules.—By June 1, 1985, the department shall adopt a rule specifying criteria for altering mangroves and a procedure for issuing permits to do so. Such criteria shall be based solely upon the dredge and fill permit criteria set forth in Chapter 403, Florida Statutes.

Section 52. Variance relief.—Upon application, the department may grant a variance from the provisions of sections 40-46 if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of affected property. Relief shall be granted only upon demonstration that such hardship is peculiar to the affected property and not self-imposed, and that the grant of a variance will be consistent with the general intent and purpose of sections 40-46. The department shall grant variances as it shall deem appropriate.

Section 53. Exception.—The provisions of this act shall not apply to the following:

(1) The alteration of mangrove trees by duly constituted communication, water, sewer, electrical or other utility companies or federal, state, or county agencies, or engineers or surveyors working under a contract with such utility companies or agencies, when such mangrove tree alteration is done as a governmental function of such agency.

(2) The alteration of mangrove trees by duly constituted communication, water, sewer, electrical or other utility companies in or adjacent to a public or private easement or right-of-way, provided such alteration is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(3) The alteration of mangrove trees by duly constituted communication, water, sewer or electrical utility companies on the grounds of electric power plant and sub-stations, water treatment plants, or sewer treatment plants in furtherance of providing utility service to its customers and provided further that such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(4) The alteration of a mangrove tree by a Florida licensed land surveyor in the performance of his duties provided such alteration is to individual trees. The altertion of mangrove trees by a surveyor which requires trimming a swath of greater than 3 feet in width shall require approval by the department prior to such alteration.

Section 54. Creating a new subsection (3) to 403.021, F. S., and renumber subsequent subsections.

(3) It is the policy of the state to ensure that the state's existing and potential drinking water resources remain free from harmful quantities of contaminants. The department as the state's water quality protection agency, shall compile, correlate and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the state's drinking water resources.

Section 55. Section 388.411, Florida Statutes, is hereby repealed.

Section 56. It is the intent of the Legislature that lands created by spoil or used as dredge spoil sites shall be given priority consideration as sites for disposal of spoil in maintenance dredge operations.

Section 57. Definitions.—As used in this act:

(1) "Department" means the Department of Environmental Regulation.

(2) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(3) "Used oil" means any oil which has been refined from crude oil and as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

(4) "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(5) "Reclaiming" means the use of cleaning methods on used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(6) "Rerefining" means the use of refining processes on used oil to produce high quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals.

Section 58. Prohibitions.—

(1) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(2) No person may discharge used oil into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

Nothing in this act prohibits the use of used oil for road maintenance purposes, as a fuel, for weed abatement on the user's property, or for agricultural dust control, unless such use violates another law or rule or endangers public health. However, used oil shall not be used for road oiling, dust control and weed abatement in areas where sole source aquifers have been designated.

Section 59. Public education.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(1) Encourage persons who annually sell at retail, in containers for use off the premises, more than 500 gallons of oil, to provide purchasers with the locations of collection facilities and information on proper disposal practices.

(2) Establish, maintain, and publicize a used oil information center that disburses materials or information explaining local, state, and federal laws and rules governing used oil and informing the public of places and methods for proper disposal of used oil;

(3) Encourage the voluntary establishment of used oil collection and recycling programs and provide technical assistance to persons organizing such programs; and

(4) Encourage the procurement of rerefined automotive and industrial oils for all state and local uses, whenever such rerefined oils are available at prices competitive with those of new oil produced for the same purpose.

Section 60. Registration.—

(1) Beginning July 1, 1985, the following persons shall register annually with the department pursuant to rules of the department on forms prescribed by the department:

(a) Any person who transports more than 500 gallons of used oil annually over public highways.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually.

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(2) An electric utility whose operations generate used oil and which used oil is then recycled, rerefined, or reclaimed by the electric utility for use in its operations shall not be required to register or report pursuant to this section.

(3) The department may prescribe fees for the registration required by this section in an amount sufficient to cover the cost of processing applications, not to exceed $25.

(4) The department shall require each registered person to submit, no later than July 1 of each year, a report which specifies the type and quantity of used oil collected, transported, and recycled during the preceding calendar year, commencing in calendar year 1985.

(5) Each registered person who transports or recycles used oil shall maintain records which identify:

(a) The source of the materials to be transported or recycled;

(b) The quantity of materials received;

(c) The date of receipt; and

(d) The destination or end use of the materials.

(6) The department shall perform technical studies to sample used oil at representative used oil transporters and recycling facilities to determine the incidence of contamination of used oil with hazardous, toxic, or other harmful substances. No later than October 1, 1985, the department shall report to the Legislature on the need for the following:

(a) Regulation of end uses of used oil, including burning, road oiling, dust control, weed abatement, and use in industrial processes.

(b) Requirements for chemical analyses of collected used oil to be conducted by transporters or recyclers to determine the presence of hazardous, toxic, or other harmful substances.

(c) Additional reporting requirements, including mandatory notification to the department of receipt of materials containing excessive levels of contaminants.

(d) Lower registration thresholds under section 4 of this act.

Section 61. The department shall submit an annual report to the Legislature summarizing information on used oil collection and recycling, analyzing the effectiveness of this act, and making recommendations for any necessary changes.

Section 62. The department shall coordinate its activities and functions under this act with the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

Section 63. The department shall fully implement this act as soon as practical, but in no event later than 2 years after the effective date of this act.

Section 64. Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce this act pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by this act shall be subject to a fine of $300.

Section 65. Proceeds from the registration fees, fines, and penalties imposed by this act shall be deposited into the Department of Environmental Regulation Trust Fund, for use by the department in implementing the provisions of this act.

Section 66. Paragraph (c) is added to subsection (2) of section 526.01, Florida Statutes, to read:

526.01 Fraud and deception in sale of liquid fuel, lubricating oil, and greases; labeling; stop-sale order; penalty.—

(2)(a) Containers of reclaimed, recleaned, or reconditioned previously used lubricating oil, lubricants, or mixtures of lubricants shall be plainly labeled showing that content thereof is a previously used product.

(b) In the storage, sale, offering, or exposing for sale of lubricating oil composed in whole or in part of previously used lubricating oil, it is unlawful to:

1. Represent in any manner that used lubricating oil is new or unused;

2. Fail to disclose clearly and conspicuously that used lubricating oil has been previously used in all advertising and sales promotional material and on each front or face panel of the container. The front or face panel means the part of the container on which the brand name is usually featured and which is customarily exposed to the view of prospective purchasers when displayed at point of retail sales; or

3. Use the term "rerefined," or any other word or term of similar import, to describe previously used lubricating oil unless the physical and chemical contaminants acquired through previous use have been removed by a refining process.

(c) Previously used lubricating oil which has been rerefined, which refining process has removed all the physical and chemical contaminants acquired in previous use, and which meets the ASTM-SAE-API standards for fitness for its intended use shall not be subject to this labeling requirement. A manufacturer of such rerefined oil shall register his product with the department and provide an affadavit of proof the product meets the required standards.

Section 67. Subsection (3) of section 327.25, Florida Statutes, is amended, present subsections (4), (5), (6), (7), and (8) of said section are renumbered as subsections (5), (6), (7), (8), and (9), respectively, and a new subsection (4) is added to said section to read:

327.25 Classification and license.—Vessels which are required to be registered shall be classified for license purposes according to the following schedule, and the registration certificate license fee shall be in the following amounts:

(3) DISTRIBUTION OF FEES.—Moneys deposited pursuant to s. 327.28 to be returned to the counties are appropriated to the department for grants to the county general governments for the sole purposes of providing recreational channel marking, public launching facilities~~,~~ and other boating-related activities, *and manatee and marine mammal protection and recovery*. The department shall ascertain, as a guideline in determining amounts of grants each county may receive, the number of noncommercial vessels registered in the county during the preceding license year according to the license fee schedule provided in subsection (1) and shall promulgate rules and regulations to effectuate this. *Each fiscal year prior to the determination of grants to the counties under this section, at least $250,000 of the amount available for such grants shall be used for manatee and marine mammal protection and recovery.*

(4) VOLUNTARY CONTRIBUTIONS.—The application form for boat registration shall include a provision to allow each applicant to indicate his desire to pay an additional voluntary contribution to the Motorboat Revolving Trust Fund for manatee and marine mammal protection and recovery. This contribution shall be in addition to all other fees and charges. Provisions for collecting this contribution shall begin with the boat registrations for 1985. The amount of the request for a voluntary contribution solicited shall be $1 per registrant. Beginning with boat registration in 1993, the request for a voluntary contribution solicited shall be $2 per registrant. All voluntary contributions shall be deposited in the Motorboat Revolving Trust Fund for use in accordance with the provisions of s. 370.12(5).

Section 68. Subsections (1) and (2) of section 327.28, Florida Statutes, are amended to read:

327.28 Motorboat Revolving Trust Fund; appropriation and distribution.—

(1) All funds collected from the registration of boats through the department and the tax collectors of the state shall be deposited by the department in a Motorboat Revolving Trust Fund, in order to provide for the administrative cost of this chapter and for recreational channel marking, public launching facilities, law enforcement and quality control programs, ~~and~~ aquatic weed control, *and manatee and marine mammal protection and recovery. In each fiscal year, at least $250,000 shall be used for manatee and marine mammal protection and recovery.* Two dollars from each noncommercial vessel registration license fee, except that for class A-1 motorboats, shall be transferred to the Aquatic Plant Control Trust Fund for aquatic weed research and control. Forty percent of the license fees from commercial vessels shall be transferred to the Florida Saltwater Products Promotion Trust Fund to be used for law enforcement and quality control programs. Forty percent of the license fees from commercial vessels shall be transferred to the Aquatic Plant Control Trust Fund for aquatic plant research and control.

(2) From the funds collected through boat registration and deposited in the Motorboat Revolving Trust Fund, the Legislature shall appropriate sufficient funds to the department for the administration of this part and for recreational channel marking, public launching facilities, law enforcement and quality control programs, ~~and~~ aquatic weed control, *and manatee and marine mammal protection and recovery.*

Section 69. Subsection (5) is added to section 370.12, Florida Statutes, to read:

370.12 Marine animals; regulation.—

(5) PROGRAM FUNDING.—

(a) Each fiscal year at least $250,000 from the Motorboat Revolving Trust Fund shall be used for annual funding of the department's manatee and marine mammal protection and recovery effort; manufacture

and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.

(b) When the federal and state governments remove the manatee from endangered or threatened species status, the requirement for an annual allocation of at least $250,000 may be reduced.

Section 70. There is hereby appropirated from the Permit Fee Trust Fund to the Department of Environmental Regulation $47,945 for fiscal year 1984-85 and two positions to implement the provisions of sections 50-59. There is hereby appropriated from the Permit Fee Trust Fund to the Department of Environmental Regulation $43,000 for fiscal year 1984-85 for purposes of completing the study in Section 53.

Section 71. Subsection (2) of section 487.0615, Florida Statutes, is amended to read:

487.0615 Pesticide Review Council.—

(2) The Pesticide Review Council shall have the power and duty to:

(a) Review data of the United States Environmental Protection Agency on *any* ~~newly registered restricted use~~ pesticides.

(b) Initiate scientific studies on any ~~registered restricted use~~ pesticide when substantive preliminary data indicate that the ~~restricted use~~ pesticide, as presently being used, poses an unreasonably adverse effect on the hydrogeological environment or human health or that claims made by the registrant to the United States Environmental Protection Agency in the registration application relative to the sale, distribution, use, or effects of the ~~restricted use~~ pesticide are substantially different from actuality. The council shall utilize the available services of state agencies or of the State University System to conduct scientific studies determined to be necessary in the performance of its duties.

(c) Apprise the United States Environmental Protection Agency of the specific soil, hydrogeological, and other environmental conditions in counties of this state where intense ~~restricted use~~ pesticide application is taking place.

(d) Formally request the United States Environmental Protection Agency to require registrants of ~~new restricted use~~ pesticides to provide the council with environmental test data generated in this state or generated by simulating environmental conditions in this state.

(e) Request information from the United States Environmental Protection Agency relating to the findings upon which that agency based its registration determinations for ~~restricted use~~ pesticides ~~registered in this state~~.

(f) Make recommendations, subject to a majority vote, directly to the Commissioner of Agriculture for actions to be taken with respect to the *sale, presence* or use of a ~~restricted use~~ pesticide which the council has studied or reviewed.

(g) Provide information to appropriate governmental agencies, as requested, with respect to information gleaned about ~~restricted use~~ pesticides which have been reviewed or studied by the council. However, confidential data received from the United States Environmental Protection Agency or the registrant shall be treated as such; and it is unlawful for any member of the council to use the data for his own advantage or to reveal the data to the general public, the provisions of chapter 119 to the contrary notwithstanding.

(h) Evaluate the feasibility of using biological controls to replace the use of ~~restricted use~~ pesticides.

Section 72. Section 403.1656, Florida Statutes, is created to read:

403.1656 Florida Groundwater Protection Task Force.—

(1) The Florida Groundwater Protection Task Force is created within the Department of Environmental Regulation. The Groundwater Protection Task Force shall consist of the following members:

(a) The Secretary of Community Affairs, or a designee;

(b) The Secretary of Environmental Regulation, or a designee;

(c) The Secretary of Health and Rehabilitative Services, or a designee;

(d) The Commissioner of Agriculture, or a designee;

(e) The Secretary of Transportation, or a designee; and

(f) Any additional state agency members as determined and appointed by the Governor in order to properly implement the provisions of this act. The Secretary of Environmental Regulation or a designee shall chair the task force.

(2) The Florida Groundwater Protection Task Force shall have the following powers and duties:

(a) To coordinate the temporary provision of potable water to every citizen whose drinking water supply has been deemed by the state to be unsafe until such time as a permanent source of potable water has been made available.

(b) To ensure that public information is provided to all citizens and local governments in any area in which drinking water has been deemed by the state to be unsafe. The task force shall assure:

1. The development and maintenance of a mailing list of each citizen and each local government in areas with contaminated drinking water wells.

2. The preparation and distribution of information to all affected citizens and local governments describing state agency functions in the event of groundwater contamination.

3. The preparation and distribution of a newsletter as needed to all affected citizens and local governments, which shall contain a listing of upcoming scheduled activities, the answers to frequently submitted questions, and a listing of possible solutions or remedies to water contamination problems.

4. The availability of a tollfree telephone number to allow citizens of the state access to information regarding contaminated water supplies.

(c) To make recommendations to any person or governmental agency regarding groundwater contamination affecting public or private wells.

(d) To ensure that a current inventory of all groundwater contamination research activities by public and private universities in the state, federal, state, and local agencies, and private industry is developed and maintained. This inventory shall include, but not be limited to, a listing of all facilities with groundwater testing capabilities on a statewide basis in order to ensure that all citizens have their water tested within a reasonable period of time during a crisis situation.

(e) To file, by October 1 annually, a report summarizing the activities of the task force during the past year. The report shall include, but not be limited to, a chronological listing of all groundwater contamination incidents, response strategy used by the state for each incident, actual costs for each incident, and an evaluation and recommendation concerning the state's needs for the coming year with respect to groundwater contamination problems. A copy of the report shall be sent to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) The Florida Groundwater Protection Task Force shall meet as needed, at the call of the chairman, to carry out the provisions of this section.

Section 73. Legislative intent.—The Legislature recognizes the need for research on chemicals that may adversely affect human health and the environment. Therefore, the Legislature intends for the Center for Biomedical and Toxicological Research at Florida State University, The Center for Environmental Toxicology at the Institute of Food and Agricultural Sciences, The College of Public Health at the University of South Florida, and other appropriate universities as recommended by the Board of Regents to conduct research in this area concerning the human health and environmental effects of chemicals. The Legislature directs these universities to increase their efforts in this area and to maximize use of their resources by avoiding unnecessary duplication of effort.

Section 74. Establishment of the Toxicological Research Coordinating Committee; report.—

(1) To ensure that the efforts of these institutions will be of maximum use to the state, the Toxicological Research Coordinating Committee, made up of representatives from the Center for Biomedical and Toxicological Research, The Center for Environmental Toxicology, The College of Public Health, and representatives from other appropriate universities as recommended by the Board of Regents, shall be established. The Committee shall meet at least once a year to review research and development activities and establish priorities as determined by state needs. A major responsibility of the Committee shall be to ensure that the state's resources are used as efficiently as possible.

(2) The Toxicological Research Coordinating Committee shall submit a report on March 15 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives concerning the activities of each participating university. This report shall also include short-range and long-range research plans to protect human health and the environment through research on chemicals.

Section 75. Research activities to be performed.—The Center for Biomedical and Toxicological Research, the Center for Environmental Toxicology, the College of Public Health, and other appropriate universities as recommended by the Board of Regents shall perform, but not be limited to, the following activities:

(1) Conduct research on chemicals that may affect human health and the environment, including epidemiological studies.

(2) Research, to include, but not be limited to, analytical methods, environmental fate and transport, and toxicology.

(3) Search for environmentally safe methods to control pests other than through the use of chemicals.

(4) Provide risk-assessment analysis to the Department of Agriculture and Consumer Services, the Department of Health and Rehabilitative Services, the Department of Environmental Regulation, and the Pesticide Review Council, including any recommended safe standards for chemicals in the environment.

(5) Perform any other function as necessary in order to carry out the provisions of this act.

Section 76. Data bank concerning chemical contaminants.—

(1) It is the intent of the Legislature that information concerning chemical contaminants be collected and be made readily available for dissemination to state agencies and the general public. Therefore, a data bank shall be created within The Center for Environmental Toxicology at the Institute of Food and Agricultural Sciences.

(2) Each university within the State University System shall send a copy of research results concerning analytical methods, environmental fate and transport, and toxicology to the data bank upon completion.

(3) On September 30 of each year, the Institute of Food and Agricultural Sciences shall publish a listing of available studies pursuant to subsection (2), as well as other studies that have been submitted to the data bank. The listing shall be made available to the public and shall be sent to the Department of Agriculture and Consumer Services, the Department of Health and Rehabilitative Services, the Department of Environmental Regulation, and the Pesticide Review Council.

Section 77. There is hereby appropriated from the General Revenue Fund to the Center for Biomedical and Toxicological Research at Florida State University $100,000, to the Center for Environmental Toxicology at the Institute of Food and Agricultural Sciences $500,000, and to the College of Public Health at the University of South Florida $100,000, for implementing this act.

Section 78. This act shall take effect July 1, 1984.

Amendment 2—On page 1 in the title, strike the entire title and insert the following: A bill to be entitled An act relating to environmental control; amending s. 381.272, F.S., providing for a waiver of the requirement for mandatory connection with respect to onsite sewage disposal systems; providing legislative intent; providing definitions; prohibiting the Department of Environmental Regulation from granting permits for the construction of sea walls or "fingers" resulting from the filling of submerged lands on lands abutting estuaries or lagoons; providing for the application of the act; amending s. 403.061, F.S., providing that discharges from steam electric generating plants shall not be required to be treated to a greater extent than may be necessary to meet certain criteria; providing that a mixing zone for the discharge of pollutants from a steam electric generating plant may be granted under certain circumstances; amending ss. 373.106, 403.727, and 403.804, F.S.; correcting references; amending s. 373.333, F.S., relating to powers of water management districts with respect to regulation of wells; amending s. 376.11, F.S., relating to the Florida Coastal Protection Trust Fund; removing a deadline relating to payment of administrative expenses; revising provisions relating to an annual expenditure to the Water Quality Assurance Trust Fund; amending ss. 376.30, 376.301, 376.302, 376.307, 376.308, and 376.313, F.S., relating to pollution of surface and ground waters; revising definitions of "facility," "pollutants," and "pollution"; prohibiting certain discharge of pollutants; revising provisions relating to the Water Quality Assurance Trust Fund; revising applicability of the excise tax; revising conditions under which the tax is suspended or increased; specifying limitation on institution of actions to recover sums expended from the fund; specifying that provisions relating to liabilities and defenses of facilities apply to suits instituted by the Department of Environmental Regulation under ss. 376.30-376.315; revising provisions relating to nonexclusiveness of remedies and individual cause of action and defenses thereto; creating s. 376.317, F.S., authorizing county governments to adopt ordinances regulating underground storage tanks; amending s. 377.22, F.S.; providing for regulation of aboveground crude oil storage tanks by the Department of Natural Resources; amending s. 213.053, F.S., relating to confidentiality and information sharing by the Department of Revenue; amending s. 487.021, F.S., adding definitions; amending s. 487.041, F.S., providing for emergency exemptions; providing data requirements for registration of pesticides; conforming provisions relating to hearing requests to provisions of the Administrative Procedure Act; clarifying special local need registration requirements; providing notification procedures; creating s. 487.055, F.S., providing antisyphon requirements; amending 487.071, F.S., including rules adopted under chapter 487 and labeling requirements within provisions relating to enforcement, inspection, sampling, and analysis; amending s. 487.091, F.S., establishing an administrative fine and providing for criminal penalties; creating s. 487.15, F.S.; requiring the registrant of a pesticide to recover and dispose of suspended or canceled pesticides at its own cost; providing an appropriation; providing for indemnification payments; amending s. 403.087, F.S.; providing fees for 25-year port maintenance dredging permits; amending s. 403.0876, F.S.; specifying effect of time limitation for permit processing on permit applications for underground injection wells; amending s. 403.091, F.S.; providing powers of inspection of the Department of Environmental Regulation with respect to chapter 403 and ss. 376.30-376.315; providing for inspection warrants; amending s. 403.1826, F.S.; authorizing the department to establish maximum grants for each local agency under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act; revising requirement relating to generation of revenue to make projects self-supporting; amending s. 403.1838, F.S., relating to limitations and matching fund requirements under the Small Community Sewer Construction Assistance Act; amending ss. 403.703 and 403.726, F.S.; amending s. 403.7225, F.S.; revising the deadline for completion of certain county hazardous waste management plans; providing for periodic updating of hazardous waste management assessments; amending s. 403.7234, F.S.; providing for annual small quantity generator notification; transferring and amending s. 501.118, F.S., relating to management of hazardous materials, substances and wastes by governmental agencies; amending s. 403.809, F.S.; revising provisions relating to appointment of environmental district branch office managers; revising types of permits for which authority may not be delegated; amending ss. 403.803 and 403.813, F.S.; exempting restoration of certain existing insect control impoundment dikes from permit requirements; imposing requirements with respect thereto; amending ss. 403.853 and 403.855, F.S.; authorizing the department to expend funds from the Water Quality Assurance Trust Fund for certain tests under the Florida Safe Drinking Water Act; providing requirements with respect to testing of public community water supply systems; creating s. 403.8635, F.S.; authorizing the department and the Department of Health and Rehabilitative Services to establish a certification program for laboratories that perform environmental sample analysis; providing for fees; creating the Mangrove Protection Act of 1984; creating s. 403.021, F.S., establishing state policy to ensure that drinking water resources remain pure and directing the Department of Environmental Regulation to identify sources of existing potential contamination; providing legislative intent; prohibiting specified acts with respect to used oil; providing for a public education program; providing for the registration of certain used oil transporters and facilities; providing for registration fees; providing for annual reports; requiring maintenance of certain records; providing for a report to the Legislature; providing for enforcement; providing for deposit of proceeds from fees, fines, and pen-

alties; providing for fines; amending s. 526.01, F.S., exempting certain rerefined used lubricating oil from certain labeling requirements; amending s. 327.25, F.S.; providing for part of the annual distribution of funds collected from the registration of boats to be used for the protection and recovery of such marine mammals; allowing applicants for boat registrations to make voluntary contributions for manatee protection; amending ss. 327.28, 370.12, F.S.; requring that a portion of the Motorboat Revolving Trust Fund be used for manatee and marine mammal protection and recovery and other specified uses; providing for the reduction of the annual allocation upon the occurrence of certain events; amending s. 487.0615, F.S., relating to the Pesticide Review Council, to broaden the council's scope of authority; creating s. 403.1656, F.S., creating the Florida Groundwater Protection Task Force within the Department of Environmental Regulation; providing for the membership of the task force; providing powers and duties; providing for meetings; providing legislative intent; establishing a Toxicological Research Coordinating Committee; providing for the submission of an annual report by the committee; providing research activities to be performed; establishing a data bank; providing an appropriation; providing an effective date.

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

Amendment 1—On page 62, between lines 24 and 25, insert:

Section. Subsection (9) of section 403.021, Florida Statutes, is amended to read:

403.021 Legislative declaration; public policy.—

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that maintenance of authorized channel depths is an ongoing, continuous, beneficial, and necessary activity; and it shall develop a regulatory process which shall enable the ports of this state to conduct such activities in an environmentally sound, expeditious, and efficient manner.

(b) The provisions of paragraph (a) shall apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, *Port Bartow, Crystal River, Boca Grande, St. Petersburg, Green Cove Springs, West Pass of the Suwannee River,* and Pensacola.

Senators Vogt and Neal offered the following amendment to House Amendment 1 which was moved by Senator Neal and adopted:

Amendment 2—On page 2, line 19, strike everything after Section 1. and insert:

Section 1. Subsections (7) and (11) of section 403.061, Florida Statutes, are amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it, and for this purpose to:

(7) Adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this act. Any rules or regulations adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions~~.~~*, nor shall discharges from steam electric generating plants existing or licensed under this chapter on the effective date of this act be required to be treated to a greater extent than may be necessary to assure:*

(a) That the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the make-up waters; or

(b) That the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or

(c) That the quality of noncooling system discharges which receive make-up water from a receiving body of water that does not meet applicable department water quality standards is as high as the quality of the receiving body of water.

The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters.

(a) Where a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam-electric generating plant discharge of pollutants that is existing or licensed under this chapter on the effective date of this act may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge; and

2. The discharge is in compliance with all applicable technology-based effluent limitations; and

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zones for point source discharges shall be permitted in outstanding Florida waters except for:

1.~~(a)~~ Sources which have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2.~~(b)~~ Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act; and

3.~~(c)~~ Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

Section 2. Subsection (2) of section 373.106, Florida Statutes, is amended to read:

373.106 Permit required for construction involving underground formation.—

(2) Each water management district shall have the exclusive authority to process and issue permits under this section and permits and licenses delegated under s. 403.812, except permits required by the department pursuant to 42 U.S.C. s. 300*h*~~(1)~~ until delegated by the department to the districts.

Section 3. Subsection (2) of section 373.333, Florida Statutes, is amended to read:

373.333 Enforcement.—

(2) Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the *water management district* ~~department~~ requiring ~~described~~ remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order.

Section 4. Paragraphs (a) and (g) of subsection (5) of section 376.11, Florida Statutes, are amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(5) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21 subject to s. 376.185~~, until July 1, 1984~~.

(g) An annual expenditure of *up to* 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund when the balance is greater than $30 million, to the Water Quality Assurance Trust Fund created pursuant to s. 376.307*; however, this expenditure shall be reduced by any administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21.*

Section 5. Paragraph (c) of subsection (3) of section 376.30, Florida Statutes, is amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(3) The Legislature intends by the enactment of ss. 376.30-376.315 to exercise the police power of the state by conferring upon the Department of Environmental Regulation the power to:

(c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable *costs* ~~damage claims~~ resulting therefrom.

Section 6. Subsections (4), (10) and (11) of section 376.301, Florida Statutes, are amended to read:

376.301 Definitions of terms used in ss. 376.30-376.317.—

When used in ss. 376.30-376.317, unless the context clearly requires otherwise, the term:

(4) "Facility" means any nonresidential location containing stationary tank or tanks not covered by ss. 376.011-376.21, *except for aboveground crude oil storage tanks covered by chapter 377,* which contain pollutants and which have *individual* storage capacities greater than 550 gallons, *or any nonresidential location which contains or stores solid or gaseous pollutants in containers which have individual storage capacities greater than 550 gallons.*

(10) "Pollutants" includes *products as defined in s. 377.19(11),* ~~oil of any kind and in any form, gasoline,~~ pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(11) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property *or* which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Section 7. Paragraph (w) is added to subsection (2) of section 377.22, Florida Statutes, to read:

377.22 Rules, regulations, and orders.—

(2) The department shall adopt such rules and regulations, and shall issue such orders, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter. Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise such rules and regulations from time to time as may be necessary for the proper administration and enforcement of this chapter. Rules, regulations, and orders promulgated in accordance with this section shall be for, but shall not be limited to, the following purposes:

(w) To regulate aboveground crude oil storage tanks in a manner to protect the water resources of the state.

Section 8. Section 376.302, Florida Statutes, is amended to read:

376.302 ~~Pollutive~~ Discharge of *pollutants* ~~refined petroleum products upon waters and lands of the state~~ prohibited.—The discharge of *pollutants into or* ~~refined petroleum products~~ upon any waters *of the state or* ~~and~~ lands *in violation of department standards as defined in s. 403.803(12)* ~~of the state in the manner defined by ss. 376.30-376.315~~ is prohibited.

Section 9. Section 376.303, Florida Statutes, is amended to read:

376.303 Powers and duties of the Department of Environmental Regulation.—

(1) The department has the power and the duty to:

(a) Establish rules to implement the intent of ss. 376.30-*376.317* ~~376.315~~ and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss. 376.011-376.21, *except for aboveground crude oil storage tanks covered by chapter 377,* including, but not limited to, construction standards, permitting of tanks, maintenance and installation standards, and removal or disposal standards.

(b) Provide for the development and implementation of criteria and plans to prevent and meet pollution occurrences of various kinds and degrees.

(c) Establish requirements that any facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility which has discharged a pollutant in violation of the provisions of ss. 376.30-*376.317* ~~376.315~~ shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.

(d) Keep an accurate record of costs and expenses incurred for the removal of prohibited discharges and thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the Government of the United States under any applicable federal act.

(e) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-*376.317* ~~376.315~~. The provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply to enforcement under ss. 376.30-*376.317* ~~376.315~~.

(2) The powers and duties of the department under ss. 376.30-*376.317* ~~376.315~~ shall extend to the land mass of the state not described in ss. 376.011-376.21.

Section 10. Paragraphs (a) and (b) of subsection (5) and subsection (6) of section 376.307, Florida Statutes, are amended, and subsection (8) is added to said section to read:

376.307 Water Quality Assurance Trust Fund.—

(5)(a) There is hereby levied an excise tax, to be collected from and paid by each person for the privilege of operating a terminal facility, as defined in s. 376.031(9), and from each person for the privilege of operating a facility *not covered by ss. 376.011-376.21,* served by air, rail, truck, ~~or~~ pipeline located in this state, *or vessel,* used for the purpose of storing, handling, or transferring pollutants. The state and political subdivisions in the state are exempt from the excise tax.

(b) The excise tax shall be 2 cents per barrel, or equivalent measure as established by the department, coming to rest in the state, until the balance in the fund equals or exceeds an unobligated balance of $12 *million, at which time.* ~~For the fiscal year immediately following the year in which the balance in the fund equals or exceeds an unobligated balance of $12 million,~~ no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to an unobligated balance of $3 million, *in which case the 2-cent tax shall resume within 90 days following the end of the month in which such unobligated balance occurs and shall continue until the balance in the fund again equals or exceeds an unobligated balance of $12 million.* ~~For the fiscal year immediately following the year in which the balance in the fund is less than or equal to an unobligated balance of $3 million, the excise tax shall be and shall remain 2 cents per barrel coming to rest in the state, until the fund again equals or exceeds an unobligated balance of $12 million. For the fiscal year immediately following the year in which the fund again is equal to or exceeds an unobligated balance of $12 million, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded an unobligated balance of $12 million.~~

2. The fund is unable to pay any proven costs against the fund, *in which case the excise tax shall be and shall remain 5 cents per barrel, or equivalent measure established by the department, until the fund equals or exceeds $1.5 million, when the provisions of subparagraph 1. shall control.* ~~at the end of the fiscal year. Notwithstanding any other provision of this section, for the fiscal year following the year in which the fund is unable to pay any proven costs against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel until all outstanding proven costs have been paid and the fund again equals or~~

~~exceeds $1.5 million, when the excise tax shall be 2 cents per barrel until the fund again equals or exceeds an unobligated balance of $12 million. For the fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds an unobligated balance of $12 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.~~

3. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue to be in effect until all such funds are repaid to the General Revenue Fund.

(6) The department shall recover to the use of the fund from *any* ~~the~~ person or persons *at any time* causing *or having caused* the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefrom, pursuant to s. 376.308(4), except that sums recovered as a result of damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection.

(8) It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement in accordance with the provisions of this section. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which such sums were expended, and not the date that the discharge occurred.

Section 11. Section 376.308, Florida Statutes, is amended to read:

376.308 Liabilities and defenses of facilities.— ~~It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sums expended from the fund for cleanup, abatement, or damages in accordance with the provisions of ss. 376.30-376.315.~~ In any suit *instituted by the department* ~~to enforce claims of the fund~~ under ss. 376.30-376.315, it is not necessary for the department ~~in administering the fund~~ to plead or prove negligence in any form or manner. The department ~~in administering the fund~~ need only plead and prove that the prohibited discharge or other polluting condition has occurred. The only defenses of a person alleged to be responsible for the discharge to *any* ~~an~~ action *under ss. 376.30-376.315* ~~for damages and costs and expenses of cleanup or abatement~~ are to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(1) An act of war.

(2) An act of government, either state, federal, or municipal.

(3) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(4) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

(a) The defendant exercised due care with respect to the pollutant concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances; and

(b) The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

Section 12. Section 376.313, Florida Statutes, is amended to read:

376.313 *Nonexclusiveness of remedies and* individual cause of action for damages under ss. 376.30-376.315.—

(1) The remedies in ss. 376.30-376.315 shall be deemed to be cumulative and not exclusive.

(2) Nothing in ss. 376.30-376.315 shall require pursuit of any claim against the fund as a condition precedent to any other remedy.

(3) Notwithstanding any other provision of law, nothing contained in ss. 376.30-376.315 shall prohibit any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.315. In any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308~~(3)~~. In addition to any other remedy, the injured party shall be entitled to recover costs of the action and reasonable attorneys' fees.

Section 13. Section 376.317, Florida Statutes, is created to read:

376.317 Superseded laws; state preemption.—

(1) If any provision of ss. 376.30-376.317 or rules developed pursuant thereto pertaining to a facility which is maintained for the purpose of underground storage of petroleum products for use as fuel in vehicles, including but not limited to, those used on and off roads, aircraft, watercraft, and rail, are in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of local government, political subdivision or municipality, or any rule or regulation adopted thereunder, ss. 376.30-376.317 shall control, except as provided in subsection (3).

(2) Except as provided in subsection (3), the state hereby preempts the regulation of the prevention and removal of pollutant discharges from a facility described in 376.317(1) which has no single tank capacity exceeding 40,000 gallons at any time.

(3) County governments are authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, that are more stringent or extensive than state law or rule, provided that:

(a) The original ordinance was legally adopted and in force prior to the effective date of this act; or

(b) The ordinance establishing the local program was approved by the department. The department is authorized to adopt rules that would permit county governments to establish programs regulating underground storage tanks that are more stringent or extensive than state law or rule in accordance with s. 403.182. When adopting its rules, the department shall consider local conditions that warrant more stringent or extensive regulation of underground storage tanks including, but not limited to, the proximity of the county to a sole or single source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or groundwater, or the detection of petroleum products in public or private water supplies.

Section 14. Subsections (1) and (7) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; chapter 198, estate tax; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts tax; chapter 206, motor and other fuel taxes; chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981; chapter 208, tax on generation of hazardous wastes; chapter 211, tax on severance and production of minerals; chapter 212, tax on sales, use, and other transactions; chapter 214, administration of designated nonproperty taxes; chapter 220, income tax code; *chapter 376* ~~s. 376.11~~, pollutant spill prevention and control; and ss. 624.509-624.514: insurance code, administration and general provisions.

(7) The provisions of this section apply to all sections of:

(a) Chapter 206, motor and other fuel taxes, except for s. 206.27, records and files as public records, and s. 206.28, exchange of information among the states; and

(b) Chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981, except for s. 207.025, exchange of information.

However, nothing in this section shall prevent the department from providing information relative to chapter 208, chapter 211, chapter 377, or *chapter 376* ~~s. 376.11~~ to the proper state agency in the conduct of its official duties.

Section 15. Present subsections (29) through (53) of section 487.021, Florida Statutes, are renumbered as subsections (33) through (57), respectively, present subsections (17) through (28) are renumbered as subsections (20) through (31), respectively, present subsections (9) through (16) are renumbered as subsections (11) through (18), respectively, present subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and new subsections (7), (10), (19), and (32) are added to said section to read:

487.021 Definitions.—For the purpose of this chapter:

(7) "Antisyphon device" means a safety device used to prevent backflow of a mixture of water and chemicals into the water supply.

(10) "Chemical" means any substance which is intentionally added to water for agricultural purposes.

(19) "Emergency exemption" means an exemption as authorized in Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act.

(32) "Irrigation system" means any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground or surface water, through which water or a mixture of water and chemicals is drawn and applied for agricultural purposes. The term does not include any handheld hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

Section 16. Subsections (1), (2), and (3) of section 487.041, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

487.041 Registration.—

(1) Every pesticide which is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the department, and such registration shall be renewed annually. *Emergency exemptions from registration may be authorized in accordance with the rules of the department.* The registrant shall file with the department a statement including:

(a) The name and street address of the registrant;

(b) The name of the pesticide;

(c) An ingredient statement and a complete copy of the labeling acompanying the pesticide which shall conform to the registration and a statement of all claims to be made for it including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each "added ingredient" contained therein.

(2) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this chapter, each person shall pay a registration fee of $10 for each and every brand registered annually, for the first 10 brands, and $2.50 for each and every brand in excess thereof. All registrations expire on December 31 of each year and new registrations must be filed before January 15 of the current year. Nothing in this section shall be construed as applying to *distributors* ~~jobbers~~ or retail dealers selling pesticides when such pesticides are registered *by another person.*

(3) The department, whenever it deems it necessary in the administration of this chapter, may require the registrant to submit the complete formula, evidence of the efficacy~~,~~ and ~~evidence of~~ the safety of any *pesticide, and other relevant data.* ~~In addition, each application for a special local need registration shall be supported by evidence of efficacy which shall be submitted with the application for registration. This evidence as to efficacy shall be examined by the technical council and any other governmental agency or higher education institution designated by the department, which shall make recommendations to the department as to whether or not the application for registration should be accepted or rejected. The department may issue a temporary acceptance or rejection pending receipt of the recommendation of the evaluating groups. After the technical council and other evaluating groups have made their recommendation, the department shall register or refuse to register the pesticide. However, before registration is refused, the department shall notify the applicant of its intention to refuse, giving its reasons therefor. The applicant shall have 15 days thereafter in which to request a hearing on his application for registration, and upon his failure to do so within said time, refusal shall become final without further procedure.~~ The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of any pesticide, upon notice to the applicant or registrant of its intention to so refuse or revoke, giving its reasons therefor. The applicant *may* ~~shall have 15 days~~ thereafter ~~in which to~~ request a hearing, *pursuant to chapter 120,* on the department's intention to refuse or revoke registration, and, upon his failure to do so ~~within said time~~, refusal or revocation shall become final without further procedure. In no event shall registration of a pesticide be construed as a defense for the commission of any offense prohibited under *this chapter* ~~s. 487.031~~.

(5) Each application for a special local need registration shall be supported by evidence of efficacy and safety which shall be submitted with the application for registration. This evidence shall be examined by the Institute of Food and Agricultural Services and any other governmental agency designated by the department, which shall make recommendations to the department as to whether the application shall be accepted or rejected. The department may then issue an acceptance or rejection.

(6) The department shall notify the Pesticide Review Council of action taken with regard to applications for special local need registrations as authorized by subsection (5) and emergency exemptions as authorized by subsection (1) by the first meeting of the Council following such action.

Section 17. Section 487.055, Florida Statutes, is created to read:

487.055 Antisyphon requirements for irrigation systems.—

(1) Any irrigation system used for the application of chemicals shall be equipped with an antisyphon device adequate to protect against contamination of the water supply, provided that an irrigation system installed prior to the effective date of this act shall be equipped with such a device within 18 months from the effective date of this act.

(2) It shall be unlawful for any person to apply chemicals through an irrigation system which is not equipped with an antisyphon device as required by this section.

(3) The department shall establish specific requirements for antisyphon devices by rule. The department shall adopt such rules on or before November 1, 1984.

(4) Any governmental agency requiring antisyphon devices on irrigation systems used for the application of chemicals shall use the specific antisyphon device requirements adopted by the department.

Section 18. Subsections (1) and (2) of section 487.0615, Florida Statutes, are amended to read:

487.0615 Pesticide Review Council.—

(1)(a) There is created within the Department of Agriculture and Consumer Services the Pesticide Review Council to consist of *eleven* ~~nine~~ scientific members as follows: a scientific representative from the Department of Environmental Regulation, a scientific representative from the Department of Natural Resources, a scientific representative from the Department of Health and Rehabilitative Services, and a scientific representative from the Game and Fresh Water Fish Commission, each to be appointed by the respective agency; the state chemist; the dean of research of the Institute of Food and Agricultural Sciences of the University of Florida; *a pesticide industry representative, and a member of an environmental group to be appointed by the Governor;* and a hydrologist, a toxicologist, and an independent scientific research consultant with experience in both government and industry, each to be appointed by the Governor.

(b) Immediately after their appointment, the members of the council shall meet and organize by electing a chairman, a vice chairman, and a secretary, whose terms shall be for 1 year each. Council officers may not serve consecutive terms.

(c) The council shall meet at the call of its chairman, at the request of a majority of its members, at the request of the department, or at such time as a public health or environmental emergency arises.

(2) The Pesticide Review Council shall have the power and duty to:

(a) Review data of the United States Environmental Protection Agency on *any* ~~newly registered restricted use~~ pesticides.

(b) Initiate scientific studies on any registered ~~restricted use~~ pesticide when substantive preliminary data indicate that the ~~restricted use~~ pesticide, as presently being used, poses an unreasonably adverse effect on the hydrogeological environment or human health or that claims made by the registrant to the United States Environmental Protection Agency in the registration application relative to the sale, distribution, use, or effects of the ~~restricted use~~ pesticide are substantially different from actuality. The council shall utilize the available services of state agencies or of the State University System to conduct scientific studies determined to be necessary in the performance of its duties.

(c) Apprise the United States Environmental Protection Agency of the specific soil, hydrogeological, and other environmental conditions in counties of this state where intense ~~restricted use~~ pesticide application is taking place.

(d) Formally request the United States Environmental Protection Agency to require registrants of ~~new restricted use~~ pesticides to provide the council with environmental test data generated in this state or generated by simulating environmental conditions in this state.

(e) Request information from the United States Environmental Protection Agency relating to the findings upon which that agency based its registration determinations for ~~restricted use~~ pesticides registered in this state.

(f) Make recommendations, subject to a majority vote, directly to the Commissioner of Agriculture for actions to be taken with respect to the sale or use of a ~~restricted use~~ pesticide which the council has studied or reviewed.

(g) Provide information to appropriate governmental agencies, as requested, with respect to information gleaned about ~~restricted use~~ pesticides which have been reviewed or studied by the council. However, confidential data received from the United States Environmental Protection Agency or the registrant shall be treated as such; and it is unlawful for any member of the council to use the data for his own advantage or to reveal the data to the general public, the provisions of chapter 119 to the contrary notwithstanding.

(h) Evaluate the feasibility of using biological controls to replace the use of ~~restricted use~~ pesticides.

Section 19. Subsections (2) and (3) of section 487.071, Florida Statutes, are amended to read:

487.071 Enforcement, inspection, sampling, and analysis.—

(2) The department, or its agent, is authorized and directed to sample, test, inspect, and make analyses of pesticides sold, offered for sale, distributed, or used within this state, at a time and place and to such an extent as it may deem necessary, to determine whether such pesticides are in compliance with the provisions of this chapter, *rules adopted thereunder,* and the provisions of the pesticide label or labeling.

(3) The official analysis shall be made from the official sample. A sealed and identified sample, herein called "official check sample" shall be kept until the analysis on the official sample is completed. However, the registrant may obtain upon request a portion of the official sample. Upon completion of the analysis of the official sample, a true copy of the certificate of analysis shall be mailed to the registrant of the pesticide from whom the official sample was taken and also to the dealer or agent, if any, and consumer, if known. If the official analysis conforms with the provisions of this chapter, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this chapter, *rules adopted thereunder, and the provisions of the pesticide label or labeling,* the official check sample shall be retained for a period of 90 days from the date of the certificate of analysis of the official sample. If within that time the registrant of the pesticide from whom the official sample was taken makes demand for analysis by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the registrant for analysis at the expense of the registrant. The referee chemist, upon completion of his analysis, shall forward to the department and to the registrant a certificate of analysis bearing a proper identification mark or number; and such certificate of analysis shall be verified by an affidavit of the person or laboratory making the analysis. If the certificate of analysis checks within 3 percent of the state chemist's analysis on each active ingredient for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's certificate of analysis shows a variation of greater than 3 percent from the state chemist's analysis in any one or more of the active ingredients for which an analysis was made, upon demand of either the department or the registrant from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and the registrant at the expense of the party or parties requesting the referee analysis. If no demand is made for an analysis by a second referee chemist, the state chemist's certificate of analysis shall be accepted as final and binding on all concerned. The second referee chemist, upon completion of his analysis, shall make a certificate and report as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity shall be accepted as final and binding on all concerned.

Section 20. Subsections (2) and (3) of section 487.091, Florida Statutes, are amended to read:

487.091 Tolerances, deficiencies, and penalties.—

(2) Any person violating *any provision of this chapter or any rules adopted pursuant thereto shall be subject to the imposition of an administrative fine not to exceed $1,000 per violation* ~~s. 487.031(1)(a) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

(3) Any person violating any provision of this chapter *or any rules adopted pursuant thereto* ~~other than subsections (4), (5), and (6) and s. 487.031(1)(a)~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 21. The Legislature recognizes that delayed costs have resulted from buffer zone and push and treat programs, implemented in accordance with U.S. Department of Agriculture control manuals and consistent with the intent of chapter 29878, Laws of Florida, 1955, to control and eradicate citrus spreading decline caused by the burrowing nematode, Radopholus similis. The delayed costs are due to the state now providing carbon filters and bacterial growth inhibitors or other cost-effective alternatives for privately owned drinking water wells and those publicly owned wells in Lake Alfred and Lake Wales which were contaminated by the state applications of ethylene dibromide as specified in the U.S. Department of Agriculture manuals. To the extent funded in the 1984-1985 Appropriations Act, the Department of Environmental Regulation is authorized and directed to inventory the affected wells; to establish a grant application and approval procedure; and at the option of the recipient, to arrange for the purchase and installation of appropriate filters and inhibitors for those wells or other cost effective alternatives that are approved as meeting the requirements for this grant program. The funds shall first be used for the City of Lake Wales, the City of Lake Alfred and privately owned wells whose water when ready for distribution is contaminated in violation of the maximum contaminent level for EDB. Funds shall also be used to maintain these filter systems.

The Department of Environmental Regulation or other administrative agency shall, prior to the distribution of such specified funds, require the recipient to release the state and its agencies from liability as to damage to real and personal property caused by the past application or use by the state or its agencies of EDB or the installation, maintenance, and disposal by the state or its agencies of filter systems.

Section 22. Section 487.15, Florida Statutes, is created to read:

487.15 Reclamation, reimbursement, and disposal.—

(1) In the event that the use of any pesticide registered or otherwise approved for use in this state is suspended or cancelled to prevent harm to the public or the environment, the registrant, at its own expense, shall reclaim the pesticide from any distributor, dealer, user, or other party possessing it in this state, provide reimbursement therefor, and provide for the proper removal or disposal of the pesticide in accordance with federal and state law.

(2) The registrant shall comply with the requirements of subsection (1) within 90 days of issuance of the order of suspension or cancellation.

Section 23. There is hereby appropriated to the Department of Agriculture and Consumer Services from the General Revenue Fund the sum of $95,832 for the purpose of indemnifying holders of ethylene dibromide (EDB), the use of which was suspended by action of the Department

prior to the effective date of this act. The Department is authorized and directed to administer this appropriation. Payment shall be made only to holders of EDB below the dealer level who are not eligible for indemnification pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) or other indemnification program administered by the Environmental Protection Agency. No payment shall exceed the actual purchase price paid by the indemnitee. Entitlement to indemnification shall be conditioned on the indemnitee's furnishing to the Department satisfactory proof of the purchase price actually paid, and on the indemnitee's surrender to the Department or other party, as appropriate, of the EDB for disposal. It is the intent of the Legislature that the indemnification appropriation and procedure in this section is intended to apply solely to the existing situation involving EDB, for which existing statutes do not make adequate provision, and that any future occurrence of a similar nature shall be subject to the procedure in section 22 of this act. Any unexpended funds from this appropriation shall revert to the General Revenue Fund on June 30, 1985.

Section 24. Paragraph (a) of subsection (5) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(5)(a) The department may require an application fee in an amount sufficient to cover the costs of reviewing and acting upon any application and the costs of surveillance and other field services associated with any permit issued; but the amount in no case shall exceed $100, except that:

1. The permit fee for any of the following permits shall not exceed $500:

a. Air pollution, operation permit.

b. Industrial waste, construction permit.

c. Domestic waste, temporary operation permit.

d. Industrial waste, temporary operation permit.

e. Stormwater, temporary operation permit.

2. The permit fee for any of the following permits shall not exceed $1,000:

a. Air pollution, construction permit.

b. Dredge and fill, standard form permit.

c. Deep well injection, construction permit.

d. Deep well injection, operation permit.

e. Hazardous waste permit.

3. The fee for permits issued pursuant to s. 403.816 shall be $5,000, and for any modification of such permit requested by the applicant, $1,000.

Section 25. Section 403.0876, Florida Statutes, is amended to read:

403.0876 Permits; processing.—Within 30 days after receipt of an application for a permit under this chapter, the department shall review the application and shall request submittal of all additional information the department is permitted by law to require. If the applicant believes any departmental request for additional information is not authorized by law or departmental rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or departmental rule, the department, at the applicant's request, shall proceed to process the permit application. Permits shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. *However, the failure of the department to approve or deny a permit for an underground injection well within the 90-day time period shall not result in the automatic approval or denial of the permit and shall not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny such a permit within the 90-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.*

Section 26. Section 403.091, Florida Statutes, is amended to read:

403.091 Inspections.—

(1) Any duly authorized representative of the department may *at any reasonable time* enter and inspect, ~~at any reasonable time~~ for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a hazardous waste generator, transporter, or facility or other air or water contaminant source*; a discharger, including any nondomestic discharge which introduces any pollutant into a publicly owned treatment works; any facility as defined in s. 376.301(4);* or a resource recovery and management facility, is located or is being constructed or installed*; or where records required under this chapter or ss. 376.30-376.315 or under department rule are kept. Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.315; inspect any monitoring equipment or method; sample for any effluents or wastes or pollutants as defined in s. 376.301(10) which the owner or operator of such source may be discharging or may otherwise be located on or underlying the owner or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.315, or department rules.* No person shall refuse *reasonable* ~~immediate~~ entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(2) Inspections pursuant to subsection (1) shall be conducted only after:

(a) Consent for the inspection from the owner, operator, or person in charge is received; or

(b) The appropriate inspection warrant as provided in this section is obtained.

(3) An inspection warrant authorized by this chapter may be issued by a judge of any county or circuit court of this state having jurisdiction where the place or thing to be searched is located.

(4) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.315:

(a) When it would appear that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.315 or any rules properly promulgated thereunder; or

(b) When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the department's continuing efforts to ensure compliance with the provisions of this chapter or ss. 376.30-376.315 and any rules adopted thereunder.

(5) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department, and may receive further testimony from witnesses or supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in subsection (4) or for believing that such grounds exist.

(6) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant signed by him with his name of office to any department representative authorizing the representative forthwith to inspect the property described in the warrant.

Section 27. Section 403.1656, Florida Statutes, is created to read:

403.1656 Florida Groundwater Protection Task Force.—

(1) The Florida Groundwater Protection Task Force is created within the Department of Environmental Regulation. The Groundwater Protection Task Force shall consist of the following members:

(a) The Secretary of Community Affairs, or a designee;

(b) The Secretary of Environmental Regulation, or a designee;

(c) The Secretary of Health and Rehabilitative Services, or a designee;

(d) The Commissioner of Agriculture, or a designee;

(e) The Secretary of Transportation, or a designee; and

(f) Any additional state agency members as determined and appointed by the Governor in order to properly implement the provisions of this act. The Secretary of Environmental Regulation or a designee shall chair the task force.

(2) The Florida Groundwater Protection Task Force shall have the following powers and duties:

(a) To coordinate the temporary provision of potable water to every citizen whose drinking water supply has been deemed by the state to be unsafe until such time as a permanent source of potable water has been made available.

(b) To ensure that public information is provided to all citizens and local governments in any area in which drinking water has been deemed by the state to be unsafe. The task force shall assure:

1. The development and maintenance of a mailing list of each citizen and each local government in areas with contaminated drinking water wells.

2. The preparation and distribution of information to all affected citizens and local governments describing state agency functions in the event of groundwater contamination.

3. The preparation and distribution of a newsletter as needed to all affected citizens and local governments, which shall contain a listing of upcoming scheduled activities, the answers to frequently submitted questions, and a listing of possible solutions or remedies to water contamination problems.

4. The availability of a toll free telephone number to allow citizens of the state access to information regarding contaminated water supplies.

(c) To make recommendations to any person or governmental agency regarding groundwater contamination affecting public or private wells.

(d) To ensure that a current inventory of all groundwater contamination research activities by public and private universities in the state, federal, state, and local agencies, and private industry is developed and maintained. This inventory shall include, but not be limited to, a listing of all facilities with groundwater testing capabilities on a statewide basis in order to ensure that all citizens have their water tested within a reasonable period of time during a crisis situation.

(e) To file, by October 1 annually, a report summarizing the activities of the task force during the past year. The report shall include, but not be limited to, a chronological listing of all groundwater contamination incidents, response strategy used by the state for each incident, actual costs for each incident, and an evaluation and recommendation concerning the state's needs for the coming year with respect to groundwater contamination problems. A copy of the report shall be sent to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) The Florida Groundwater Protection Task Force shall meet as needed, at the call of the chairman, to carry out the provisions of this section.

Section 28. Subsections (4) and (6) of section 403.1826, Florida Statutes, are amended to read:

403.1826 Grants, requirements for eligibility.—

(4) The department shall require local governmental funds in the amount of 45 percent of eligible project costs as determined by rules of the department. The department is authorized to establish a maximum *grant* ~~amount~~ for *each local government agency* ~~a grant~~ pursuant to this act.

(6) No grant may be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources, including, but not limited to, service charges and connection fees. ~~and shall reflect the amortized capital investment in existing facilities as well as the cost of the facility for which the grant is sought.~~ *The revenue generated shall provide for financing future sanitary sewerage capital improvements; the grantee shall accumulate, during the design life of the grant funded project, moneys equivalent to the grant amount adjusted for inflationary cost increases.*

Section 29. Subsection (3) and paragraph (a) of subsection (4) of section 403.1838, Florida Statutes, are amended and subsection (6) is created to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3) The department may provide grants to small communities. Grants shall be made from the Small Community Sewer Construction Assistance Trust Fund in accordance with rules adopted by the Environmental Regulation Commission. *The department may* ~~No~~ grant *up to* ~~may exceed~~ $3 million *to any small community.*

(4) The Environmental Regulation Commission shall:

(a) Require a 45-percent nonstate match, except that *for* grants of less than $50,000 ~~may be funded 100 percent by the department, and~~ the commission may waive all or a part of the matching requirement:

1. Where water quality standards have been exceeded by an amount that constitutes an immediate health hazard; or

2. In communities where the gross per capita income is below the state average, as determined by the United States Department of Commerce, and where sewer systems have failed to meet department standards.

(6) No grant shall be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources, including, but not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements; the grantee shall accumulate, during the design life of the grant funded project, moneys equivalent to the grant amount adjusted for inflationary cost increases.

Section 30. Paragraph (a) of subsection (2) of section 403.702, Florida Statutes, is amended to read:

403.702 Legislative findings; public purpose.—

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate *in the most economically feasible, cost effective and environmentally safe manner* the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of the state; and recover resources which have the potential for further usefulness.

Section 31. Present subsections (18), (19), (20), (21), (22), (23), (24), and (25) of section 403.704, Florida Statutes, are renumbered as subsections (20), (21), (22), (23), (24), (25), (26), and (27), respectively, and new subsections (18) and (19) are added to said section to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(18) Research alternative, economically feasible, cost-effective and environmentally safe landfill closure methods which serve to protect the health, safety, and welfare of the public and the environment, solicit public participation during the research process, create a three member research oversight review committee comprised of industry, university, and legislative staff representatives, and submit a report on these alternatives to the Legislature by February 1, 1985. The department shall be required to incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided that such variances are applied for and approved in accordance with s. 403.201, and will not result in significant threats to human health or the environment.

Section 32. Subsection (3) of section 403.707, Florida Statutes, is amended and subsection (6) is added to said section to read:

403.707 Permits.—

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, shall be construed to include the control of resource recovery and management facilities. ~~However, a temporary operation permit may not be issued for more than a 3-year period.~~

(6) The department shall only issue a construction permit pursuant to this part to a solid waste land disposal area, site, or facility which provides the conditions necessary to control movement of wastes or waste constituents into surface or ground waters or the atmosphere. Such facility shall, if necessary:

(a) Use natural or artificial barriers capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift, and

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors, and prevent the endangerment of public health and the environment. Such landfill shall not be allowed to use open fires as a means of disposal.

Section 33. Subsection (29) is added to section 403.703, Florida Statutes, to read:

403.703 Definitions.—As used in this act:

(29) "Hazardous substance" means any substance which is defined as a hazardous substance in the Comprehensive Environmental Response Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767.

Section 34. Paragraph (a) of subsection (10) of section 403.7225, Florida Statutes, is amended and subsection (16) is added to said subsection to read:

403.7225 Local hazardous waste management assessments.—

(10) The schedule for completion of county hazardous waste management plans by region is as follows:

(a) For counties within the geographic areas of the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council and for Volusia County; by *January 1, 1985* ~~July 1, 1984~~.

(16) Local, regional, and state assessments shall be brought up to date at 5-year intervals, based on the schedule for the initial local assessments.

Section 35. Subsection (1) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification program.—

(1) Each county specified in s. 403.7225(10)(a), (b), and (c) shall send *by mail* a ~~certified~~ letter to each small quantity generator, as defined pursuant to federal regulations in 40 C.F.R. pt. 261.5, on the January 1 preceding the date specified in such paragraphs for completion of its hazardous waste assessment, *and the U. S. Postal Service certificate of mailing shall be retained as proof of mailing.* In addition, within 14 days after a county completes its hazardous waste assessment, the county shall send such ~~certified~~ letters to each small quantity generator not notified on the preceding January 1. Thereafter, each county shall annually send such letters on July 1. The letter shall:

(a) Detail the legal responsibilities of the small quantity generator with regard to proper waste management practices, including penalties for noncompliance.

(b) Include a list of hazardous waste management alternatives which are available to the small quantity generator.

Section 36. Subsections (2), (3), (4), (6) and (7) of section 403.726, Florida Statutes, are amended to read:

403.726 Imminent hazard.—

(2) The department shall take any action necessary pursuant to s. 403.121 or s. 403.131 to abate or substantially reduce any imminent hazard caused by hazardous *substances* ~~waste~~, including spills into the environment of hazardous substances ~~which are included within the hazardous waste criteria or lists established pursuant to s. 403.72 and which are causing an imminent hazard~~. The department is authorized to use moneys from the Hazardous Waste Management Trust Fund *or the Water Quality Assurance Trust Fund* to finance such actions, and such expenditures from the fund shall be recoverable pursuant to s. 403.725(5) *or s. 376.307.*

(3) An imminent hazard exists if any hazardous *substance* ~~waste~~ creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than $25,000 for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

(4) The department may implement the provisions of chapter 386 and ss. 387.08 and 387.10 in its own name whenever hazardous *substances are* ~~waste is~~ being generated, transported, disposed of, stored, or treated in violation of those provisions of law.

(6) The department may remove or dispose of any hazardous *substance* ~~waste~~ which has become an imminent hazard, or take any other emergency action, when the owner or operator of a hazardous waste facility or a generator or transporter of hazardous *substances* ~~waste~~ does not take appropriate action to abate or neutralize the hazard.

(7) Where hazardous *substances are* ~~waste is~~ discharged into waters of the state and abatement action is taken pursuant to this section, the department may require that the affected body of water be restored to meet, but not exceed, either the standards established by department rule for that particular body of water or ambient water quality prior to the discharge, whichever is higher. However, under no circumstances would the subject water have to be restored to a more pure state than ambient water quality prior to the discharge.

Section 37. Subsection (3) of section 403.7264, Florida Statutes, is amended to read:

403.7264 Amnesty days for purging small quantities of hazardous wastes.—Amnesty days are authorized by the state for the purpose of purging small quantities of hazardous waste, free of charge, from the possession of homeowners, farmers, schools, state agencies, and small businesses. These entities have no appropriate economically feasible mechanism for disposing of their hazardous wastes at the present time. In order to raise public awareness on this issue, provide an educational process, accommodate those entities which have a need to dispose of small quantities of hazardous waste, and preserve the waters of the state, amnesty days shall be carried out in the following manner:

(3) The state shall have 6 amnesty days. The schedule for these amnesty days is as follows:

(a) In counties specified in s. 403.7225(10)(a), amnesty days shall be held between May 1, 1984, and June 30, 1984, and between *October* ~~November~~ 1, 1984, and *November 30* ~~December 31,~~ 1984.

(b) In counties specified in s. 403.7225(10)(b), amnesty days shall be held between May 1, 1985, and June 30, 1985, and between *October* ~~November~~ 1, 1985, and *November 30* ~~December 31,~~ 1985.

(c) In counties specified in s. 403.7225(10)(c), amnesty days shall be held between May 1, 1986, and June 30, 1986, and between *October* ~~November~~ 1, 1986, and *November 30* ~~December 31,~~ 1986.

Section 38. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the

state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to *s. 403.7234* ~~section 24 of this act~~; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 39. Section 501.118, Florida Statutes, is amended and transferred to Chapter 403, Florida Statutes, as s. 403.74, Florida Statutes, to read:

403.74 ~~501.118~~ Management of hazardous materials~~, substances, and wastes~~ by governmental agencies.—

(1) *For the purposes of this section, "hazardous materials" are those substances:*

(a) Listed as constituents of waste streams F001, F002, F003, F004 and F005 in 40 CFR, Part 261.31, or

(b) Listed in 40 CFR Part 261.33, including those substances which are pesticides as defined by section 487.021(41), Florida Statutes.

(2)~~(1)~~ All local, state and other governmental agencies and institutions of the State University System that *dispose of* ~~utilize~~ hazardous ~~substances~~ materials ~~or that generate hazardous waste~~ shall:

(a) Notify the Department of Environmental Regulation of the types and *approximate* annual quantities of each hazardous material~~, substance or waste~~ that is ~~used or~~ generated.

(b) Notify the department of the management practice used for *disposal of* their *hazardous* materials. ~~or waste, including transportation, storage, treatment, and disposal.~~

(3)~~(2)~~ Each such agency shall develop written plans for the management of *the disposal of* hazardous material. ~~substances or wastes, in conjunction with guidelines developed by the department.~~

(4)~~(3)~~ Each such agency shall develop plans for spill prevention control and countermeasures for hazardous materials incidents.

(5) Exempt from this section are hazardous materials which are used by governmental agencies in annual quantities of less than one kilogram, except for those hazardous materials listed because of reactivity.

Section 40. Subsection (14) is added to section 403.803, Florida Statutes, to read:

403.803 Definitions.—When used in this act, the term, phrase, or word:

(14) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound waters for the purpose of insect control.

Section 41. Subsection (3) of section 403.804, Florida Statutes, is amended to read:

403.804 Environmental Regulation Commission; powers and duties.—

(3) The commission shall establish priorities and have final state approval on applications for, and disbursements of, federal and state grants for the construction of wastewater or water treatment works. In establishing priorities for state grants under this act, an application shall not receive a lower priority solely because the proposed project includes reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826*(6)*~~(2)~~.

Section 42. Subsection (2) and paragraph (b) of subsection (3) of section 403.809, Florida Statutes, are amended to read:

403.809 Environmental districts; establishment; managers; functions.—

(2) There shall be a manager for each environmental district who shall be appointed by, and serve at the pleasure of, the secretary. The district manager shall maintain his office in the environmental district center, which shall be collocated with an office of a water management district. Each branch office shall have a branch office manager ~~who shall be appointed by, and serve at the pleasure of, the secretary~~. The water management districts are encouraged to collocate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned to the Division of Environmental Permitting or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of National Pollution Discharge Elimination System permits pursuant to Pub. L. No. 92-500, s. 401.

2. Construction ~~and operation~~ of major air pollution sources.

3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

Section 43. Paragraph (p) is added to subsection (2) of section 403.813, Florida Statutes, to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, or chapter 253, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection shall relieve an applicant from any requirement to obtain permission to use or occupy lands owned by any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(p) The restoration of existing insect control impoundment dikes of less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible, or operated in accordance with an impoundment management plan approved by the department. Restoration shall involve no more dredging than is necessary to restore the dike to original design specifications. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of operating insect control impoundments.

Section 44. Section 403.815, Florida Statutes, is amended to read:

403.815 Public notice; waiver of hearings.—The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a permit submitted under this chapter or chapter 253. The notice of application shall be published within 14 days after the application is filed with the department. Notwithstanding any provision of s. 120.60, the department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of proposed agency action on any permit application submitted under this chapter or chapter 253. *The department shall require an applicant for the construction or expansion of a solid waste facility to publish such notice.* The notice of proposed agency action shall be published at least 14 days prior to final agency action. The 90-day time period specified in s. 120.60(2) shall be tolled by the request of the department for publication of notice of proposed agency action and shall resume 14 days after receipt by the department of proof of publication. However, if a petition is filed for a proceeding pursuant to s. 120.57, the time periods and tolling provisions of s. 120.60 shall apply. The cost of publication of notice under this section shall be paid by the applicant. The secretary may, by rule, specify the format and size of such notice. Within 14 days after publication of notice of proposed agency action, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. Failure to request a hearing within 14 days after publication of notice of proposed agency action shall constitute a waiver of any right to a hearing on the application under s. 120.57.

Section 45. Subsection (7) is added to section 403.853, Florida Statutes, to read:

403.853 Drinking water standards.—

(7) Unless otherwise required by federal act, the department may require testing of public water supply systems only for those contaminants for which maximum contaminant levels have been set by the administrator or the department or for which the U.S. Environmental Protection Agency or the department has established a correlation between pollutant concentration and human health effects. Testing for contaminants for which these correlations have been established shall be required for community water supply systems every 3 years, except when concentration levels or unusual conditions warrant more frequent monitoring.

Section 46. Subsection (10) is added to section 403.021, Florida Statutes, to read:

403.021 Legislative declaration; public policy.—

(10) *It is the policy of the state to ensure that the state's existing and potential drinking water resources remain free from harmful quantities of contaminants. The department as the state's water quality protection agency, shall compile, correlate and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the state's drinking water resources.*

Section 47. Section 388.411, Florida Statutes, is hereby repealed.

Section 48. It is the intent of the Legislature that lands created by spoil or used as dredge spoil sites shall be given priority consideration as sites for disposal of spoil in maintenance dredge operations.

Section 49. Section 403.8635, Florida Statutes, is created to read:

403.8635 State drinking water sample laboratory certification program.—

(1) In addition to laboratory certification pursuant to s. 403.863, the Department of Health and Rehabilitative Services is authorized to establish a periodic certification and approval program for laboratories that perform analyses of drinking water samples to assure the acceptable quality, reliability, and validity of all testing results.

(2) The Department of Health and Rehabilitative Services shall have the responsibility for the operation and implementation of laboratory certification pursuant to this section, except that, upon completion of the evaluation and review of the laboratory certification application, the evaluation shall be forwarded, along with recommendations, to the department for review and comment prior to final approval or disapproval.

(3) The Department of Health and Rehabilitative Services is authorized to charge and collect fees for the evaluation and certification of laboratories pursuant to this part. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health and Rehabilitative Services in the administration and operation of this program. All fees shall be deposited in a trust fund administered by the Department of Health and Rehabilitative Services to be used for the sole purpose of this section.

Section 50. Definitions.—For the purposes of sections 50-57:

(1) "Mangrove" means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).

(2) "Alter" means to cut, remove, defoliate or otherwise destroy, but shall not mean selective trimming which does not eliminate the biological integrity of individual plants.

Section 51. Prohibitions; permit procedure.—

(1) No person shall alter or cause to be altered any mangrove in waters where permits are required for dredging or filling except pursuant to a permit issued by the department or as otherwise provided by sections 50-57. Any violation of this section shall be presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who may directly or indirectly have charge, control, or management, either exclusively or with others, of the property upon which such violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(2) No separate application for an alteration permit shall be required if alteration is addressed in an application for a dredge or fill permit or certification or application for boat dock or walkway under Chapter 403, the procedures for dredge or fill permitting shall control in such instances.

(3) The department shall adopt a general permit in accordance with s. 403.814, Florida Statutes, authorizing alteration of mangroves in accordance with procedures designed to protect the integrity of mangrove trees.

(4) The provisions of sections 50-57 shall not apply to any alteration addressed in a dredge and fill application which was complete prior to the effective date of this act, unless the applicant chooses to come under this act.

(5) Notwithstanding the provisions in subsection (3) a landowner shall have the right to selectively trim individual mangrove plants to better enjoy the coastal water vistas and other aesthetic qualities associated with ownership of riparian lands.

Section 52. Restitution.—In the event that the violator does not restore altered mangroves to the standards of the Department of Environmental Regulation, the department may restore the altered mangroves at its own expense and the cost therefor shall become a lien upon the property of the violator.

Section 53. Enforcement.—The department's responsibility for the enforcement of the provisions of sections 50-57 shall be pursuant to ss. 403.141 and 403.161, Florida Statutes.

Section 54. Procedural rules.—By June 1, 1985, the department shall adopt a rule specifying criteria for altering mangroves and a procedure for issuing permits to do so. Such criteria shall be based solely upon the dredge and fill permit criteria set forth in Chapter 403, Florida Statutes.

Section 55. Variance relief.—Upon application, the department may grant a variance from the provisions of sections 50-57 if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of affected property. Relief shall be granted only upon demonstration that such hardship is peculiar to the affected property and not self-imposed, and that the grant of a variance will be consistent with the general intent and purpose of sections 50-57. The department shall grant variances as it shall deem appropriate.

Section 56. Exception.—The provisions of this act shall not apply to the following:

(1) The alteration of mangrove trees by duly constituted communication, water, sewer, electrical or other utility companies or federal, state, or county agencies, or engineers or surveyors working under a contract with such utility companies or agencies, when such mangrove tree alteration is done as a governmental function of such agency.

(2) The alteration of mangrove trees by duly constituted communication, water, sewer, electrical or other utility companies in or adjacent to a public or private easement or right-of-way, provided such alteration is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(3) The alteration of mangrove trees by duly constituted communication, water, sewer or electrical utility companies on the grounds of electric power plant and sub-stations, water treatment plants, or sewer treatment plants in furtherance of providing utility service to its customers and provided further that such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(4) The alteration of a mangrove tree by a Florida licensed land surveyor in the performance of his duties provided such alteration is to individual trees. The altertion of mangrove trees by a surveyor which requires trimming a swath of greater than 3 feet in width shall require approval by the department prior to such alteration.

Section 57. Definitions.—As used in sections 57-65.

(1) "Department" means the Department of Environmental Regulation.

(2) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(3) "Used oil" means any oil which has been refined from crude oil and as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

(4) "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(5) "Reclaiming" means the use of cleaning methods on used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(6) "Rerefining" means the use of refining processes on used oil to produce high quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals.

Section 58. Prohibitions.—

(1) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(2) No person may discharge used oil into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

Nothing in sections 57-65 prohibits the use of used oil for road maintenance purposes, as a fuel, for weed abatement on the user's property, or for agricultural dust control, unless such use violates another law or rule or endangers public health. However, used oil shall not be used for road oiling, dust control and weed abatement in areas where sole source aquifers have been designated.

Section 59. Public education.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(1) Encourage persons who annually sell at retail, in containers for use off the premises, more than 500 gallons of oil, to provide purchasers with the locations of collection facilities and information on proper disposal practices.

(2) Establish, maintain, and publicize a used oil information center that disburses materials or information explaining local, state, and federal laws and rules governing used oil and informing the public of places and methods for proper disposal of used oil;

(3) Encourage the voluntary establishment of used oil collection and recycling programs and provide technical assistance to persons organizing such programs; and

(4) Encourage the procurement of rerefined automotive and industrial oils for all state and local uses, whenever such rerefined oils are available at prices competitive with those of new oil produced for the same purpose.

Section 60. Registration.—

(1) Beginning July 1, 1985, the following persons shall register annually with the department pursuant to rules of the department on forms prescribed by the department:

(a) Any person who transports more than 500 gallons of used oil annually over public highways.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually.

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(2) An electric utility whose operations generate used oil and which used oil is then recycled, rerefined, or reclaimed by the electric utility for use in its operations shall not be required to register or report pursuant to this section.

(3) The department may prescribe fees for the registration required by this section in an amount sufficient to cover the cost of processing applications, not to exceed $25.

(4) The department shall require each registered person to submit, no later than July 1 of each year, a report which specifies the type and quantity of used oil collected, transported, and recycled during the preceding calendar year, commencing in calendar year 1985.

(5) Each registered person who transports or recycles used oil shall maintain records which identify:

(a) The source of the materials to be transported or recycled;

(b) The quantity of materials received;

(c) The date of receipt; and

(d) The destination or end use of the materials.

(6) The department shall perform technical studies to sample used oil at representative used oil transporters and recycling facilities to determine the incidence of contamination of used oil with hazardous, toxic, or other harmful substances. No later than October 1, 1985, the department shall report to the Legislature on the need for the following:

(a) Regulation of end uses of used oil, including burning, road oiling, dust control, weed abatement, and use in industrial processes.

(b) Requirements for chemical analyses of collected used oil to be conducted by transporters or recyclers to determine the presence of hazardous, toxic, or other harmful substances.

(c) Additional reporting requirements, including mandatory notification to the department of receipt of materials containing excessive levels of contaminants.

(d) Lower registration thresholds under section 60 of this act.

Section 61. The department shall submit an annual report to the Legislature summarizing information on used oil collection and recycling, analyzing the effectiveness of this act, and making recommendations for any necessary changes.

Section 62. The department shall coordinate its activities and functions under sections 57-65 with the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

Section 63. Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce sections 57-65 pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by sections 57-65 shall be subject to a fine of $300.

Section 64. Proceeds from the registration fees, fines, and penalties imposed by this act shall be deposited into the Department of Environmental Regulation Trust Fund, for use by the department in implementing the provisions of sections 57-65.

Section 65. Paragraph (c) is added to subsection (2) of section 526.01, Florida Statutes, to read:

526.01 Fraud and deception in sale of liquid fuel, lubricating oil, and greases; labeling; stop-sale order; penalty.—

(2)(a) Containers of reclaimed, recleaned, or reconditioned previously used lubricating oil, lubricants, or mixtures of lubricants shall be plainly labeled showing that content thereof is a previously used product.

(b) In the storage, sale, offering, or exposing for sale of lubricating oil composed in whole or in part of previously used lubricating oil, it is unlawful to:

1. Represent in any manner that used lubricating oil is new or unused;

2. Fail to disclose clearly and conspicuously that used lubricating oil has been previously used in all advertising and sales promotional material and on each front or face panel of the container. The front or face panel means the part of the container on which the brand name is usually featured and which is customarily exposed to the view of prospective purchasers when displayed at point of retail sales; or

3. Use the term "rerefined," or any other word or term of similar import, to describe previously used lubricating oil unless the physical and chemical contaminants acquired through previous use have been removed by a refining process.

(c) Previously used lubricating oil which has been rerefined, which refining process has removed all the physical and chemical contaminants acquired in previous use, and which meets the ASTM-SAE-API standards for fitness for its intended use shall not be subject to this labeling requirement. A manufacturer of such rerefined oil shall register his product with the department and provide an affadavit of proof the product meets the required standards.

Section 66. Subsection (3) of section 327.25, Florida Statutes, is amended, present subsections (4), (5), (6), (7), and (8) of said section are renumbered as subsections (5), (6), (7), (8), and (9), respectively, and a new subsection (4) is added to said section to read:

327.25 Classification and license.—Vessels which are required to be registered shall be classified for license purposes according to the following schedule, and the registration certificate license fee shall be in the following amounts:

(3) DISTRIBUTION OF FEES.—Moneys deposited pursuant to s. 327.28 to be returned to the counties are appropriated to the department for grants to the county general governments for the sole purposes of providing recreational channel marking, public launching facilities~~,~~ and other boating-related activities, *and manatee and marine mammal protection and recovery.* The department shall ascertain, as a guideline in determining amounts of grants each county may receive, the number of noncommercial vessels registered in the county during the preceding license year according to the license fee schedule provided in subsection (1) and shall promulgate rules and regulations to effectuate this. *Each fiscal year prior to the determination of grants to the counties under this section, $250,000 of the amount available for such grants shall be available for manatee and marine mammal protection and recovery.*

(4) VOLUNTARY CONTRIBUTIONS.—The application form for boat registration shall include a provision to allow each applicant to indicate his desire to pay an additional voluntary contribution to the Motorboat Revolving Trust Fund for manatee and marine mammal protection and recovery. This contribution shall be in addition to all other fees and charges. Provisions for collecting this contribution shall begin with the boat registrations for fiscal year 1985. The amount of the request for a voluntary contribution solicited shall be $1 per registrant. Beginning with boat registration in fiscal year 1993, the request for a voluntary contribution solicited shall be $2 per registrant. All voluntary contributions shall be deposited in the Motorboat Revolving Trust Fund for use in accordance with the provisions of s. 370.12(5).

Section 67. Subsections (1) and (2) of section 327.28, Florida Statutes, are amended to read:

327.28 Motorboat Revolving Trust Fund; appropriation and distribution.—

(1) All funds collected from the registration of boats through the department and the tax collectors of the state shall be deposited by the department in a Motorboat Revolving Trust Fund, in order to provide for the administrative cost of this chapter and for recreational channel marking, public launching facilities, law enforcement and quality control programs, ~~and~~ aquatic weed control, *and manatee and marine mammal protection and recovery. In each fiscal year, $250,000 shall be available for manatee and marine mammal protection and recovery.* Two dollars from each noncommercial vessel registration license fee, except that for class A-1 motorboats, shall be transferred to the Aquatic Plant Control Trust Fund for aquatic weed research and control. Forty percent of the license fees from commercial vessels shall be transferred to the Florida Saltwater Products Promotion Trust Fund to be used for law enforcement and quality control programs. Forty percent of the license fees from commercial vessels shall be transferred to the Aquatic Plant Control Trust Fund for aquatic plant research and control.

(2) From the funds collected through boat registration and deposited in the Motorboat Revolving Trust Fund, the Legislature shall appropriate sufficient funds to the department for the administration of this part and for recreational channel marking, public launching facilities, law enforcement and quality control programs, ~~and~~ aquatic weed control, *and manatee and marine mammal protection and recovery.*

Section 68. Subsection (5) is added to section 370.12, Florida Statutes, to read:

370.12 Marine animals; regulation.—

(a) Each fiscal year $250,000 from the Motorboat Revolving Trust Fund shall be available for annual funding of the department's manatee and marine mammal protection and recovery effort; manufacture and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.

(b) When the federal and state governments remove the manatee from endangered or threatened species status, the requirement for an annual allocation of $250,000 may be reduced.

Section 69. Definitions.—As used in sections 69-71:

(1) "Estuary" means a semi-enclosed naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(2) "Lagoon" means a naturally existing coastal zone depression below mean high high water having permanent or ephemeral communications with the sea, but protected from the sea by some type of naturally existing barrier.

(3) "Seawall" means a man-made wall or encroachment, except rip-rap, made to break the force of the waves and to protect the shore from erosion.

Section 70. Subsection (6) of section 403.906, Florida Statutes, is created to read:

403.906 Criteria for granting or denying permits.—

(6) It is the intent of the Legislature to protect estuaries and lagoons, from the damage created by construction of vertical seawalls, and to encourage construction of environmentally desirable shore protection systems, such as rip-rap and gently sloping shorelines which are planted with suitable aquatic and wetland vegetation. No permit for dredging or filling or other construction to create a vertical seawall shall be issued by the department unless the following conditions exist:

(a) The proposed construction is located within a port as defined in sections 315.02 or 403.021, Florida Statutes, or;

(b) The proposed construction is necessary for the creation of a marina, or the vertical seawalls are necessary to provide access to watercraft, or the proposed construction is necessary for public facilities, or;

(c) The proposed construction is located within an existing man-made canal and the shoreline of said canal is currently occupied in whole or in part by vertical seawalls, or;

(d) The proposed construction is to be conducted by a public utility when said utility is acting in performance of its obligation to provide service to the public.

When considering applications for permits to repair or replace existing vertical seawalls, the department shall generally require such seawalls to be faced with rip-rap material, or to be replaced entirely with rip-rap material unless the conditions specified in paragraphs (a), (b), (c), or (d) above exist.

Section 71. Sections 69-71 of this act shall in no way hinder any activity previously exempt or permitted or those activities permitted pursuant to chapter 161.

Section 72. Legislative Intent.—The Legislature recognizes the need for research on chemicals that may adversely affect human health and the environment. Therefore, the Legislature intends for the Center for Biomedical and Toxicological Research at Florida State University, The Center for Environmental Toxicology at the Institute of Food and Agricultural Sciences, The College of Public Health at the University of South Florida, and other appropriate universities as recommended by the

Board of Regents to conduct research in this area concerning the human health and environmental effects of chemicals. The Legislature directs these universities to increase their efforts in this area and to maximize use of their resources by avoiding unnecessary duplication of effort.

Section 73. Establishment of a Toxicological Research Coordinating Committee; report.—

(1) To ensure that the efforts of these institutions will be of maximum use to the state, the Toxicological Research Coordinating Committee made up of representatives from The Center for Biomedical and Toxicological Research, The Center for Environmental Toxicology, the College of Public Health, and representatives from other appropriate universities as recommended by the Board of Regents shall be established. The Committee shall be chaired by a representative from the Center of Environmental Toxicology. The Committee shall meet at least once a year to review research and develop activities and establish priorities as determined by state needs. A major responsibility of the Committee shall be to ensure that the state's resources are used as efficiently as possible.

(2) The Toxicological Research Coordinating Committee shall submit a report on March 15 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives concerning the activities of each participating university. This report shall also include short-range and long-range research plans to protect human health and the environment through research on chemicals.

Section 74. Research activities performed.—With available resources the Center for Biomedical and Toxicological Research, the Center for Environmental Toxicology, the College of Public Health, and other appropriate universities as recommended by the Board of Regents shall submit published research reports on the following topics to the Toxicological Research Coordinating Committee:

(a) Chemicals that may affect human health and the environment, including epidemiological studies.

(2) Analytical methods, environmental fate and transport, and toxicology.

(3) Environmentally safe methods to control pests other than through the use of chemicals.

The Toxicological Research Coordinating Committee shall provide risk-assessment analysis to the Department of Agriculture and Consumer Services, the Department of Health and Rehabilitative Services, the Department of Environmental Regulation and the Pesticide Review Council, including any recommended safe standards for chemicals in the environment and perform any other function as necessary in order to carry out the provisions of this act.

Section 75. Data Bank concerning chemical contaminants.—

(1) It is the intent of the Legislature that information concerning chemical contaminants be collected and be made readily available for dissemination to state agencies and the general public. Therefore, a Data Bank shall be created within The Center for Environmental Toxicology at the Institute of Food and Agricultural Sciences.

(2) Each university, within the State University System, shall send a copy of any available research results concerning analytical methods, environmental fate and transport, and toxicology to the Data Bank upon completion.

(3) On September 30 of each year, the Institute of Food and Agricultural Sciences shall publish a listing of available studies pursuant to subsection (2), as well as other studies that have been submitted to the Data Bank. The listing shall be made available to the public and shall be sent to the Department of Agriculture and Consumer Services, the Department of Health and Rehabilitative Services, the Department of Environmental Regulation, and the Pesticide Review Council.

Section 76. Chapter 29222, Laws of Florida, special acts of 1953, as amended, relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, is hereby repealed subject to a positive referendum by the electorate in Lake County.

Section 77. The sum of $40,000 is hereby appropriated from the General Revenue Fund to the Department of Environmental Regulation for the purposes of conducting research and writing a report on cost-effective landfill construction and closure methods as described in section 31. There is hereby appropriated from the Permit Fee Trust Fund to the Department of Environmental Regulation $47,945 for fiscal year 1984-85 and two positions to implement the provisions of sections 57-65. There is hereby appropriated from the Permit Fee Trust Fund to the Department of Environmental Regulation $43,000 for fiscal year 1984-85 for purposes of completing the study in section 60.

Section 78. This act shall take effect July 1, 1984.

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

Amendment 1—In title, on page 5A, line 30, insert: amending s. 403.021, F.S.; providing for regulation of certain deepwater ports;

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

Amendment 2—In title, on page 1, line 2, strike everything after "A bill to be entitled an act relating to environmental control;" and insert: amending s. 403.061, F.S., providing that discharges from steam electric generating plants shall not be required to be treated to a greater extent than may be necessary to meet certain criteria; providing that a mixing zone for the discharge of pollutants from a steam electric generating plant may be granted under certain circumstances; amending s. 373.106, correcting a cross reference; amending s. 373.333, F.S., relating to powers of water management districts with respect to regulation of wells; amending s. 376.11, F.S., relating to the Florida Coastal Protection Trust Fund; removing a deadline relating to payment of administrative expenses; revising provisions relating to an annual expenditure to the Water Quality Assurance Trust Fund; amending s. 376.30, F.S.; providing Legislative Intent as to pollution of surface and ground waters; amending s. 376.301, F.S.; revising definitions of "facility," "pollutants," and "pollution"; amending s. 377.22, F.S; authorizing the Department of Environmental Regulation to regulate aboveground crude oil storage tanks; amending s. 376.302, F.S.; prohibiting certain discharge of pollutants; revising provisions relating to the Water Quality Assurance Trust Fund; amending s. 376.303, F.S.; excepting certain oil storage tanks from regulation by the Department of Environmental Regulation; amending s. 376.307, F.S.; revising applicability of the excise tax; revising conditions under which the tax is suspended or increased; specifying limitation on institution of actions to recover sums expended from the fund; amending s. 376.308, F.S.; specifying that provisions relating to liabilities and defenses of facilities apply to suits instituted by the Department of Environmental Regulation under ss. 376.30-376.315; amending s. 376.313, F.S.; revising provisions relating to nonexclusiveness of remedies and individual cause of action and defenses thereto; creating s. 376.317, F.S., providing for state preemption; providing for county governments to adopt ordinances regulating underground storage tanks; amending s. 213.053, F.S., relating to confidentiality and information sharing by the Department of Revenue; amending s. 487.021, F.S., adding definitions; amending s. 487.041, F.S., providing for emergency exemptions; providing data requirements for registration of pesticides; conforming provisions relating to hearing requests to provisions of the Administrative Procedure Act; clarifying special local need registration requirements; providing notification procedures; creating s. 487.055, F.S., providing antisyphon requirements; amending s. 487.0615, F.S.; providing for the composition and powers of the Pesticide Review Council; amending s. 487.071, F.S., including rules adopted under chapter 487 and labeling requirements within provisions relating to enforcement, inspection, sampling, and analysis; amending s. 487.091, F.S., establishing an administrative fine and providing for criminal penalties; providing for grants to owners of contaminated water wells; creating s. 487.15, F.S.; providing for reclamation and reimbursement for suspended pesticides; providing for indemnification of holders of ethylene dibromide (EDB); amending s. 403.087, F.S.; providing fees for 25-year port maintenance dredging permits; amending s. 403.0876, F.S.; specifying effect of time limitation for permit processing on permit applications for underground injection wells; amending s. 403.091, F.S.; providing powers of inspection of the Department of Environmental Regulation with respect to chapter 403 and ss. 376.30-376.315; providing for inspection warrants; creating s. 403.1656, F.S., establishing the Florida Groundwater Protection Task Force and providing its powers and duties; amending s. 403.1826, F.S.; authorizing the department to establish maximum grants for each local agency under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act; revising requirement relating to generation of revenue to make projects self-supporting; amending s. 403.1838, F.S., relating to limitations and matching fund requirements under the Small Community Sewer Construction Assistance Act; amending s. 403.702, F.S.; providing legislative findings as to solid waste; amending s. 403.704, F.S.; providing

powers and duties of the Department of Regulation as to landfill closures; amending s. 403.707, F.S.; providing for permitting of solid waste disposal facilities; amending s. 403.703, F.S.; defining a hazardous substance; amending s. 403.7225, F.S.; revising the deadline for completion of certain county hazardous waste management plans; providing for updating of such plan; amending s. 403.7234, F.S.; providing for annual small quantity generator notification; amending s. 403.726, F.S.; providing for imminent hazards caused by hazardous substances; amending s. 403.7264, F.S.; revising the schedule for state amnesty days; amending s. 403.727, F.S.; correcting a cross-reference; transferring and amending s. 501.118, F.S., relating to management of hazardous materials, substances and wastes by governmental agencies; amending s. 403.803, F.S.; providing a definition; amending s. 403.804, F.S.; correcting a cross-reference; amending s. 403.809, F.S.; revising types of permits for which authority may not be delegated; amending s. 403.813, F.S.; exempting restoration of certain existing insect control impoundment dikes from permit requirements; imposing requirements with respect thereto; amending s. 403.815, F.S.; providing for public notice of certain permit applications; amending s. 403.853, F.S.; providing requirements with respect to testing of public community water supply systems; adding s. 403.021(10), F.S., establishing state policy as to drinking water resources; directing the Department of Environmental Regulation to provide information relating to contaminants and to coordinate certain regulatory programs; repealing s. 388.411, F.S.; relating to mosquito control on public lands; providing legislative intent as to dredge spoil sites; creating s. 403.8635, Florida Statutes, providing for certification of drinking water sampling laboratories; providing definitions; prohibiting alteration of mangroves; providing for permits to alter mangroves; providing for restitution for restoring altered mangroves; providing for enforcement; providing for rulemaking; providing for variances; providing exceptions; providing definitions; prohibiting certain activities as to used oil; providing for public education; providing for registration of persons handling used oil; providing for a report to the Legislature; providing for inter-agency coordination; providing for enforcement and penalties; providing for registration fees; amending s. 526.01, F.S.; providing that used oil need not be labelled as such under certain conditions; amending s. 327.25, F.S., providing for use of fees from registration of vessels; providing for voluntary contributions to marine mammal protection; amending s. 327.28, F.S.; providing for use of the Motorboat Revolving Trust Fund; amending s. 370.12, F.S.; providing for marine mammal protection; providing definitions; providing for issuance of certain permits by the Department of Environmental Regulation; providing for applicability to chapter 161, F.S., providing legislative intent as to certain research activities; establishing and providing duties of the Toxicological Research Coordinating Committee; providing for submission of certain reports to the committee; providing for a chemical contaminants data bank; providing for the repeal of chapter 29222, Laws of Florida, 1953, as amended, establishing to the Oklawaha Basin Recreation and Water Conservation and Control Authority providing appropriations; providing an effective date.

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

CS for SB 986 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Beard	Fox	Jennings	Plummer
Carlucci	Frank	Langley	Rehm
Castor	Girardeau	Malchon	Stuart
Childers, D.	Gordon	Mann	Thurman
Childers, W. D.	Grant	McPherson	Vogt
Crawford	Grizzle	Meek	Weinstein
Deratany	Hair	Myers	
Dunn	Jenne	Neal	

Nays—None

Vote after roll call:

Yea—Gersten, Scott

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 406, 1101, 350, 778, CS for CS for SB's 1040 and 788, CS for SB 238, Senate Bills 882, 349, 351, 742, 576, CS for SB 799, CS for SB 1029, CS for SB 143, CS for SB 701, CS for SB 399, CS for SB 885, CS for SB 797, SB 732, SB 79, CS for SB 762, SB 668 and CS for SB 651; has adopted SCR 588; has receded from House Amendments 1 and 2 and passed CS for SB 911; and has receded from House Amendments 1, 2, 3 and 4 and passed CS for SB 408.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for HB's 114 and 158, HB 78, CS for HB 183, CS for HB 146, HB's 900, 951, 1209, 941, 1098 and 917.

Allen Morris, Clerk

First Reading

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1278, CS for HB 988, CS for HB 686, CS for HB 17, HB 349 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Representative Peeples—

HB 1278—A bill to be entitled An act relating to motor carriers; amending s. 207.002, F.S., providing definitions with respect to the "Florida Special Fuel and Motor Fuel Use Tax Act of 1981"; amending s. 207.004, F.S., providing for issuance of motor fuel use tax identifying devices to certain vehicles; providing fees; establishing reporting periods; providing for imposition of fees or taxes on motor carriers based in other states under certain circumstances; amending s. 207.005, F.S., providing for reporting periods; providing for delinquency of reports; amending s. 207.021, F.S., providing for the settlement or compromise of penalties or interest under the act; amending s. 316.545, F.S., providing inspection criteria at weigh stations; amending s. 316.605, F.S., providing an exception to licensing requirements; amending s. 320.01, F.S., defining the term "apportioned motor vehicle"; amending s. 320.03, F.S., designating the Department of Revenue as an agent of the Department of Highway Safety and Motor Vehicles for registration of apportioned motor vehicles; amending s. 320.055, F.S., providing for registration periods with respect to certain vehicles; amending s. 320.06, F.S., establishing requirements for registration certificates, license plates, and validation stickers; creating s. 320.0706, F.S., providing for display of truck-tractor license plates; amending s. 320.39, F.S., authorizing membership in the International Registration Plan; providing effective dates.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Health and Rehabilitative Services; and Representatives Rochlin and Gordon—

CS for HB 988—A bill to be entitled An act relating to developmental disabilities; amending s. 20.19, F.S., providing a definition; creating the Florida Developmental Disabilities Planning Council; providing for duties of the council; providing for assignment of the council within the office of the Secretary of Health and Rehabilitative Services for certain purposes only; authorizing the council to appoint an executive director; authorizing the executive director to employ personnel; providing for the composition of the council; providing for a chairman and vice-chairman; providing for meetings; providing for committees; authorizing the Governor to remove members of the council for cause; providing powers of the council; providing for bylaws; allowing the council to receive state and federal funds for certain developmental disabilities programs; requiring the Governor to designate the administering agency for the Developmental Disabilities Program; amending s. 393.066, F.S., relating to the responsibility of the Department of Health and Rehabilitative Services with respect to the Developmentally Disabled Assistance and Bill of Rights Act; providing for review and repeal; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Commerce; and Appropriations.

By the Committee on Transportation and Representative Crotty and others—

CS for HB 686—A bill to be entitled An act relating to the Department of Transportation; authorizing the department to covenant to complete certain revenue producing projects for the Orlando-Orange County expressway system; providing certain conditions; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By the Committee on Retirement, Personnel and Collective Bargaining and Representative Pajcic and others—

CS for HB 17—A bill to be entitled An act relating to the investment of state-operated trust funds; amending s. 215.44, F.S., relating to voting rights exercised by the State Board of Administration with respect to securities owned by the retirement system and survivor benefit trust funds; providing an effective date.

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

By the Committee on Judiciary—

HB 349—A bill to be entitled An act relating to retired justices or judges; amending s. 25.073, F.S., providing for compensation for certain retired justices or judges who are assigned to temporary duty; limiting such judicial service to no more than 60 days per year; providing an effective date.

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

Senator Kirkpatrick presiding

On motions by Senator Fox, by two-thirds vote HB 349 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Fox, by unanimous consent—

HB 349—A bill to be entitled An act relating to retired justices or judges; amending s. 25.073, F.S., providing for compensation for certain retired justices or judges who are assigned to temporary duty; limiting such judicial service to no more than 60 days per year; providing an effective date.

—was taken up out of order and by two-thirds vote read the second time by title.

Senator Fox moved the following amendments which were adopted:

Amendment 1—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Section 25.073, Florida Statutes, is amended to read:

25.073 Retired justices or judges assigned to temporary duty; additional compensation; appropriation.—

(1) For purposes of this section, the term "retired justice" or "judge" means any former justice or judge who:

(a) Has not been defeated or failed to be retained in seeking reelection or retention to his last judicial office; and

(b) 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 in any of said courts, pursuant to Art. V of the State Constitution, shall be compensated as follows:

(a) Any such justice or judge shall be paid *$150* ~~$100~~ for each day or portion of a day that such justice or judge is assigned to temporary duty, *provided however, that no such justice or judge shall serve for more than 60 days each year without the approval of the chief justice.*

(b) Necessary travel expense incident to the performance of duties required by assignment of such justice or judge to temporary duty shall be paid by the state in accordance with the provisions of s. 112.061.

~~(3) If any judge becomes 70 years old during his term of office, the Chief Justice may appoint that judge to temporary duty for the remainder of that term at full salary, which salary shall be funded from the circuit judges' salary account.~~

(3)~~(4)~~ Payments required under this section shall be made from moneys to be appropriated for this purpose.

Section 2. This act shall take effect October 1, 1984.

Amendment 2—On page 1, lines 1-7, strike everything before the enacting clause and insert: A bill to be entitled An act relating to retired judges; amending s. 25.073, F.S.; providing an increase in the compensation of retired judges assigned to temporary duty; deleting the authority for certain judges over 70 to be appointed to serve the remainder of a term at full salary; providing an effective date.

On motion by Senator Fox, by two-thirds vote HB 349 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Vote after roll call:

Yea—Gersten, Girardeau, Hair, Scott

The President presiding

On motions by Senator Frank, the rules were waived and by two-thirds vote HB 149 was withdrawn from the Committee on Education and by two-thirds vote placed on the special order calendar.

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, 2 and 3 to House Amendments 1, 2 and 3 to CS for SB 230 and requests the Senate to recede.

Allen Morris, Clerk

CS for SB 230—A bill to be entitled An act relating to the care of dependent children; amending s. 409.175, F.S.; substantially revising provisions relating to regulation by the Department of Health and Rehabilitative Services of agencies and facilities providing for the care and placement of dependent children; providing definitions; providing for licensure of certain persons and agencies; specifying licensing requirements; prohibiting departmental rules relating to certain religious instruction; providing for licensing studies; providing for provisional licenses; authorizing inspections; providing for denial, revocation, and suspension of licenses; providing for injunctive proceedings; providing for corrective actions in the event of violations; prohibiting certain activity without a license and providing penalties therefor; authorizing the removal of children from persons in violation of certain provisions; providing for foster parent training; requiring the department to adopt rules; creating s. 409.170, F.S.; providing for the registration of residential child-caring agencies; providing for inspections; providing licensure exemptions; providing classifications for licensed and registered facilities; requiring certain contracts; providing for denial, suspension, and revocation of registration; providing for injunctive relief; prohibiting certain acts and providing penalties; providing severability; saving s. 409.175, F.S., from scheduled sunset repeal on October 1, 1984, and providing for future repeal and review of ss. 409.170, 409.175, F.S.; providing an effective date.

On motions by Senator D. Childers, the Senate refused to recede from the Senate amendments to the House amendments to CS for SB 230 and again requested the House to concur. The action of the Senate was certified to the House.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Carlucci, by two-thirds vote HB 980 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motions by Senator Stuart, by two-thirds vote CS for HB 686 was withdrawn from the Committees on Transportation and Appropriations.

On motion by Senator Stuart, by unanimous consent—

CS for HB 686—A bill to be entitled An act relating to the Department of Transportation; authorizing the department to covenant to complete certain revenue producing projects for the Orlando-Orange County expressway system; providing certain conditions; providing an effective date.

—was taken up out of order. On motions by Senator Stuart, by two-thirds vote CS for HB 686 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—32

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

Nays—None

Vote after roll call:

Yea—Gersten

Senator Johnston presiding

SPECIAL ORDER

CS for SB 797—A bill to be entitled An act relating to mental health; amending ss. 381.494, 394.453, 394.457, and 394.4573, F.S., and amending s. 394.455, F.S., and repealing subsections (6) and (7) thereof, relating to mental health boards and board districts, to conform references; providing that receiving facilities shall not include county jails; amending s. 394.459, F.S., reducing the number of days a jail may be used as an emergency facility in certain cases; providing for treatment; modifying provisions relating to right to, and quality of, treatment; providing for disclosure of clinical records in certain cases; expanding provisions governing transportation of patients; amending s. 394.461, F.S., clarifying acceptance limitations; conforming references and providing for transport and processing of mentally ill persons in law enforcement custody; amending s. 394.463, F.S., modifying criteria which must be met prior to involuntary examination; providing for transportation; providing conditions upon release during the examination period; amending s. 394.467, F.S., modifying criteria which must be met prior to involuntary placement; modifying admission and continued placement procedures to provide for advice of counsel; amending s. 394.65, F.S., retitling part IV of chapter 394, F.S., as "The Community Alcohol, Drug Abuse, and Mental Health Services Act"; amending s. 394.66, F.S., modifying legislative intent; amending s. 394.67, F.S., reordering and modifying definitions; creating s. 394.675, F.S., providing for an Alcohol, Drug Abuse, and Mental Health Service System and defining terms for purposes thereof; creating s. 394.715, F.S., providing for establishment of district and subdistrict alcohol, drug abuse, and mental health planning councils; providing for staff assistance; providing for membership, organization, terms, and expenses thereof; requiring an annual report; providing for advertised meetings with certain groups; restricting council membership; providing for appointment of nominating committees and providing for membership, organization, and duties thereof; amending s. 394.73, F.S., providing for joint service programs; amending s. 394.74, F.S., authorizing the Department of Health and Rehabilitative Services, rather than the mental health boards, to contract for services; clarifying contractual provisions; amending s. 394.75, F.S., providing for district alcohol, drug abuse, and mental health plans to be prepared biennially and reviewed annually; modifying requirements and providing duties of district administrators with respect thereto; limiting certain authority of governing bodies; amending s. 394.76, F.S., clarifying and modifying financial provisions; authorizing local governing bodies to appropriate moneys for certain purposes, subject to audit requirements; restricting the requirement of additional local matching funds in certain cases; amending s. 394.77, F.S., relating to control of costs, to remove a departmental requirement; amending s. 394.78, F.S., providing for a standardized audit procedure and for monitoring of service providers; amending s. 394.79, F.S., providing for preparation of a biennial state plan; providing requirements pursuant thereto; amending ss. 396.042, 396.072, 396.102, and 916.11, F.S., conforming references; creating the Task Force on Public Psychiatry; providing for membership, meetings, and expenses thereof; requiring a report to the Legislature; providing for expiration of the task force; repealing ss. 394.69, 394.70, 394.71, and 394.72, F.S., relating to district mental health boards and their method of appointment, duties, and staff; repealing s. 394.81, F.S., relating to priority given in consideration for funding; providing for future review and repeal of the planning councils pursuant to the Sundown Act; providing effective dates.

—was read the second time by title.

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 11, strike lines 16-19 and insert: provisions of law.

Amendment 2—On page 12, line 10, strike *"or spouse"*

Amendment 3—On page 12, line 11, strike *"publicly funded"*

Senator Myers moved the following amendment which was adopted:

Amendment 4—On page 12, line 28, after the phrase *"s. 394.467(1)"* insert: *, except in small rural counties where there is no cost-efficient alternatives*

Senators Langley, Frank, Rehm, Malchon, Grizzle and Hair offered the following amendment which was moved by Senator Langley and failed:

Amendment 5—On page 28, lines 29-31, and on page 29, lines 1-7, strike all of said lines and insert: and budget, and approving the final plan. In order to carry out its duties and responsibilities, each council may appoint an Executive Director and such other staff deemed necessary by the council.

The executive director appointed by the council shall meet such standards of training and experience as the department shall require by rule. Applicants for such positions need not be residents of the city, county, or state and may be employed on a full-time or part-time basis. If a council is unable to secure the services of a person who meets the standards of the department, the council may select an alternate executive director, subject to the approval of the district administrator. The staff of the district administrator shall not duplicate the activities of the staff of the council and no council staff member shall also be on the staff of a mental health service provider.

The vote was:

Yeas—13

Beard	Deratany	Hair	Rehm
Carlucci	Frank	Hill	
Childers, W. D.	Grant	Langley	
Crawford	Grizzle	Malchon	

Nays—23

Mr. President	Gordon	McPherson	Stuart
Castor	Jenne	Meek	Thomas
Childers, D.	Johnston	Myers	Thurman
Fox	Kirkpatrick	Neal	Vogt
Gersten	Mann	Plummer	Weinstein
Girardeau	Margolis	Scott	

Senators Malchon, Grizzle, Rehm, Frank and Crawford offered the following amendment which was moved by Senator Malchon and adopted:

Amendment 6—On page 33, strike all of lines 16-21 and insert: the joint program. ~~Unless all participating counties agree to an earlier withdrawal, no county participating in a joint program may withdraw therefrom without the consent of the district administrator or earlier than 2 years after submission of the withdrawal resolution to the district administrator.~~

On motion by Senator Castor, by two-thirds vote CS for SB 797 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Beard	Girardeau	Mann	Stuart
Castor	Gordon	Margolis	Thomas
Childers, D.	Grant	McPherson	Thurman
Childers, W. D.	Grizzle	Meek	Vogt
Dunn	Hill	Myers	Weinstein
Fox	Jenne	Neal	
Frank	Johnston	Plummer	
Gersten	Kirkpatrick	Scott	

Nays—6

Carlucci	Hair	Malchon
Crawford	Langley	Rehm

On motion by Senator Scott, by two-thirds vote CS for CS for SB 70 was removed from the calendar and referred to the Committee on Rules and Calendar.

Consideration of CS for SB 231 was deferred.

On motions by Senator Stuart, by two-thirds vote HJR 452 was withdrawn from the Committees on Judiciary-Civil and Rules and Calendar.

On motion by Senator Stuart, HJR 452, a companion measure, was substituted for SJR 570.

HJR 452—A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution relating to counties.

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

That the amendment to Section 1 of Article VIII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1984:

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected *as provided by law* ~~by the electors of the county~~.

(f) NON-CHARTER GOVERNMENT. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

(g) CHARTER GOVERNMENT. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

(h) TAXES; LIMITATION. Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

(i) COUNTY ORDINANCES. Each county ordinance shall be filed with the secretary of state and shall become effective at such time thereafter as is provided by general law.

(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded in the county until filed at the county seat according to law.

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

ELECTION OF COUNTY COMMISSIONERS

Provides that county commissioners shall be elected as provided by law, thereby removing the constitutional restriction that county commissioners must be elected at large by the electors of the county.

—was read the second time in full. On motion by Senator Stuart, by two-thirds vote HJR 452 was 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—26

Beard	Gersten	Kirkpatrick	Stuart
Castor	Girardeau	Mann	Thomas
Childers, D.	Grant	McPherson	Thurman
Childers, W. D.	Hair	Myers	Vogt
Deratany	Hill	Neal	Weinstein
Fox	Jenne	Plummer	
Frank	Johnston	Rehm	

Nays—1

Crawford

Vote after roll call:

Yea—Meek, Scott

Nay—Langley

SJR 570 was laid on the table.

On motions by Senator Stuart, the rules were waived and by two-thirds vote HB 453 was withdrawn from the Committees on Judiciary-Civil and Rules and Calendar.

On motion by Senator Stuart—

HB 453—A bill to be entitled An act relating to the board of county commissioners; creating s. 124.011, F.S., providing alternate procedures whereby the boards of county commissioners may adopt and submit to the electors for approval, or electors may petition to have placed on the ballot, a proposition calling for single-member representation within a five member county commission district, or an increase from a five to seven member commission with five single-member and two at-large commissioners; prohibiting the calling of a special election; providing for a return to the existing system at the county's option; providing for the effect of the act upon existing county commissioners; providing an effective date.

—a companion measure, was substituted for SB 625 and read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 453 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Beard	Girardeau	Meek	Thomas
Castor	Grant	Myers	Thurman
Childers, W. D.	Hair	Neal	Vogt
Deratany	Hill	Plummer	Weinstein
Fox	Johnston	Rehm	
Frank	Mann	Scott	
Gersten	McPherson	Stuart	

Nays—1

Crawford

Vote after roll call:

Yea—Jenne

Nay—Langley

SB 625 was laid on the table.

CS for SB 701—A bill to be entitled An act relating to housing; creating s. 420.5095, F.S.; providing for allocation of single-family mortgage revenue bonds, mortgage credit certificates, and similar instruments; imposing certain requirements on local housing finance authorities; creating a small issuers pool; amending s. 420.101, F.S.; specifying purposes to be included in articles of incorporation of housing development corporations; providing an effective date.

—was read the second time by title.

Senator Frank moved the following amendment which failed:

Amendment 1—On page 7, between lines 8 and 9, insert:

Section 3. Subsection (1) of section 421.05, Florida Statutes, is amended to read:

421.05 Appointment, qualifications, and tenure of commissioners; hiring of employees.—

(1) When the governing body of a city adopts a resolution as aforesaid, the mayor, with the approval of the governing body, shall promptly appoint no fewer than five persons as commissioners of the authority created for said city. Three of the commissioners who are first appointed shall be designated to serve for terms of 1, 2, and 3 years respectively; the remaining commissioners shall be designated to serve for terms of 4 years each, from the date of their appointment. Thereafter, commissioners shall be appointed as aforesaid for a term of office of 4 years, except that a vacancy shall be filled for the unexpired term by an appointment by the mayor with the approval of the governing body within 60 days after such vacancy occurs. *All housing authorities created pursuant to chapter 421 shall have at least one commissioner who shall be a resident who is current in rent in a housing project or a low-income person who is receiving rent subsidy through programs administered by the authority or a resident of a housing unit funded through a section 232 federal housing program and shall be appointed at the time a vacancy exists, except in those housing authorities whose commissioners are the governing body of the city or county. In the case of an authority which has no completed project, no tenant-commissioner shall be appointed until 10 percent of the units in the authority's first project have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project shall remove such tenant-commissioner from office, and another person meeting the qualifications required for said office shall be appointed for the unexpired portion of the term.* No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

Section 4. Section 421.06, Florida Statutes, is amended to read:

421.06 Interested commissioners or employees.—*Except for the leasehold interest held by a tenant commissioner in his housing project,* no commissioner or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office.

(Renumber subsequent section.)

On motion by Senator Stuart, by two-thirds vote CS for SB 701 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Gersten	Johnston	Scott
Carlucci	Girardeau	Langley	Stuart
Castor	Gordon	Malchon	Thomas
Childers, D.	Grant	McPherson	Thurman
Crawford	Grizzle	Meek	Vogt
Deratany	Hair	Neal	Weinstein
Fox	Hill	Plummer	
Frank	Jennings	Rehm	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Jenne

On motions by Senator Scott, the rules were waived and by two-thirds vote SB 1032 and HCR 296 were withdrawn from the Committee on Rules and Calendar.

On motions by Senator Crawford, the rules were waived and by two-thirds vote HB 1156 was withdrawn from the Committees on Agriculture and Appropriations.

On motion by Senator Crawford—

HB 1156—A bill to be entitled An act relating to plant industry; amending ss. 581.011, 581.031, 581.071, 581.101, 581.141, 581.211, 581.212, and 586.09, F.S., updating and clarifying terminology; modifying powers and duties of the Department of Agriculture with respect to regulation of nurseries and nursery stock; modifying provisions relating to quarantine and prohibiting certain acts relative thereto; renaming the "Nursery Inspection Fee Fund" and the "Nursery Inspection Trust Fund" as the "Plant Industry Trust Fund"; providing penalties; providing an effective date.

—a companion measure, was substituted for SB 202 and read the second time by title. On motion by Senator Crawford, by two-thirds vote HB 1156 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Gersten	Johnston	Plummer
Carlucci	Girardeau	Kirkpatrick	Rehm
Childers, D.	Gordon	Langley	Scott
Childers, W. D.	Grant	Malchon	Stuart
Crawford	Grizzle	Margolis	Thomas
Deratany	Hill	McPherson	Thurman
Dunn	Jenne	Myers	Vogt
Fox	Jennings	Neal	Weinstein

Nays—None

Vote after roll call:

Yea—Hair

SB 202 was laid on the table.

On motion by Senator Vogt, 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 receded from House Amendment 3; has amended Senate Amendments 1 and 2 to House Amendment 1 and amended Senate Amendment 1 to House Amendment 4, concurred in same as amended and passed SB 214, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

SB 214—A bill to be entitled An act relating to workers' compensation, amending s. 440.15, F.S.; providing a maximum weekly benefit; making employers responsible for supplemental permanent total benefits in certain cases; creating s. 440.515, F.S.; providing for confidentiality of certain records; repealing s. 440.45(4), F.S., relating to salaries of deputy commissioners; providing an effective date.

Amendment 1 to Senate Amendment 1 to House Amendment 1—On page 1, strike lines 12-20 and insert:

Section 4. Subsection (4) of section 440.45, Florida Statutes, is amended to read:

440.45 Deputy commissioners; Chief Commissioner.—

(4) *Effective July 1, 1984,* each full-time deputy commissioner shall receive a salary *in the amount equal to that which was paid for the position of deputy commissioner on October 1, 1983. Thereafter, if the salaries of employees within senior management service are increased at any time, the base salary for each full-time deputy commissioner shall be increased by the same percentage as that granted said employees* ~~of $4,000 less per year than that paid to a full-time district court of appeal 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 that paid to a full-time deputy commissioner. *These salaries shall be paid out of the fund established in s. 440.50.*

Amendment 2 to Senate Amendment 1 to House Amendment 1—On page 1, strike lines 12-20 and insert:

Section 4. Subsection (7) is added to section 440.39, Florida Statutes, to read:

440.39 Compensation for injuries where third persons are liable.—

(7) The employee, employer and carrier have a duty to cooperate with each other in investigating and prosecuting claims and potential claims against third-party tortfeasors by producing non-privileged documents and allowing inspection of premises only to the extent necessary for such purpose. Such documents and the results of such inspections shall not be used or disclosed for any other purpose.

Amendment 1 to Senate Amendment 1 to House Amendment 4—On page 1 in the title, strike lines 12 and 13 and insert: records; amending s. 440.45, F.S.; providing for salaries of deputy commissioners; providing

Amendment 2 to Senate Amendment 1 to House Amendment 4—On page 1, in the title, strike lines 12 and 13 and insert: records; amending s. 440.39, F.S.; requiring employees, employers, and carriers to cooperate in claims against third-party tortfeasors; providing

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

SB 214 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER, continued

CS for CS for SB 532—A bill to be entitled An act relating to farm labor; amending s. 450.29, F.S.; limiting exclusions from farm labor registration; creating s. 450.345, F.S.; providing definitions; providing intent regarding exemptions; requiring farm labor contractors, agricultural employers, and agricultural associations to make certain disclosures to migrant or seasonal agricultural workers; requiring maintenance of certain records; prohibiting false information; creating s. 450.375, F.S.; providing private right of action for violations by such contractors, employers, and associations; barring such action under certain circumstances; authorizing appointment of counsel; providing for damage awards; amending s. 450.38, F.S.; providing penalties, administrative fines, and injunctive relief; repealing chapter 77-25, Laws of Florida, deleting the conditional repeal of part III of chapter 450, F.S., relating to farm labor registration; providing an effective date.limitations or other restrictions; providing an examination fee; providing appeal procedures; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote CS for CS for SB 532 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Scott, Stuart

Consideration of HB 191 was deferred.

CS for HB 1196—A bill to be entitled An act relating to the Community Development Corporation Support and Assistance Program; amending s. 290.033, F.S.; revising a definition; amending s. 290.034, F.S.; providing for funding of the trust fund and for payment of administrative costs; amending s. 290.035, F.S.; revising requirements relating to election of board members and to target areas; amending s. 290.036, F.S.; providing limitations on administrative grants; amending s. 290.037, F.S.; providing loan limitations and additional criteria for evaluating proposals; amending s. 290.038, F.S.; providing additional authority of the Department of Community Affairs and requiring an annual report; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote CS for HB 1196 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Consideration of HB 69 was deferred.

HB 149—A bill to be entitled An act relating to public education; amending s. 228.093, F.S., redefining the terms "records" and "reports" to exclude the keeping of students' fingerprints by public educational institutions; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote HB 149 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Frank	Kirkpatrick	Plummer
Beard	Gersten	Langley	Rehm
Carlucci	Girardeau	Malchon	Stuart
Childers, D.	Grant	Mann	Thurman
Childers, W. D.	Grizzle	McPherson	Vogt
Crawford	Hair	Meek	Weinstein
Deratany	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

Vote after roll call:

Yea—Jenne, Scott

On motions by Senator Mann, the rules were waived and by two-thirds vote SB 198 was withdrawn from the Committee on Appropriations and HB 276 was withdrawn from the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

CS for SB 943—A bill to be entitled An act relating to health care coverage for certain retirees under state administered retirement systems; authorizing the Division of Retirement of the Department of Administration to contract with private health insurance carriers or with federal agencies to provide medical coverage to certain retired persons; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote CS for SB 943 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Barron	Fox	Jenne	Myers
Beard	Gersten	Jennings	Rehm
Carlucci	Girardeau	Johnston	Scott
Childers, D.	Gordon	Kirkpatrick	Stuart
Childers, W. D.	Grant	Langley	Thomas
Crawford	Grizzle	Mann	Thurman
Deratany	Hair	Margolis	Weinstein
Dunn	Hill	McPherson	

Nays—1

Neal

HB 1262—A bill to be entitled An act relating to water resources; providing legislative intent; transferring to the Northwest Florida Water Management District the authority of the Dead Lakes Water Management District to apply for permits for destruction of the Dead Lakes dam structure; requiring removal of said dam; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 1262 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Jenne, Scott

CS for SB 448—A bill to be entitled An act relating to ultralight vehicles and operators; creating s. 330.42, F.S.; defining the term "ultralight;" providing for the registration of ultralight pilots and instructors; providing for the registration of ultralights; providing operational conditions for ultralights; providing for future review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote CS for SB 448 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Kirkpatrick	Rehm
Barron	Gersten	Malchon	Scott
Beard	Girardeau	Mann	Stuart
Carlucci	Grant	McPherson	Thomas
Childers, D.	Grizzle	Meek	Vogt
Childers, W. D.	Hair	Myers	Weinstein
Dunn	Jennings	Neal	
Fox	Johnston	Plummer	

Nays—4

Crawford	Deratany	Langley	Thurman

Vote after roll call:

Yea—Jenne

On motion by Senator Barron, the Senate recessed at 12:00 noon 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—39:

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

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 786 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Hargrett—

HB 786—A bill to be entitled An act relating to the Florida Housing Finance Agency Act; creating s. 420.5095, F.S.; providing for allocation of single-family mortgage revenue bonds, mortgage credit certificates, and similar instruments; imposing certain requirements on local housing finance authorities; creating a small issuers pool; providing an effective date.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives requests the return of HB 786.

Allen Morris, Clerk

On motion by Senator Stuart, HB 786 was returned to the House as requested.

The Honorable Curtis Peterson, President

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

CS for SB 192—A bill to be entitled An act relating to the Department of Corrections; amending ss. 944.09, 944.17, 944.19, 945.04, 945.25, F.S.; requiring adoption of rules; providing duties of the department; providing for recordkeeping; providing for cooperative agreements; providing for commitments, classifications, and transfers; providing for job training and placement programs; providing for seal; providing for use of inmate labor; requiring the department to maintain certain information; repealing ss. 944.13, 944.15, 944.16, 944.18, 944.25, 944.551, 944.57, 945.031, 945.081, 945.09, 945.21, 945.26, 946.001, F.S., relating to supervision of offenders, annual report, receiving of prisoners, information transmitted

to the department, registry of prisoners, vocational programs, seal, inmate labor, classification rules, classification and commitment of prisoners, confidentiality, register of institutional violations, and duties with respect to parolees and probationers; amending s. 947.01, F.S.; providing that membership of the Parole and Probation Commission will not be reduced to seven members until 1987; amending s. 948.01, F.S.; providing that only circuit courts may place defendants on probation under the supervision of the department; amending s. 948.03, F.S.; providing terms and conditions of probation or community control; amending s. 951.02, F.S.; providing for collection of data on local detention facilities; amending s. 921.231, F.S.; providing for presentence investigation reports in misdemeanor cases; deleting certain specific requirements for the format of presentence investigation reports; amending ss. 921.001, 944.291, F.S.; providing that a prisoner who is released before the end of his sentence by reason of gain-time allowances shall remain under the supervision and control of the department; providing an exception; amending s. 944.30, F.S.; requiring the Parole and Probation Commission to review the sentence of certain prisoners for the purpose of recommending a commutation of sentence to the Board of Pardons; providing for the release of such prisoners subject to certain conditions; prescribing those prisoners eligible for release; amending s. 940.03, F.S.; requiring the commission to provide the Board of Pardons with certain information when it recommends a sentence be commuted; providing severability; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 8-17, strike everything after line 1 and insert:

(13) The department shall evaluate current job training programs and perform follow-up investigations and studies to determine the effectiveness of these programs. Job histories of each offender enrolled in the program shall be maintained, tracing the offender's employment after leaving prison for a period of at least 2 years.

(14) The department may apply for and receive gifts, grants, and other payments, including property and services, from any governmental or other public or private entity or person to effect the purposes of the manpower programs provided in this chapter.

Section 4. Section 944.331, Florida Statutes, is created to read:

944.331 Inmate grievance procedure.—The department shall establish by rule an inmate grievance procedure which shall conform to the Minimum Standards for Inmate Grievance Procedures as promulgated by the United States Department of Justice pursuant to 42 U.S.C. s. 1997e.

Section 5. Within 90 days after s. 944.331, F.S., becomes law, the department shall apply to the United States Department of Justice for certification of its grievance procedure. If such certification is denied, the department shall make the necessary corrections and shall immediately reapply for certification.

Section 6. Section 944.35, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 944.35, F.S., for present text.)

944.35 Authorized use of force; malicious battery prohibited; reporting required; penalties.—

(1) Any employee of the department is authorized to apply physical force to the person of an inmate only when and to the extent that it reasonably appears necessary:

(a) To defend himself or another against such other imminent use of unlawful force;

(b) To prevent the escape from a state correctional institution of a person whom the officer reasonably believes to be lawfully detained in such institution;

(c) To prevent damage to property;

(d) To quell a disturbance;

(e) To overcome physical resistance to a lawful command; or

(f) To administer medical treatment only by or under the supervision of a physician or his designee, and only:

1. When treatment is necessary to protect the health of other persons, as in the case of contagious or venereal diseases; or

2. When treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death.

(2) Following any use of force, a physician shall examine any person physically involved to determine the extent of injury, if any. The physician shall prepare a report documenting the facts and reasons upon which his finding was based. Such report shall be completed within 5 working days of the incident and shall be submitted to the superintendent for appropriate investigation.

(3) Any employee of the department who, with malice aforethought, commits a battery to the person of an inmate shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any employee of the department who inflicts cruel or inhuman treatment by neglect or otherwise to the person of an inmate shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Career Service Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

(4) Each employee who applies physical force to the person of an inmate or who was responsible for making the decision to apply physical force to the person of an inmate pursuant to subsection (1) shall prepare, date, and sign an independent report within 5 working days of the incident. The report shall be delivered to the superintendent, who shall have an investigation made and shall approve or disapprove the force used. The employee's report, together with the superintendent's written approval or disapproval of the force used and his reasons therefor, shall be forwarded within 5 working days of the date of the completion of the investigation to the regional director. The regional director shall, in writing, concur in the superintendent's evaluation or disapprove it. Copies of the employee's report, the superintendent's evaluation, and the regional director's review shall be kept in the files of both the inmate and the employee.

(5) Each employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused pursuant to subsection (3) shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the superintendent of the institution. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this statute has occurred, the respective state attorney in the circuit in which the institution is located shall be notified.

(6) Any employee required to report pursuant to this section who knowingly and willfully fails to do so, or who knowingly or willfully prevents another person from doing so, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with regards to reports required in subsections (4) and (5) shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding an incident where force was used, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) The Criminal Justice Standards and Training Commission shall include as part of the correctional officer training program as provided in s. 943.14 a course specifically designed to explain the parameters of this section and to teach the proper methods and techniques in applying authorized physical force to the person of an inmate.

Section 7. Section 944.36, Florida Statutes, is amended to read:

944.36 ~~Cruel treatment of prisoners;~~ Permitting *inmates* ~~prisoners~~ to escape.—Any agent, employee, or officer of the department~~, or guard,~~ having supervision over state *inmates* ~~prisoners~~ being worked under the provisions of law, who ~~shall be guilty of any cruel or inhuman treatment~~

~~to any prisoner by neglect or otherwise, or shall~~ willfully ~~or negligently~~ *permits* ~~permit~~ any prisoner to escape, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 8. Subsections (2) and (3) of section 944.516, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and a new subsection (2) is added to said section to read:

944.516 Money or other property received for personal use or benefit of inmate; deposit; disposition of unclaimed trust funds.—The Department of Corrections shall protect the financial interest of the state with respect to claims which the state may have against inmates in state institutions under its supervision and control and shall administer money and other property received for the personal benefit of such inmates. In carrying out the provisions of this section, the department may delegate any of its enumerated powers and duties affecting inmates of an institution to the superintendent or regional director who shall personally, or through designated employees of his personal staff under his direct supervision, exercise such powers or perform such duties.

(2) The department shall require documentation through an accounting of receipts for expenditures by inmates placed on extended limits of confinement pursuant to s. 945.091. However, the department may allow such inmates an amount up to $25 per week which may not require documentation and which may be used for discretionary needs. The $25 per week may be increased by $5 biennially beginning in FY 1985-86 up to a total of $50.

Section 9. Section 945.04, Florida Statutes, is amended to read:

945.04 Department of Corrections; general function.—

(1) The Department of Corrections shall be responsible for the inmates and for the operation of, and shall have supervisory and protective care, custody, and control of, all buildings, grounds, property of, and matters connected with, the correctional system.

(2) The Department of Corrections may adopt an official seal to be used for the purpose of authenticating its official documents and such other purposes as the department prescribes.

(3) The Department of Corrections shall maximize the use of inmate labor in the construction of inmate housing and the conduct of all maintenance projects so that such activities provide work opportunities for the optimum number of inmates in the most cost-effective manner.

Section 10. Subsections (7) and (8) are added to section 945.091, Florida Statutes, to read:

945.091 Extend the limits of confinement; restitution by employed inmates.—

(7) The department shall document and account for all forms for disciplinary reports for inmates placed on extended limits of confinement, which shall include, but not be limited to, all violations of rules of conduct, the rule or rules violated, the nature of punishment administered, the authority ordering such punishment, and the duration of time during which the inmate was subjected to confinement.

(8)(a) The department is authorized to levy fines only through disciplinary reports and only against inmates placed on extended limits of confinement. Major and minor infractions and their respective punishments for inmates placed on extended limits of confinement shall be defined by the rules of the department, provided that any fines shall not exceed $50 for each infraction deemed to be minor and $100 for each infraction deemed to be major. Such fines shall be deposited in the Inmate Welfare Trust Fund and a receipt shall be given to the inmate.

(b) When the chief correctional officer determines that a fine would be an appropriate punishment for a violation of the rules of the department, both the determination of guilt and the amount of the fine shall be determined by the disciplinary committee pursuant to the method prescribed in s. 944.28(2)(c).

(c) The department shall develop rules defining the policies and procedures for the administering of such fines.

Section 11. Paragraphs (a) and (b) of subsection (1) of section 945.215, Florida Statutes, are amended to read:

945.215 Inmate Welfare and Employee Benefit Trust Funds.—

(1)(a) All moneys ~~now~~ held in any auxiliary, canteen, welfare, ~~donated,~~ or similar fund in any state institution under the jurisdiction of the Department of Corrections shall be deposited in the Inmate Welfare Trust Fund of the department, which fund is created in the State Treasury, or in a place which the department shall designate. The money in this fund is hereby appropriated for the benefit, education, and general welfare of inmates of any state institution under the jurisdiction of the department, including but not limited to the establishment of, maintenance of, employment of personnel for, and the purchase of items for resale at canteens or vending machines maintained at state institutions and for the establishment of, maintenance of, employment of personnel for, and necessary expenses in connection with the operation of hobby shops, recreational facilities, or other like facilities or programs at the institutions under the jurisdiction of the department.

(b) There shall be deposited in the Inmate Welfare Trust Fund all net proceeds from the operation of canteens, vending machines, hobby shops, and other such facilities and any moneys which may be assigned *by the inmates or donated* to the department by *the general public or an inmate service organization* ~~inmates or others~~ for deposit in said fund. *However, the department shall refuse to accept any donations from or on behalf of any individual inmate.* The moneys of said fund shall constitute a trust held by the department for the benefit and welfare of the inmates of the institutions under the jurisdiction of the department.

Section 12. Subsection (1) of section 946.002, Florida Statutes, 1983 (former section 944.29, Florida Statutes, 1981), is amended to read:

946.002 Requirement of labor; compensation; amount; crediting of account of prisoner; forfeiture; civil rights; prisoner not employee or entitled to compensation insurance benefits.—

(1) The department shall require of every able-bodied prisoner imprisoned in any institution as many hours of faithful labor in each day and every day during his term of imprisonment as shall be prescribed by the rules ~~and regulations~~ of the department. *Every able-bodied prisoner classified as medium or minimum custody who does not satisfactorily participate in any institutional work, academic, or vocational programs shall be required to perform work for such political subdivisions of the state as might have entered into agreement with the department pursuant to s. 946.40.*

Section 13. Section 946.40, Florida Statutes, 1983 (former section 945.11, Florida Statutes, 1981), as amended by chapter 83-175, Laws of Florida, is amended to read:

946.40 Use of prisoners in public works.—

(1) The department *shall* ~~is authorized to~~ enter into agreements with such political subdivisions in the state including municipalities, as defined by s. 1.01(9), and with such agencies and institutions of the state, and with such nonprofit corporations as might use the services of inmates of correctional institutions and camps when it is determined by the department that such services will not be detrimental to the welfare of such inmates or the interests of the state in a program of rehabilitation. Agreements for use of *fewer than 10* minimum ~~and medium~~ custody inmates may provide that supervision will be either by the department or by the political subdivision, institution, nonprofit corporation, or agency using the inmates. The department is authorized to adopt rules governing work and supervision of inmates used in public works projects which shall include, but not be limited to, the proper screening and supervision of said inmates. *Such* inmates may be used for these purposes without being accompanied by a correctional officer provided the political subdivision, municipality or agency of the state or such nonprofit corporation provides proper supervision pursuant to the rules of the Department of Corrections.

(2) The budget of the department may be reimbursed from the budget of any ~~political subdivision of the state, as defined by s. 1.01(9),~~ state agency, or state institution for the services of inmates and personnel of the department in such amounts as may be determined by agreement between the department and the head of such ~~political subdivision,~~ agency, or institution. *However, no political subdivision of the state shall be required to reimburse the department for such services. The department shall not be required to provide supervision for minimum custody inmates unless there is adequate notice of the need for the services of at least 10 such inmates.*

(3) No person convicted of sexual battery pursuant to s. 794.011 or any other sex offense specified in s. 917.012(1)(a) shall be eligible for any program under the provisions of this section unless under guard.

(4) All courts created by Art. V of the State Constitution shall assess $3 as an additional court cost against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance. In addition, $3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be forwarded to the Treasurer as hereinafter described. However, no such assessment shall be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles. All such costs collected by such courts shall be collected and remitted to the Department of Revenue, in accordance with administrative rules promulgated by the Executive Director of the Department of Revenue, for deposit in the State Treasury, and shall be earmarked to the Inmate Work Trust Fund. All funds earmarked to the Inmate Work Trust Fund shall be disbursed to the Department of Corrections only for the express purpose of carrying out the provisions of this section.

Section 14. Subsection (1) of section 947.01, Florida Statutes, is amended to read:

947.01 Parole and Probation Commission; creation; number of members.—

(1)(a) A Parole and Probation Commission is created to consist of nine members who are residents of the state.

(b) Effective July 1, *1987* ~~1985~~, the membership of the commission shall be reduced to seven members.

Section 15. Subsections (3), (5) and (8) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(3) If it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and the welfare of society do not require that the defendant presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt; and, in either case, it shall stay and withhold the imposition of sentence upon such defendant and shall place him upon probation ~~under the supervision and control of the department for the duration of such probation. The department shall thereupon and thereafter, during the continuance of such probation, have the supervision and control of the defendant.~~ However, no defendant placed on probation for a misdemeanor may be placed under the supervision of the department unless the *circuit court was the court of original jurisdiction and the circuit* court affirmatively and specifically orders such supervision after finding that supervision in the community is necessary to provide adequate protection to the community or to assist in the rehabilitation of the offender, or both.

(5) The sanctions imposed by order of the court shall be commensurate with the seriousness of the offense. When *community control* ~~supervision~~ or a program of public service is ordered by the court, the duration of *community control* ~~such~~ supervision or *public service* ~~program~~ may not be longer than the sentence that could have been imposed if the offender had been committed for the offense or a period not to exceed 2 years, whichever is less. When restitution or public service is ordered by the court, the amount of restitution or public service may not be greater than an amount which the offender could reasonably be expected to pay or perform. An offender who participates in any work program under the provisions of this chapter will be considered an employee of the state for purposes of liability, unless otherwise provided by law.

(8) Whenever punishment by imprisonment for a misdemeanor or a felony, except for a capital felony, is prescribed, the court, in its discretion, may, at the time of sentencing, *impose a split sentence whereby* ~~direct~~ the defendant *is* to be placed on probation or, with respect to any such felony, into community control upon completion of any specified period of such sentence *which may include a term of . . . years or less.* In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant and direct that the defendant be placed upon probation or into community control after serving such period as may be imposed by the court. The period of probation *or community control* shall commence immediately upon the release of the defendant from incarceration, whether by parole or gain-time allowances.

Section 16. Subsection (4) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation or community control.—

(4) The enumeration of specific kinds of terms and conditions shall not prevent the court from adding thereto such other or others as it considers proper. The court may rescind or modify at any time ~~of~~ the terms and conditions theretofore imposed by the court upon the probationer or offender in community control. *However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of probation or community control, the period shall not exceed 364 days and incarceration shall be restricted to either a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, or a community residential facility owned or operated by the Salvation Army or any other private entity providing such services.*

(5)(a) If the court imposes a period of residential treatment or incarceration as a condition of probation or community control, the residential treatment or incarceration shall be restricted to the following facilities:

1. A Department of Corrections probation and restitution center;

2. A community residential facility which is owned and operated by any public or private entity, excluding community correctional centers as defined in s. 944.026; or

3. A county-owned facility.

(b) It is the intent of the Legislature that a county jail be used as the last available alternative for placement of an offender as a condition of probation. However, this shall not create a right of placement for the probationer nor shall it restrict judicial discretion in ordering such treatment or incarceration.

(c) Prior to admission to such a facility, the court shall obtain an individual assessment and recommendation on the appropriate treatment needs pursuant to the Community Control Implementation Manual which shall be considered by the court in ordering such placements. Placement in such a facility or center shall not exceed 364 days. Early termination of placement shall be recommended to the court, when appropriate, by the facility or center supervisor. The Department of Corrections is authorized to contract with appropriate agencies for provision of services.

Section 17. Section 951.02, Florida Statutes, is amended to read:

951.02 Duty of prison inspectors for state prisoners.—Prison inspectors for state prisoners shall inspect and supervise all county ~~prison camps~~ and municipal detention facilities under the direction of the Department of Corrections. *The facility shall provide and the Department of Corrections shall collect data on prisoners confined in the facilities pursuant to 951.23.* The prison inspectors shall make written reports to the Secretary of Corrections and shall send duplicate copies of said reports to the board of county commissioners of the county ~~or~~ *and to* the city commissioners of the municipality *where the detention facility is* located ~~in which said prisoners so inspected were sentenced~~, which reports shall at all times be open to public inspection.

Section 18. Subsections (2), (3), (4), and (5) of section 951.23, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, subsection (6) is renumbered and amended, and a new subsection (2) is added to said section, to read:

951.23 County and municipal detention facilities; definitions.—

(2) COLLECTION OF INFORMATION ON PRISONERS.—

(a) The Department of Corrections, in conjunction with the Bureau of Criminal Justice Assistance of the Department of Community Affairs and the administrators of county detention facilities, shall develop an instrument for the collection of information from the administrator of each county detention facility. Such information shall include, but not be limited to:

1. The number of offenders housed in the detention facility during each month who are sentenced for felonies.

2. The number of offenders housed in the detention facility during each month who are sentenced for misdemeanors.

3. The number of offenders housed in the detention facility during each month who are awaiting trial on felony charges.

4. The number of offenders housed in the detention facility during each month who are awaiting trial on misdemeanor charges.

5. The number of offenders housed in the detention facility during each month who are convicted of felonies or misdemeanors and who are awaiting sentencing.

6. The number of persons housed in the detention facility during each month who are determined to be undocumented aliens.

7. The number of persons housed in the detention facility during each month pursuant to part I of chapter 394, "The Florida Mental Health Act."

8. The number of persons housed in the detention facility during each month pursuant to chapter 396, the "Comprehensive Alcoholism Prevention, Control, and Treatment Act."

9. The number of juvenile offenders housed in the detention facility during each month.

10. The number of parole violators housed in the detention facility during each month pursuant to the provisions of s. 947.22.

11. The number of persons transferred during each month from a state facility to a county detention facility for criminal, insanity, or incompetency proceedings.

12. The average cost per day for housing an inmate in a county detention facility.

(b) The information shall be reported by the administrator of the detention facility on a monthly basis to the Department of Corrections which shall record such information. Such record of the information shall be transmitted by the department to the Bureau of Criminal Justice Assistance for analysis and evaluation. Such analysis shall include, but not be limited to, the characteristics of those persons housed in the various categories, comparisons of costs in housing offenders in the various detention facilities, and comparisons of numbers of offenders in the various categories in each detention facility.

(c) Such collection and analysis shall be for the purpose of technical assistance and calculation of a funding formula for state reimbursement for operational, renovation, or construction costs for county detention facilities.

(d) A report of the analysis of the collected data for each reporting period shall be forwarded by the Bureau of Criminal Justice Assistance to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(7)~~(6)~~ ASSISTANCE TO LOCAL GOVERNMENT.—Upon the request of a sheriff, or the chairman of the board of county commissioners in a county in which the chief corrections officer is not a constitutional officer, the Department of Corrections may provide technical assistance to local governments in the design and implementation of offender classification systems, evaluation of construction and financing alternatives, *and* the development of community service programs~~, and the use of mutual aid programs in jail sharing efforts~~.

Section 19. Section 958.021, Florida Statutes, is amended to read:

958.021 Legislative intent.—The purpose of this act is to improve the chances of correction and successful return to the community of youthful offenders sentenced to imprisonment by *providing them with vocational, educational, counseling, or public service opportunities and* by preventing their association with older and more experienced criminals during the terms of their confinement. *It is the further purpose of this act to encourage citizen volunteers from the community to contribute time, skills, and maturity toward helping youthful offenders successfully reintegrate into the community and to encourage youthful offenders to participate in substance abuse counseling at each youthful offender* institution. It is the further intent of the Legislature to provide an additional sentencing alternative to be used in the discretion of the court when dealing with offenders who have demonstrated that they can no longer be handled safely as juveniles and who require more substantial limitations upon their liberty to ensure the protection of society.

Section 20. Section 958.03, Florida Statutes, is amended to read:

958.03 Definitions.—As used in this act:

(1) "Department" means the Department of Corrections.

(2) *"Community control" means a form of intensive supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of the offender is restricted within the community, home, or noninstitutional residential placement, and specific sanctions are imposed and enforced.* ~~"Community control program" means an individualized program of restriction or noninstitutional confinement for youthful offenders placed in the community in lieu of commitment to the custody of the department and for youthful offenders subsequent to release from the custody of the department as provided by law.~~

(3) "Court" means the judge who designates a defendant as a youthful offender or such judge's successor in office.

(4) "Probation" means a form of community supervision requiring specified contracts with parole and probation officers and other terms and conditions as provided in s. 948.03.

(5) "Youthful offender" means any person who is sentenced as such by the court pursuant to s. 958.04 or is classified as such by the department.

Section 21. Section 958.04, Florida Statutes, is amended to read:

958.04 *Judicial disposition of* ~~Eligibility for~~ youthful *offenders* ~~offender classification~~.—

(1) The court may *sentence* ~~classify~~ as a youthful offender any person:

(a) Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to chapter 39;

(b) Who is found guilty of or who has tendered, and the court has accepted, a plea of nolo contendere or guilty to a crime which is, under the laws of this state, a felony ~~of the first, second, or third degree~~ if such crime was committed before the defendant's 21st birthday; and

(c) Who has not previously been classified as a youthful offender under the provisions of this act; however, no person who has been found guilty of a capital or life felony may be *sentenced* ~~classified~~ as a youthful offender under this act.

(2) In lieu of other criminal penalties authorized by law and notwithstanding any imposition of consecutive sentences, the court shall dispose of the criminal case as follows:

(a) The court may place a youthful offender under supervision on probation or in a community control program, with or without an adjudication of guilt, under such conditions as the court may lawfully impose for a period of not more than 6 years. Such period of supervision shall not exceed the maximum sentence for the offense for which the youthful offender was found guilty.

(b) The court may impose a period of incarceration as a condition of probation or community control which period of incarceration shall be served in either a county facility, a department probation and restitution center, or a community residential facility, which is owned and operated by any public or private entity providing such services. No youthful offender may be required to serve a period of incarceration in a community correctional center as defined in s. 944.026. Admission to a department facility or center shall be contingent upon the availability of bed space and shall take into account the purpose and function of such facility or center. Placement in such a facility or center shall not exceed 364 days.

(c) The court may impose a split sentence whereby the youthful offender is to be placed on probation or community control upon completion of any specified period of incarceration, provided, however, that if the incarceration period is to be served in a department facility other than a probation and restitution center or community residential facility, such period shall be for not less than 1 year nor more than 4 years. The period of probation or community control shall commence immediately upon the release of the youthful offender from incarceration. The period of incarceration imposed or served and the period of probation or community control, when added together, shall not exceed 6 years.

(d) The court may commit the youthful offender to the custody of the department for a period of not more than 6 years, provided that any such commitment shall not exceed the maximum sentence for the offense for which the youthful offender has been convicted. Successful participation in the youthful offender program may result in a recommendation to the court, by the department, for a modification or early termination of probation, community control, or sentence at any time prior to the scheduled expiration of such term.

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by statewide sentencing guidelines pursuant to s. 921.001, unless clear and convincing reasons are explained in writing by the trial court judge. A sentence imposed outside of such guidelines shall be subject to appeal by the defendant pursuant to s. 924.06.

(4) If the court sentences a person as a youthful offender, the court shall retain jurisdiction for the maximum period of the sentence imposed for the express purpose of modifying, suspending, or terminating the sentence or setting aside the adjudication of guilt as provided in s. 958.06.

~~(2) The following criteria shall be considered in determining whether to classify as a youthful offender a person who meets the requirements of subsection (1):~~

~~(a) The seriousness of the offense to the community and the protection of the community;~~

~~(b) Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;~~

~~(c) Whether the offense was against persons or property;~~

~~(d) The sophistication and maturity of the defendant, as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living;~~

~~3. Prior violations of law; and~~

~~4. Prior commitments to institutions;~~

~~(f) The likelihood of reasonable rehabilitation of the defendant if he is assigned to youthful offender services and facilities; and~~

~~(g) Whether classification would:~~

~~1. Reflect the seriousness of the offense, promote respect for law, and provide just punishment for the offense; and~~

~~2. Provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.~~

Section 22. Section 958.06, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 958.06, F.S., for present text.)

958.06 Suspension, modification, or termination of sentence or removal of adjudication of guilt by court.—The court, upon recommendation of the department, or upon its own motion, may, after imposition of sentence, suspend, modify, or terminate the further execution of the sentence and may further, upon consideration of the recommendation of the department or upon its own motion, set aside the adjudication of guilt of a youthful offender. The department shall forward to the court all relevant material on the youthful offender's progress while in custody.

Section 23. Section 958.09, Florida Statutes, is amended to read:

958.09 Extension of limits of confinement.—

(1) The department *shall* ~~is authorized to~~ adopt *rules* ~~regulations~~ permitting the extension of the limits of the place of confinement of a youthful offender when there is reasonable cause to believe that he will honor the trust placed in him. The department may authorize a youthful offender, under prescribed conditions and following investigation and approval by the department which shall maintain a written record of such action, to leave the place of his confinement unaccompanied by a custodial agent for a prescribed period of time to:

(a) Visit a designated place or places for the purpose of visiting a dying relative, attending the funeral of a relative, or arranging for employment or for a suitable residence for use when released, to otherwise aid in the correction of the youthful offender, or for another compelling reason consistent with the public interest, and return to the same or another institution or facility designated by the department; or

(b) Work at paid employment, participate in an educational or a training program, or voluntarily serve a public or nonprofit agency or a public service program in the community; provided, that the youthful offender shall be confined except during the hours of his employment, education, training, or service and while traveling thereto and therefrom.

(2) The department *shall* ~~may~~ adopt rules as to the eligibility of youthful offenders for such extension of confinement, the disbursement of any earnings of youthful offenders, or the entering into of agreements between the department and any municipal, county, or federal agency for the housing of youthful offenders in a local place of confinement. However, no youthful offender convicted of sexual battery pursuant to s. 794.011 or any other sex offense specified in s. 917.012(1) shall be eligible for any extension of the limits of confinement under this section unless he has successfully completed a program of treatment pursuant to s. 917.012.

(3) The willful failure of a youthful offender to remain within the extended limits of confinement or to return within the time prescribed to the place of confinement designated by the department is an escape from the custody of the department and a felony of the third degree, punishable as provided by s. 775.082.

(4) The department may contract with other public and private agencies for the confinement or community supervision of youthful offenders when consistent with the youthful offender's welfare and the interest of society.

(5) The department shall document and account for all forms for disciplinary reports for inmates placed on extended limits of confinement, which shall include, but not be limited to, all violations of rules of conduct, the rule or rules violated, the nature of punishment administered, the authority ordering such punishment, and the duration of time during which the inmate was subjected to confinement.

(6)(a) The department is authorized to levy fines only through disciplinary reports and only against inmates placed on extended limits of confinement. Major and minor infractions and their respective punishments for inmates placed on extended limits of confinement shall be defined by the rules of the department, provided that any fines shall not exceed $50 for each infraction deemed to be minor and $100 for each infraction deemed to be major. Such fines shall be deposited in the Inmate Welfare Trust Fund and a receipt shall be given to the inmate.

(b) When the chief correctional officer determines that a fine would be an appropriate punishment for a violation of the rules of the department, both the determination of guilt and the amount of the fine shall be determined by the disciplinary committee pursuant to the method prescribed in s. 944.28(2)(c).

(c) The department shall develop rules defining the policies and procedures for the administering of such fines.

Section 24. Section 958.091, Florida Statutes, is created to read:

958.091 Classification as youthful offender by department.—

(1) The department shall classify and assign as a youthful offender any person who has been sentenced by the court as a youthful offender pursuant to s. 958.04 and whose total length of sentence does not exceed 6 years.

(2) The department may classify and assign as a youthful offender any inmate who meets the eligibility requirements specified in s. 958.04(1)(a) and (c), whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years.

(3) The department shall not classify and assign as a youthful offender any person who has been convicted of a capital felony.

(4) The department shall designate youthful offender classification specialists to classify and assign all male youthful offenders either sentenced by the court as such pursuant to s. 958.04 or who are initially classified by the department as such pursuant to this section.

(5) The Youthful Offender Program Office shall continuously screen all institutions and programs for persons who meet the eligibility requirements for youthful offender classification and may recommend any such inmate for transfer into a youthful offender institution or program.

Section 25. Section 958.11, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 958.11, F.S., for present text.)

958.11 Designation of institutions and programs for youthful offenders; assignment to other facilities.—

(1) The department shall by rule designate separate institutions and programs for youthful offenders and shall employ and utilize personnel specially qualified by training and experience to operate all such institutions and programs for youthful offenders.

(2) Youthful offender institutions and programs shall contain only youthful offenders either sentenced as such by the court pursuant to s. 958.04 and whose total length of sentence does not exceed 6 years, or classified as such by the department pursuant to s. 958.091. Female youthful offenders may continue to be housed at Florida Correctional Institution and Broward Correctional Institution until such time as a female youthful offender institution is established or adopted to accommodate all custody classifications.

(3) The department shall designate separate areas of certain institutions for the housing of young adults 21 years of age or less whose lengths of sentence to incarceration exceed the 10-year requirement for classification as a youthful offender. The department shall separate such offenders insofar as practical from the adult inmate population and shall identify and provide such programs and work assignments as necessary for their safety and well-being. The department may provide for the assignment of such offenders to adult housing areas for the same circumstances enumerated in subsection (4).

(4) The department may provide for the assignment of a youthful offender to a facility in the state correctional system which is not designated for the care, custody, control, and supervision of youthful offenders in the following circumstances:

(a) If the youthful offender is convicted of a new crime which is a felony under the laws of this state;

(b) If the youthful offender becomes such a serious management or disciplinary problem resulting from serious violations of the rules of the department as to render his assignment to the youthful offender program detrimental to the interests of the program and to other inmates committed thereto;

(c) If the youthful offender needs medical treatment, health services, or other specialized treatment otherwise not available at the youthful offender facility;

(d) If the department determines that the youthful offender should be transferred outside of the state correctional system, as provided by law, for services not provided by the department; or

(e) If bed space is not available in a designated community facility, the department may assign a youthful offender to a community residential facility, provided that the youthful offender is separated from other offenders.

(5) The Population Movement and Control Coordinator shall coordinate all youthful offender assignments or transfers and shall consult with the Youthful Offender Program Office and the Adult Services Program Office. The Youthful Offender Program Office shall review and maintain access to full and complete documentation and substantiation of all such assignments or transfers of youthful offenders to or from facilities in the state correctional system which are not designated for their care, custody, and control, except assignments or transfers made pursuant to paragraph (4)(c).

Section 26. Section 958.12, Florida Statutes, is amended to read:

958.12 Participation in certain activities required.—A youthful offender may be required to participate in *work assignments,* vocational, *academic, or counseling programs,* ~~educational, correctional,~~ or public service ~~training or~~ activities, *or may be required to secure a G.E.D. certificate.* Income derived by a youthful offender from participation in such ~~training or~~ activities may be used, in part, to defray a portion of the costs of his incarceration or supervision, to satisfy preexisting obligations, *to pay fines, counsel fees, or costs lawfully imposed,* or to pay restitution to the victim of the crime for which the youthful offender has been convicted in an amount determined by the sentencing court. *Any such income not used for such reasons or not used as provided in s. 958.09 or s. 946.11 shall be placed in a trust fund for use by the youthful offender upon his release.* ~~The court may recommend placement of the youthful offender in a community residential facility as a condition of supervision, subject to budgetary limitations and the availability of bed space.~~

Section 27. Section 958.14, Florida Statutes, is amended to read:

958.14 Violation of *probation or* community control program.—A violation or alleged violation of *probation or* the terms of a community control program shall subject the youthful offender to the provisions of s. *948.06(1); provided that no youthful offender shall be committed to the custody of the department for such violation for a period longer than 6 years or for a period longer than the maximum sentence for the offense for which he was found guilty, whichever is less, with credit for time served while incarcerated.*

Section 28. The intent of the Legislature in the amendment to s. 921.001(8), Florida Statutes, pursuant to chapter 83-87, Laws of Florida, was to exempt from the provisions of chapter 947, Florida Statutes, every person convicted of crimes committed on or after October 1, 1983, or any other person sentenced pursuant to sentencing guidelines, including persons sentenced under the provisions of chapter 958, Florida Statutes.

Section 29. Notwithstanding any previous classification by the Department of Corrections of an inmate as a youthful offender, the department shall have 2 years from the effective date of this act to reassign to non-youthful offender institutions those inmates whose original age at the time of sentencing exceeded 24 years and whose original sentence exceeded 10 years.

Section 30. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 31. Sections 944.13, 944.15, 944.16, 944.18, 944.25, 944.34, 944.551, 944.57, 945.031, 945.081, 945.09, 945.21, 945.26, 946.001, 958.05, 958.10, Florida Statutes, are hereby repealed.

Section 32. This act shall take effect October 1, 1984.

Amendment 2—On page 1 in title, lines 3-31 and on page 2, lines 1-24 strike all of said lines and insert: Corrections; amending s. 944.09, 944.17, 944.19, F.S.; requiring adoption of rules; providing duties of department; providing for recordkeeping; providing for cooperative agreements; providing for commitments, classifications and transfers; providing for job training and placement programs; creating s. 944.331, F.S.; requiring adoption by rule of an inmate grievance procedure; requiring compliance with standards of the United States Department of Justice; requiring application for certification of such procedure; amending s. 944.35 and 944.36, F.S.; substantially revising provisions relating to the use of force against inmates by employees of the department; providing criminal penalties for battery or cruel or inhuman treatment against inmates; requiring reports of use of such force; requiring employees to report instances of unlawful abuse; providing penalties; deleting criminal liability for negligence in permitting prisoners to escape; requiring certain training; repealing s. 944.34, F.S.; amending s. 944.516, F.S., requiring the Department of Corrections to document certain expenditures of inmates placed on extended limits of confinement; amending s. 945.04; providing for seal; providing for use of inmate labor; amending s. 945.091, F.S., requiring documentation of disciplinary reports relating to such inmates; authorizing fines against such inmates; amending s. 945.215, F.S., restricting donations to the Inmate Welfare Trust Fund; amending s. 946.002 and 946.40, F.S., requiring certain inmates to work for political subdivisions; requiring the department to use prisoners in public works; providing that political subdivisions need not reimburse the department for such services; requiring supervision of certain inmates providing an additional cost in criminal cases for deposit in an Inmate Work Trust Fund created to fund the act; amending s. 947.01, F.S.; providing the year in which membership of the Parole Commission is reduced; amending s. 948.01, F.S.; providing that circuit courts shall place defendants on probation under the supervision of the department; requiring immediate commencement of probation or community control following incarceration under certain circumstances; amending s. 948.03, F.S.; providing terms and conditions of probation or community control; amending s. 951.02, F.S.; providing for collection of data on local detention facilities; amending s. 958.021, F.S.; providing legislative intent; amending s. 958.03, F.S.; providing definitions; amending s. 958.04, F.S., authorizing the court to designate certain persons as youthful offenders; changing the categories of persons who may be so designated; providing for judicial disposition of youthful offenders; providing circumstances for early termination of probation, community control, or sentence; amending s. 958.06, F.S., expanding the period in which a court may suspend a sen-

tence and place the defendant in a community control program; authorizing the court to set aside adjudication of guilt; amending s. 958.09, F.S., requiring the Department of Corrections to adopt rules; adding subsections (3) and (4) to section 958.09, F.S., extending limits of confinement; creating s. 958.091, F.S., providing for the classification of certain persons as youthful offenders by the department; amending s. 958.11, F.S., restricting youthful offender programs and facilities to eligible youthful offenders; authorizing the assignment of certain youthful offenders to institutions not designated for their care and supervision; amending s. 958.12, F.S., expanding the activities in which a youthful offender may be required to participate; amending s. 958.14, F.S., relating to violations of probation or community control; authorizing the Department of Corrections to reassign certain inmates to non-youthful offender institutions; providing for severability; repealing s. 958.05, F.S., relating to judicial disposition of youthful offenders; repealing s. 958.10, F.S., relating to the term of confinement in the community control program for youthful offenders; providing severability; repealing ss. 944.13, 944.15, 944.16, 944.18, 944.25, 944.34, 944.551, 944.57, 945.031, 945.081, 945.09, 945.21, 945.26, 946.001, 958.05, 958.10, Florida Statutes, are hereby repealed; providing an effective date.

Senator Hair moved the following amendments which were adopted:

Amendment 1 to House Amendment 1—On page 12, strike all of lines 1-19

Amendment 1 to House Amendment 2—In title, on page 2, strike all of lines 7-9

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

CS for SB 192 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Scott

The Honorable Curtis Peterson, President

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

CS for SB 860—A bill to be entitled An act relating to land and water management; amending s. 380.06, F.S.; authorizing developers to submit an areawide development plan for review; providing definitions; providing for powers and duties of the state land planning agency; providing for powers and duties of local governments; providing for powers and duties of regional planning agencies; providing for the property owner's consent and for withdrawal of consent; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 5, line 18, after the word "consent" insert: *or do not object*

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

CS for SB 860 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Dunn	Jennings	Plummer
Beard	Fox	Kirkpatrick	Rehm
Carlucci	Frank	Langley	Scott
Castor	Girardeau	Margolis	Stuart
Childers, D.	Gordon	McPherson	Thurman
Childers, W. D.	Grant	Meek	Vogt
Crawford	Hair	Myers	Weinstein
Deratany	Henderson	Neal	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

The bill was ordered engrossed and then enrolled.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Johnston, the rules were waived and by two-thirds vote CS for SB 900, SB 982, HB 120 and SB 506 were withdrawn from the Committee on Appropriations.

SPECIAL ORDER, continued

CS for SB 231—A bill to be entitled An act relating to midwifery; reviving and readopting, notwithstanding the Regulatory Sunset Act, ch. 467, F.S.; amending ss. 467.003, 467.004, 467.007, 467.008, 467.205, 467.209, F.S.; changing the name of an advisory committee; adding a pediatrician and a lay midwife to the advisory council; increasing license fees; requiring successful completion of an examination for licensure; limiting the number of schools of lay midwifery; providing a savings clause; providing for future repeal and legislative review; providing an effective date.

—was taken up with pending Amendment 1.

Senator Dunn presiding

Senators Vogt and Frank offered the following amendment to Amendment 1 which was moved by Senator Vogt and adopted:

Amendment 1A—On page 1, line 16, after "babies" insert: *and the health, safety and welfare of their mothers in the delivery process.*

Amendment 1 as amended was adopted. The vote was:

Yeas—24

Carlucci	Gersten	Hill	Rehm
Childers, W. D.	Girardeau	Jenne	Stuart
Crawford	Grant	Jennings	Thomas
Deratany	Grizzle	Langley	Thurman
Dunn	Hair	McPherson	Vogt
Frank	Henderson	Myers	Weinstein

Nays—7

Childers, D.	Gordon	Mann	Meek
Fox	Malchon	Margolis	

Senators Crawford, Frank, Henderson, Stuart and Myers offered the following amendment which was moved by Senator Crawford:

Amendment 2—On page 1, line 18, strike everything after the enacting clause and insert:

Section 1. Section 467.002, Florida Statutes, is amended to read:

467.002 Legislative intent.—The Legislature recognizes the need for *the safe and effective delivery of newborn babies* ~~parents' freedom of choice in the manner of, cost of, and setting for their children's births~~. The Legislature finds that the interests of public health require the regulation of the practice of midwifery in this state for the purpose of protecting the health and welfare of mothers and infants ~~and for the purpose of making this practice safe and available to those who can anticipate safe deliveries~~. Therefore, it is unlawful for any person to practice midwifery in this state unless such person is licensed pursuant to the provisions of *s. 464.012 or held a valid license as a lay midwife pursuant to* this chapter *as of October 1, 1984.*

Section 2. Subsection (3) of section 467.003, Florida Statutes, is amended to read:

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

(3) *"Council"* ~~"Committee"~~ means the Advisory *Council* ~~Committee~~ of Lay Midwifery.

Section 3. Section 467.004, Florida Statutes, is amended to read:

467.004 Advisory *Council* ~~Committee~~ of Lay Midwifery.—

(1) The Advisory *Council* ~~Committee~~ of Lay Midwifery is created within the Department of Health and Rehabilitative Services and shall consist of *seven* ~~five~~ members to be appointed by the secretary.

(2) One member of the *council* ~~committee~~ shall be a certified nurse midwife. One member of the *council* ~~committee~~ shall be a physician who is an obstetrician certified or eligible for certification by the American Board of Obstetrics and Gynecology or a family physician currently practicing obstetrics. *One member of the council shall be a physician who is a pediatrician certified or eligible for certification by the American Board of Pediatrics. Three* ~~Two~~ members of the *council* ~~committee~~ shall be licensed lay midwives. The remaining member shall be a resident of this state who has never been licensed as a lay midwife and who has no financial interest in the practice of midwifery or in any health care facility, agency, or insurer.

(3) Within 30 days after becoming law, the secretary shall appoint *seven* ~~five~~ eligible and qualified persons to be members of the *council* ~~committee~~ as follows:

(a) One member shall be appointed for a term of 2 years;

(b) *Three* ~~Two~~ members shall be appointed for terms of 3 years; and

(c) *Three* ~~Two~~ members shall be appointed for terms of 4 years.

(4) As the term of each member expires, the secretary shall appoint his successor for a term of 4 years; and a member shall serve until his successor is appointed.

(5) Members *of the council* shall receive no compensation *nor* ~~but~~ shall *they* be reimbursed for per diem *or* ~~and~~ travel expenses ~~in accordance with the provisions of s. 112.061~~.

Section 4. Paragraph (b) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his specialty:

(b) The nurse midwife may, to the extent authorized by established protocol approved by the medical staff of the health care facility in which midwifery services are performed, *or approved by the nurse midwife's physician backup if the delivery is performed in a patient's home,* perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform post partum examination.

5. Order appropriate medications.

6. Provide family-planning services.

7. Manage the medical care of the normal obstetrical patient.

Section 5. Subsection (1) of section 467.209, Florida Statutes, is amended to read:

467.209 Saving clauses.—

(1) No judicial or administrative proceeding pending on *October 1, 1984* ~~July 1, 1982~~, shall be abated as a result of the repeal and reenactment of this chapter.

Section 6. Section 467.2095, Florida Statutes, is created to read:

467.2095 Requirements to practice midwifery.—After October 1, 1984, any person who seeks to practice midwifery in this state shall be licensed pursuant to s. 464.012. However, a midwife who, on the effective date of this act, holds a valid license issued pursuant to this chapter may continue to practice midwifery pursuant to ss. 467.012-467.203.

Section 7. Notwithstanding the provisions of the Regulatory Sunset Act, chapter 467, Florida Statutes, shall not stand repealed on October 1, 1984 as scheduled by such act, but such chapter, as amended, is hereby revived and readopted except that ss. 467.007, 467.008, 467.009, 467.011, and 467.205, Florida Statutes, shall stand repealed on October 1, 1984, as scheduled by such act.

Section 8. Chapter 467, Florida Statutes, is repealed on October 1, 1994 and shall be reviewed pursuant to sections 11.61 and 11.611, Florida Statutes.

Section 9. This act shall take effect October 1, 1984.

Further consideration of CS for SB 231 was deferred.

The hour of 3:00 p.m. having arrived, the Senate proceeded to consideration of—

LOCAL CALENDAR

SB 513—A bill to be entitled An act relating to Monroe County; amending s. 47 of chapter 76-441, Laws of Florida; providing that certain sums due from the Florida Keys Aqueduct Authority to the Department of Transportation for increasing the size of the water transport pipeline shall be paid in 10 equal annual installments; providing an effective date.

—was read the second time by title.

Senator Plummer moved the following amendments which were adopted:

Amendment 1—On page 2, strike lines 1 and 2 and insert:

Section 2. Subsection (1) of Section 4 of Chapter 76-441, Laws of Florida, as amended by Chapters 80-546, and 83-468, Laws of Florida, is amended to read:

Section 4. Board of directors; organizations; qualifications; term of office; quorum; annual meeting, report, and minutes.—

(1)(a) Until December 31, 1984, the board of directors of the Florida Keys Aqueduct Authority shall consist of the members of the governing board of the South Florida Water Management District which is authorized and empowered to exercise those powers granted to the Florida Keys Aqueduct Authority. The provisions of ss. 373.196-373.1962, Florida Statutes, shall not limit the exercise of the powers granted hereunder. Within 30 days after the act becomes a law, the Governor shall appoint a resident of Monroe County to serve as a voting member of the Florida Keys Aqueduct Authority board of directors, subject to all rights, privileges, duties and responsibilities of other board members. Such member shall be in addition to the nine regular members of the board of directors. The board shall elect one of its members as chairman and shall choose some suitable person as secretary-treasurer, who may or may not be a member of the board, and who may be required to execute a bond for the faithful performance of his duties as the board may determine. A majority of the members of the board shall constitute a quorum. No vacancy in the board shall impair the right of a quorum to exercise all the rights and perform all of the duties of the board. All members of the board shall be required to be bonded. Beginning December 31, 1984, the board of directors of the Florida Keys Aqueduct Authority shall be as prescribed in paragraphs (b) *and (c).*

(b) The board of directors of the Florida Keys Aqueduct Authority shall be the governing body of the authority and shall, subject to the provisions of this act, exercise the powers granted to the authority under this act. *Beginning* ~~After~~ December 31, 1984, the board of directors shall consist of *nine members: four members of the South Florida Water Management District, appointed by the Governor as transition members of the governing body of the authority, and* five *regular* members who shall each represent one of five districts which shall be coterminous with the districts of the Board of County Commissioners of Monroe County. Each *regular* member of the board of directors shall be a registered elector within Monroe County and shall have been a resident of the district for 6 months prior to the date of his appointment. The *regular members*

~~directors~~ shall be appointed by the Governor for terms of 4 years each *and the transition members shall be appointed by the Governor for terms of one and one-half years each*, except that any appointment to fill a vacancy shall be for the unexpired portion of the term. Of the *regular* members of the board of directors who assume office on December 31, 1984, two shall be appointed for a term of 2 years each and three shall be appointed for a term of 4 years each. The board shall elect *any* one of its members as chairman and shall also elect *any* one of its members as secretary-treasurer. A majority of the members of the board shall constitute a quorum. No vacancy in the board shall impair the right of a quorum to exercise all the rights and perform all of the duties of the board. All members of the board shall be required to be bonded. Any vacancy occurring on the board shall be filled by appointment by the Governor for the duration of the unexpired term. *The four transition members shall be voting members of the board, subject to all rights, privileges, duties and responsibilities of board membership.*

(c) Beginning July 1, 1986, the board of directors shall consist solely of the five regular members appointed by the Governor as provided in paragraph (b) of this subsection.

Section 3. This act shall take effect upon becoming a law, except that section 2 of this act shall take effect only upon its approval by a majority vote of those qualified electors of Monroe County voting in a referendum to be held by the Board of County Commissioners of Monroe County in conjunction with the first primary election on September 4, 1984, in accordance with the provisions of law relating to elections currently in force in Monroe County.

Amendment 2—In title, on page 1, line 8, after "installments;" insert: amending subsection (1) of section 4 of chapter 76-441, Laws of Florida, as amended, to provide for a one and one-half year transition of the governance of the Florida Keys Aqueduct Authority from governance by the governing board of the South Florida Water Management District and one Monroe County resident, to a local board consisting of five members; providing for a transition board consisting of nine members: five regular members, all residents of Monroe County appointed by the Governor, and four transition members appointed by the Governor from the governing board of the South Florida Water Management District; providing for the transfer of operation to a local board after June 30, 1986, (rather than after December 31, 1984, without a transition period); providing for a referendum;

On motion by Senator Plummer, 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—25

Carlucci	Frank	Langley	Scott
Childers, D.	Girardeau	Malchon	Stuart
Childers, W. D.	Grant	Mann	Thurman
Crawford	Grizzle	Meek	Vogt
Deratany	Hair	Myers	
Dunn	Henderson	Plummer	
Fox	Jennings	Rehm	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

HB 548—A bill to be entitled An act relating to Manatee County; providing for the inclusion of certain unincorporated land in Manatee County into the Whitfield Fire Control District; providing for jurisdiction; providing for a board of fire commissioners; providing for the appointment of commissioners; providing for the authority to levy special assessments; providing for the deposit of collected funds; providing for the use of funds; providing for the borrowing power of the district; providing for the authority and power to acquire certain property; providing for the duties of the board of commissioners; providing for the authority to employ qualified personnel; providing for financial reporting; providing for limitations on actions; providing for the existence of the district; providing definitions; providing for a schedule of special assessments; providing for impact fees; repealing chapter 67-914, Laws of Florida, as amended, relating to the former Whitfield Fire Control District; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 7, lines 26-31, and on page 8, lines 1-9, strike all of said lines and renumber subsequent sections.

Amendment 2—In title, on page 1, line 17, strike "providing for limitations on actions;"

On motion by Senator Crawford, by two-thirds vote HB 548 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Consideration of SB 583 was deferred.

HB 674—A bill to be entitled An act creating the Palmetto Fire Control District in Palmetto and certain areas in Manatee County; creating a board and providing for powers and duties of said board; providing for levy and collection of assessments; providing for collection of facilities investment fees; providing a time limit on claims; repealing chapter 63-1580, Laws of Florida; providing for merger of prior district into said district; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 10, strike all of lines 8-22 and renumber subsequent sections.

Amendment 2—In title, on page 1, lines 8 and 9, strike "providing a time limit on claims;"

On motion by Senator Crawford, by two-thirds vote HB 674 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 676—A bill to be entitled An act relating to Anna Maria Island Fire Control District, Manatee County; codifying and amending chapter 27696, Laws of Florida, 1951, as amended; providing for the continued existence of said district as a public municipal corporation; specifying the lands embraced in said district; providing the powers of said district and its officers and for the exercise and administration of the district's powers by a board of commissioners; specifying the qualifications and method of appointment of the commissioners and their financial reporting obligations; providing for the levy, collection and enforcement of special assessments against lands in said district to raise funds for the district's purposes; providing for the levy of 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; authorizing the district to borrow money and pledge future assessments as security; providing limitations on claims, demands and suits against said district; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 8, lines 19-31, and on page 9, lines 1 and 2, strike all of said lines and renumber subsequent sections.

Amendment 2—In title, on page 1, lines 23-25, strike "providing limitations on claims, demands and suits against said district;"

On motion by Senator Crawford, by two-thirds vote HB 676 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 682—A bill to be entitled An act relating to Manatee County; providing for the inclusion of certain unincorporated land in Manatee County into the Oneco-Tallevast Fire Control District; providing for a board of fire commissioners; providing for the appointment of commissioners; providing for the authority to levy special assessments and charges; providing for the deposit of collected funds; providing for the use of funds; providing for the borrowing power of the district; providing for the authority and power to acquire certain property; providing for the duties of the board of commissioners; providing for the authority to employ qualified personnel; providing for financial reporting; providing for limitations on actions; providing for the existence of the district; providing definitions; providing a schedule of special assessments; providing for impact fees; repealing chapters 57-1545, 59-1533, 65-1893, 67-1684, 69-1282, 75-432, 79-508, 83-460 and 83-461, Laws of Florida, relating to the former Oneco-Tallevast Fire Control District; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 4, line 31, strike "section 16" and insert: section 15

Amendment 2—On page 9, strike all of lines 13-27 and renumber subsequent sections.

Amendment 3—In title, on page 1, line 17, strike "providing for limitations on actions;"

On motion by Senator Crawford, by two-thirds vote HB 682 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 908—A bill to be entitled An act relating to Citrus County; providing criteria for special alcoholic beverage licenses for restaurants; preserving the renewal of existing licenses; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 908 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 926—A bill to be entitled An act relating to the Cedar Hammock Fire Control District, Manatee County; providing for powers and duties of the board of fire commissioners; providing for levy and collection of assessments; providing for collection of impact fees; providing a time limit on claims; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 8, strike all of lines 15-29 and renumber subsequent sections.

Amendment 2—In title, on page 1, lines 7 and 8, strike "providing a time limit on claims;"

On motion by Senator Crawford, by two-thirds vote HB 926 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 927—A bill to be entitled An act relating to the West Side Fire Control District, Manatee County; providing for powers and duties of the board of fire commissioners; providing for levy and collection of assessments; providing a time limit on claims; providing for collection of impact fees for new facilities; providing for a penalty and providing for injunctive relief; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 4, line 6, strike "section 16" and insert: section 15

Amendment 2—On page 7, lines 25-31, and on page 8, lines 1-9, strike all of said lines and renumber subsequent sections.

Amendment 3—On page 12, strike all of lines 28 and 29 and insert: (4) The district may obtain an injunction or other legal or

Amendment 4—In title, on page 1, line 6, strike "providing a time limit on claims;"

On motion by Senator Crawford, by two-thirds vote HB 927 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Childers, W. D.	Frank	Grant
Beard	Deratany	Gersten	Grizzle
Carlucci	Dunn	Girardeau	Hair
Childers, D.	Fox	Gordon	Henderson

Hill	Mann	Neal	Thomas
Jenne	Margolis	Plummer	Thurman
Jennings	McPherson	Rehm	Vogt
Langley	Meek	Scott	Weinstein
Malchon	Myers	Stuart	

Nays—None

HB 945—A bill to be entitled An act relating to the Samoset Fire Control District in Manatee County; providing for powers and duties of the board of fire commissioners; providing for levy and collection of assessments; providing for collection of impact fees; providing a time limit on claims; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 4, line 8, strike "section 16" and insert: section 15

Amendment 2—On page 8, lines 22-31, and on page 9, lines 1-5, strike all of said lines and renumber subsequent sections.

Amendment 3—In title, on page 1, lines 7 and 8, strike "providing a time limit on claims;"

On motion by Senator Crawford, by two-thirds vote HB 945 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 980—A bill to be entitled An act relating to Dixie, Gilchrist, and Levy counties; creating and establishing the Tri-County Hospital Authority; stating the purpose of the act; stating that the boundaries of the authority shall be the boundaries of Dixie, Gilchrist, and Levy counties; creating the governing body and providing for composition thereof and appointment thereto; providing that authority assets and properties constitute public property exempt from any taxes and assessments where authority for such exemption is provided by general law; providing powers of the authority, including the power to acquire property, real and personal, and to issue notes and bonds; providing for the preparation of an annual report, including a complete operating and financial statement; providing for the authority to be entitled to a lien for all reasonable charges; providing construction and severability; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 980 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 1084—A bill to be entitled An act relating to Ritta Drainage District, Palm Beach and Hendry Counties; amending section 7 of chapter 22882, Laws of Florida, 1945, as amended, amending the district maintenance tax cap; amending section 5 of chapter 76-461, Laws of Florida, increasing the maximum amount which the district may pay as interest on borrowed money; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 1084 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 1107—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 ad valorem taxes 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; providing for a referendum; providing for reimbursement to the Santa Rosa County Supervisor of Elections for actual costs for conducting such elections.

—was read the second time by title.

Senator Thomas moved the following amendments which were adopted:

Amendment 1—On page 6, lines 16-31, and on page 7, lines 1-27, strike all of said lines and insert:

Section 5. (1) The Santa Rosa County Commission shall have the right, power and authority to levy ad valorem tax millage against the taxable real estate within the district to provide funds for the purposes of the district.

(2) The rate of taxation shall be fixed by a resolution of the County Commission as provided in this subsection; however, 1 mill is the maximum amount of millage that may be levied in any one year. Such millage, when added to the millage of the Santa Rosa County Commission, shall not exceed the maximum millage applicable to the Santa Rosa County Commission.

(3) It is the legislative intent that this act will authorize the Santa Rosa County Property Appraiser and the Santa Rosa County Tax Collector to take all appropriate action to comply with the intent and purpose of this act.

Section 6. (1) The Santa Rosa County Property Appraiser shall furnish the Santa Rosa County Commission a tax roll covering all taxable properties within the district, on or before June 1 of each year, and any property owner in the district shall have the right during the period from June 10 to June 20 of each year to file protests in writing against the proposed assessments, the amount or rate thereof, and to appear before the County Commission in support of such protests. The County Commission shall hold at least one meeting during said period to consider such protests. The notification to the public of such meeting shall be advertised in a newspaper of general paid circulation within the district at least 7 days prior to such meeting, and posted in three public places within the district in conspicuous locations.

(2) The Santa Rosa County Property Appraiser shall include in the Santa Rosa County Tax Roll the assessments made pursuant to this act and the same shall be collected in the manner as provided for by this act, and paid over by the Santa Rosa County Tax Collector to the board.

(3) The Santa Rosa County Property Appraiser shall be reimbursed for assessing such taxes in the manner and amount authorized by general law, and the Santa Rosa County Tax Collector shall receive a commission or fee of 3 percent for collecting such taxes.

Section 7. The taxes levied and assessed under this act shall be a lien upon the land so assessed along with the county taxes assessed against such land until said assessments and taxes have been paid, and if the taxes levied under this act become delinquent, such taxes shall be subject to the same penalties, charges, fees and remedies for enforcement and collection and shall be enforced and collected as provided by general law for the collection of such taxes.

Amendment 2—In title, on page 1, lines 10, 14 and 15, strike "board" and insert: Santa Rosa County Commission

On motion by Senator Thomas, by two-thirds vote HB 1107 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

HB 1276—A bill to be entitled An act relating to the City of Destin in Okaloosa County; providing for the charter of a municipal corporation known as the City of Destin; defining the territorial limits of said city; prescribing the form of government for said city; conferring certain powers upon the municipality and its officers; providing a referendum; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1—On page 4, line 17, after the period (.) insert: That land located within the city limits which has been designated as within the Coastal Barrier Resource Act shall be deemed to have a zero tax basis for purposes of ad valorem taxation until such time as such land is:

a. Removed from the Coastal Barrier Resource Act.

b. Subdivided.

c. Developed for commercial or residential purposes.

On motion by Senator Thomas, by two-thirds vote HB 1276 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Consideration of HB 1279 was deferred.

SPECIAL ORDER, Continued

On motions by Senator Scott, the rules were waived and by two-thirds vote HB 1223 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Scott—

HB 1223—A bill to be entitled An act relating to the judiciary; amending ss. 26.031 and 34.022, F.S., to provide for additional judges in specified circuit and county courts, and providing for their election to office; providing an effective date.

—a companion measure, was substituted for CS for SB 913 and read the second time by title.

Senators Scott and Johnston offered the following amendments which were moved by Senator Scott and adopted:

Amendment 1—On page 1, line 9, strike everything after the enacting clause and insert:

Section 1. Pursuant to Section 7 of Article V of the State Constitution, the Legislature hereby creates a traffic infraction division in county courts.

Section 2. Section 26.57, Florida Statutes, is amended to read:

26.57 Temporary designation of county court *judges* ~~judge to preside over circuit court cases.—~~

(1) In each county where there is no resident circuit judge and the county court judge has been a member of the bar for at least 5 years and is qualified to be a circuit judge, the county court judge may be designated on a temporary basis to preside over circuit court cases by the Chief Justice of the Supreme Court upon recommendation of the chief judge of the circuit, and the judge so designated shall receive the same salary as a duly elected circuit judge for the time periods that the county judge is actually presiding over circuit court cases. He may be assigned to exercise all county and circuit court jurisdiction in the county, except appeals from the county court. In addition, he may be required to perform the duties of circuit judge in other counties of the circuit as his time may permit and as the need arises, as determined by the chief judge of the circuit.

(2) A judge serving as a county court traffic infraction division judge may be assigned on a temporary basis to preside over other county or circuit court cases by the Chief Justice of the Supreme Court upon recommendation of the chief judge of the circuit, provided the judge is otherwise qualified to hear such cases. The judge shall receive the same salary as a duly elected county court judge when presiding over other county court cases, and as a duly elected circuit judge when presiding over circuit court cases.

Section 3. Subsection (4) is added to section 34.01, Florida Statutes, to read:

34.01 Jurisdiction of county court.—

(4) Judges serving as county court traffic infraction division judges shall have jurisdiction to hear and dispose of cases involving traffic infractions.

Section 4. Subsection (1) of section 34.021, Florida Statutes, is amended to read:

34.021 Qualifications of county court judges.—

(1) No person shall be eligible for election or appointment to the office of county court judge unless *he is, and has been for the preceding five years,* ~~said person shall be~~ a member in good standing of the bar of Florida prior to qualifying for election to said office or submitting his ~~or her~~ name to the appropriate judicial nominating commission for appointment. *However, a person shall be eligible for election or appointment to the office of county court judge in a county having a population of 40,000 or less or the office of county court traffic infraction division judge if he is a member in good standing of the bar of Florida.*

Section 5. Subsection (1) of section 26.012, Florida Statutes, is amended to read:

26.012 Jurisdiction of circuit court.—

(1) Circuit courts shall have jurisdiction of appeals from county courts except appeals of county court orders or judgments declaring invalid a state statute or a provision of the State Constitution *and except orders or judgments of a county court which are certified by the county court to the district court of appeal to be of great public importance and which are accepted by the district court of appeal for review.* Circuit courts shall have jurisdiction of appeals from final administrative orders of local government code enforcement boards.

Section 6. Section 34.195, Florida Statutes, is created to read:

34.195 Certification to district court of appeal.—

(1) County courts are permitted to certify questions to the district court of appeal in a final judgment if the question may have statewide application, and:

(a) Is of great public importance; or

(b) Will affect the uniform administration of justice.

(2) In the final judgment, the trial court shall:

(a) Make findings of fact and conclusions of law; and

(b) State concisely the question to be certified.

(3) The decision to certify the question to the district court of appeal shall be within the sole discretion of the county court.

(4) The district court of appeal shall have absolute discretion as to whether to answer a question certified by the county court.

(a) If the district court agrees to answer the certified question, it shall decide all appealable issues that have been raised from the final judgment.

(b) If the district court declines to answer the certified question, the case shall be transferred to the circuit court which has appellate jurisdiction.

Section 7. Section 924.08, Florida Statutes, is amended to read:

924.08 Courts of appeal.—

(1) The district courts of appeal may review any order or judgment of a county court which is certified by the county court to be of great public importance.

(2) Appeals from final judgments in misdemeanor cases tried by county courts shall be to the circuit court.

Section 8. There is hereby created, on July 1, 1984, the Study Commission on Alternative Dispute Resolution.

(1) The commission shall be composed of nine members, consisting of:

(a) Two members to be appointed by the President of the Senate.

(b) Two members to be appointed by the Speaker of the House of Representatives.

(c) Two members of the judiciary to be appointed by the Chief Justice of the Supreme Court.

(d) Three private attorneys who are members in good standing of The Florida Bar to be appointed by the President of The Florida Bar.

(2) Within 30 days after the appointment of the membership, the commission shall meet to select a chairman from among those members appointed by the President of The Florida Bar, and to establish procedures for the conduct of the business of the commission.

(3) The commission shall study the feasibility of trial court administered alternative means for dispute resolution, and determine whether legislation and court rules are necessary to implement its recommendations and shall study and make recommendations for improvements in court administration. Prior to making final recommendations, the commission shall hold at least one public hearing in the state to take testimony regarding the need for trial court administered means for dispute resolution.

(4) The commission shall submit a final report to the Chief Justice of the Florida Supreme Court, to the President of the Senate, and to the Speaker of the House of Representatives no later than March 1, 1985. The report shall include the findings and recommendations of the commission, and drafts of appropriate legislation and court rules.

(5) The Office of the State Courts Administrator shall act as staff for the commission and provide all necessary data collection, analysis, and research and support services.

(6) Members of the commission shall serve without compensation but shall be entitled to be reimbursed for per diem and travel expenses as provided for in s. 112.061, Florida Statutes.

(7) The commission shall expire on April 1, 1985.

Section 9. Subsections (2), (8), (10), (15), and (20) of section 26.031, Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges~~, salaries~~.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(2) Second	*9* ~~8~~
(8) Eighth	*9* ~~8~~
(10) Tenth	*14* ~~13~~
(15) Fifteenth	*22* ~~21~~
(20) Twentieth	*12* ~~11~~

Section 10. Subsections (6), (29), (50), (51), and (59) of section 34.022, Florida Statutes, are amended to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(6) Broward	*19* ~~17~~
(29) Hillsborough	*11* ~~10~~
(50) Palm Beach	*11* ~~10~~
(51) Pasco	*3* ~~2~~
(59) Seminole	*4* ~~3~~

Section 11. The circuit court judges and county judges filling new offices created by this act in the Second, Tenth, and Twentieth circuits, and Broward, Hillsborough, Pasco, and Seminole counties shall be elected in the nonpartisan elections in 1984 and shall take office on the first Tuesday after the first Monday in January 1985.

Section 12. This act shall take effect October 1, 1984, except for section 11, which shall be implemented as provided in section 11.

Amendment 2—In title, on page 1, strike lines 2-6 and insert:

An act relating to the judiciary; creating a traffic infraction division in county courts; amending s. 26.57, F.S.; providing for temporary assignment of county court traffic infraction division judges; amending s. 34.01, F.S.; providing jurisdiction of county court traffic infraction division judges; amending s. 34.021, F.S.; providing qualifications of county court and county court traffic infraction judges; amending ss. 26.012 and 924.08, F.S., and creating s. 34.195, F.S.; providing for certain discretionary review of county court decisions by district courts of appeal; creating a Study Commission on Alternative Dispute Resolution; specifying its membership and duties; amending ss. 26.031 and 34.022, F.S.; providing for additional judges in specified circuits and counties; providing for their election; providing an effective date.

On motion by Senator Scott, by two-thirds vote HB 1223 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Frank	Jenne	Rehm
Carlucci	Gersten	Jennings	Scott
Castor	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Crawford	Grizzle	Myers	Weinstein
Deratany	Hair	Neal	
Fox	Henderson	Plummer	

Nays—None

CS for SB 913 was laid on the table.

The Senate resumed consideration of CS for SB 231.

Senator D. Childers moved that further consideration of CS for SB 231 be deferred. The motion failed.

Senator D. Childers moved that the rules be waived and CS for HB 342 be withdrawn from the Committees on Health and Rehabilitative Services and Economic, Community and Consumer Affairs and substituted for CS for SB 231. The motion failed.

On motion by Senator Neal, the rules were waived and by two-thirds vote SB 253 was withdrawn from the Committee on Appropriations.

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

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

CS for SB 929—A bill to be entitled An act relating to probation and community control; amending s. 948.06, F.S.; requiring probationers and offenders who assert inability to pay restitution and cost of supervision to prove inability by clear and convincing evidence; providing procedures and form for judicial hearings on persons arrested for violation of probation or community control; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, after line 13, insert:

Section 1. Subsection (1) of section 945.30, Florida Statutes, is amended and subsection (3) is added to said section to read:

945.30 Payment for cost of supervision and rehabilitation.—

(1) Any person under probation or parole supervision *or under supervision in the pretrial supervision program pursuant to chapter 944*~~, except a person on probation or parole within or without the state under an interstate compact adopted pursuant to chapter 949,~~ shall be required to contribute no less than *$20* ~~$10~~ or more than $50 per month as decided by the sentencing court, *or, with respect to pretrial intervention, as decided by the state attorney,* to a court-approved public or private entity providing him with supervision and rehabilitation. Any failure to pay such contribution *may* ~~shall~~ constitute grounds for the revocation of probation by the court or the revocation of parole by the Parole and Probation Commission *or removal from the pretrial* intervention program by the state attorney. The Department of Corrections may exempt a person from the payment of all of any part of the foregoing contribution if it finds any of the following factors to exist:

(a) The offender has diligently attempted, but been unable, to obtain employment which provides him sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or course of vocational technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the Secretary of Corrections by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the secretary.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.

(f) There are other extenuating circumstances, as determined by the secretary.

(g) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.

(3) As a condition of an interstate compact adopted pursuant to chapter 949, the department shall require out-of-state probationers and parolees transferred to Florida to contribute no less than $20 or more than $50 per month to defray the cost incurred by this state as a result of providing supervision and rehabilitation during the period of supervision.

(Renumber subsequent sections.)

Amendment 2—On page 1 in the title, lines 2-3, strike all of said lines and insert:

An act relating to the Department of Corrections; amending s. 945.30, F.S., and adding a subsection; requiring persons in a pretrial intervention program to contribute toward the cost of their supervision; deleting an exemption for persons on probation or parole pursuant to an interstate compact from paying their cost of supervision and rehabilitation; authorizing an exemption if such persons are transferred outside the state; requiring out-of-state probationers and parolees transferred to Florida pursuant to such compacts to contribute toward such costs; revising minimum costs; amending s. 948.06, F.S.; requiring

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

CS for SB 929 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Beard	Frank	Jennings	Rehm
Carlucci	Gersten	Langley	Scott
Castor	Girardeau	Margolis	Stuart
Childers, D.	Gordon	McPherson	Thomas
Childers, W. D.	Grant	Meek	Thurman
Crawford	Hair	Myers	Vogt
Dunn	Henderson	Neal	Weinstein
Fox	Hill	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House Amendments 1 and 2 and passed CS for SB 716, as amended; and has concurred in Senate amendments to House amendments and passed CS for SB 192, as amended.

Allen Morris, Clerk

The bills contained in the foregoing message were 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 153—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; redefining the term "military service"; amending s. 121.111, F.S.; specifying the procedure for claiming credit for military service; providing for the purchase of military leaves of absence; specifying when service granted and used under certain federal pension systems may be claimed under the Florida Retirement System; amending s. 121.091, F.S.; providing that a retired member who elects to receive benefits as a joint annuitant may change his designation of the other joint annuitant only twice; deleting the requirement that a replacement joint annuitant may be selected under the survivorship options only when the previous joint annuitant is alive; providing for the recalculation of benefits upon redesignation of a joint annuitant; providing a limitation; creating s. 121.1121, F.S.; authorizing elected state officers whose terms have been or may be shortened by reapportionment to pay into the system trust fund the amount of contributions that would have been made on their behalf, plus interest, after the term of office to which elected is completed and to receive service credit therefor; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 2-6, strike everything after the enacting clause and insert:

Section 1. Subsections (4) and (5) of section 112.64, Florida Statutes, are amended to read:

112.64 Administration of funds; amortization of unfunded liability.—

(4) The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, *changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses* shall be amortized within 30 plan years.

(5) If the amortization schedule for unfunded liability is to be based on a contribution derived in whole or in part from a percentage of the payroll of the system or plan membership, the assumption as to payroll growth shall not exceed the average payroll growth for the 3 years prior to the *latest actuarial valuation of the system or plan* ~~development of the amortization schedule~~ unless a transfer, merger, or consolidation of government functions or services occurs, in which case the assumptions for payroll growth may be adjusted and may be based on the membership of the retirement plan or system subsequent to such transfer, merger, or consolidation.

Section 2. Subsections (12), (20), and (24) of section 121.021, Florida Statutes, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(12) "Member" means any officer or employee who is covered or who becomes covered under this system in accordance with this chapter. On and after December 1, 1970, all new members and those members transferring from existing systems shall be divided into *the following* ~~two~~ classes: "Special Risk *Class," as provided in s. 121.0515(2); "Special Risk Administrative Support Class," as provided in s. 121.0515(7); "Elected State Officers' Class," as provided in s. 121.052; and the "Regular Class," which shall consist of all members who are not in the Special Risk Class, Special Risk Administrative Support Class, or the Elected State Officers' Class* ~~members" (special risk officers or employees) and "regular members" (other than special risk officers or employees)~~.

(20) "Military service" of any member means:

(a) Service in the Armed Forces of the United States under the conditions set forth in s. 121.111(1); or

(b) Actual "wartime service" in the Armed Forces of the United States, as defined by the Veterans Administration, or "wartime service" in the Allied Forces, not to exceed 4 years, if credit for such service has not been granted under any other federal or state system, and provided such service is not used in any other retirement system*; provided further, that nothing contained in this paragraph shall prohibit the use of such service as creditable service if granted and used in a pension system under chapter 67 of Title 10 of the United States Code*~~, as provided in s. 121.111~~.

(24) "Average final compensation" means the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death. However, if requested by the member, "average final compensation" means the 5 best years of the member's total years of creditable service prior to retirement, termination, or death. For disability benefits, "average final compensation" means the average annual compensation of the total number of years of creditable service, not to exceed 5 if less than 10 years of creditable service have been completed. However, a member of the Legislature may use the average of the 5 years of highest compensation out of the last 10 years of creditable service prior to becoming a member of the Legislature. Each year used in the calculation of average final compensation shall commence on an annual calendar anniversary of the date of determination of such average final compensation. The payment for accumulated sick leave, *accumulated annual leave in excess of 500 hours, and bonuses,* whether paid as salary or otherwise, shall not be used in the calculation of the average final compensation.

Section 3. Subsection (3) of section 121.031, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

121.031 Administration of system; appropriation; oaths; actuarial studies.—

(3) The administrator shall cause an actuarial study of the system to be made at least once every 2 ~~3~~ years and shall report the results of such study to the next session of the Legislature following completion of the study. *Such study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:*

(a) The valuation of plan assets shall be based on a 5-year averaging methodology such as that specified in the United States Department of Treasury Regulations, Title 26 CFR 1.412(c)(2), or a similar accepted approach designed to attenuate fluctuations in asset values.

(b) The study shall include a narrative explaining the changes in the covered group over the period between actuarial valuations and the impacts of those changes on actuarial results.

(c) Where substantial changes in actuarial assumptions have been made, the study shall reflect the results of an actuarial assumption as of the current date based on the assumptions utilized in the prior acturial report.

(d) The study shall include an analysis of the changes in actuarial valuation results by the factors generating those changes. Such analysis shall reconcile the current actuarial valuation results with those results from the prior valuation.

(e) The study shall include measures of funding status and funding progress designed to facilitate the assessment of trends over several actuarial evaluations with respect to the overall solvency of the system. Such measures shall be adopted by the division and shall be used consistently in all actuarial evaluations performed on the system.

(4) Notwithstanding the provisions of s. 112.64(4) to the contrary, the net increase, if any, in unfunded liability under the system arising from significant system amendments adopted or changes in assumptions shall be amortized within 30 plan years, and the net increase, if any, in unfunded liability arising from experience losses or gains, or supplemental retiree benefit increases, shall be amortized within 15 plan years.

Section 4. Paragraphs (a) and (c) of subsection (2) of section 121.0515, Florida Statutes, are amended to read:

121.0515 Special risk membership; criteria; designation and removal of classification; credits for past service and prior service; retention of special risk normal retirement date.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) The member must be employed as a law enforcement officer and be certified, *or required to be certified,* in compliance with s. 943.14~~, or be on temporary waiver as provided by s. 943.14 until certified~~; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(c) The member must be employed as a correctional officer and be *certified, or required to be certified, in compliance with s. 943.14. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities;* provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, superintendents and assistant superintendents shall participate in the special risk class.

Section 5. Paragraph (c) of subsection (1), and paragraphs (a), (b), (d), (e), and (g) of subsection (4), of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of certain elected state officers.—

(1)

(c)1. Any legislator elected to office after July 1, 1980, ~~who is a participant, or is intending to participate, in any plan qualified under Subchapter D, Chapter 1, Subtitle A of the Internal Revenue Code of 1954, as~~

~~amended and in effect on January 1, 1979,~~ shall have the option of participating in the Elected State Officers' Class of the Florida Retirement System or not participating in the Florida Retirement System in any manner. Any legislator so elected shall have a period of 6 months, commencing with the date of election, to notify the administrator, in writing, of his desire to withdraw from the Elected State Officers' Class; unless and until such time as such legislator makes timely withdrawal herein, he shall be a participant in the Elected State Officers' Class.

2. Any legislator elected to office on or before July 1, 1980, who is a member of the Florida Retirement System shall remain in the system ~~unless such legislator is a participant, or is intending to participate, in any plan qualified under Subchapter D, Chapter 1, Subtitle A of the Internal Revenue Code of 1954, as amended and in effect on January 1, 1979, and~~ unless, prior to January 1, 1981, such legislator indicates to the administrator his desire to withdraw from participation in any class of the Florida Retirement System.

3. Upon receipt of a request from a legislator to withdraw from participation or upon the election of the legislator to withdraw from the Florida Retirement System pursuant to subparagraph 1., the administrator shall refund all moneys contributed by the legislator to the system during his period of participation in the system, unless the legislator has a vested right under the Florida Retirement System, in which case the member shall not receive a refund of contributions.

4. Any legislator elected or reelected to office after July 1, 1980, who has withdrawn from the Florida Retirement System pursuant to this paragraph shall be permitted to rejoin the Elected State Officers' Class of that system upon written request to the administrator. Credit for prior service, based on the period for which refunds were received pursuant to subparagraph 3., shall be received by legislators who rejoin the system upon payment to the System Trust Fund of an amount equal to the amount of contributions refunded to the legislator pursuant to subparagraph 3. plus 6.5 percent interest, compounded annually. Credit for prior service based on the period during which the legislator had withdrawn from the system, and for which no contributions were made, shall be received by the legislator upon payment to the System Trust Fund of an amount equal to the contribution required under the contribution rate in effect during the period of withdrawal for which credit is being purchased, plus 6.5 percent interest, compounded annually, provided the payment of the total of such amount shall be made by the employer and the member in the relative proportions provided by law for contributions during the period of withdrawal.

(4)(a)1. From and after October 1, 1978, and except as provided in this subsection, the employer paying the salary of a member of the Elected State Officers' Class shall withhold 8 percent of his gross salary, which shall constitute the contribution of that member with respect to retirement and other benefits payable to members of this class, and one-half of the entire contribution of the member required for social security coverage. The employer withholding such contributions shall set aside the funds necessary to pay the matching contributions required pursuant to s. 121.061 and shall contribute an amount equal to 10.57 percent of such member's gross compensation and one-half of the entire contribution with respect to the member's social security coverage.

2. From and after October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a legislator shall contribute an amount equal to 19.3 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member. *From and after October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a legislator shall contribute an amount equal to 11.23 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(b)1. From and after October 1, 1978, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, Cabinet officer, Supreme Court justice, district court of appeal judge, circuit judge, county court judge, state attorney, public service commissioner, or public defender shall contribute an amount equal to 16.78 percent of such member's gross compensation and shall withhold 4 percent of such member's gross compensation, the sum of which shall constitute the entire contribution with respect to such member. The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage. Effective July 1, 1979, any member of the Elected State Officers' Class who is a public service commissioner shall be removed from this class, shall become a regular member on that date, and shall be subject to the contribution provisions of s. 121.071 which pertain to regular members.

2. From and after October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, or Cabinet officer shall contribute an amount equal to 21.03 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member. *From and after October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, or Cabinet officer shall contribute an amount equal to 11.23 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(d) Effective October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a Supreme Court justice, district court of appeal judge, circuit judge, or county court judge shall contribute an amount equal to 22.55 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a Supreme Court justice, district court of appeal judge, circuit judge, or county court judge shall contribute an amount equal to 22.05 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(e) Effective October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a state attorney or public defender shall contribute an amount equal to 20.95 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a state attorney or public defender shall contribute an amount equal to 11.23 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(g) Effective July 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a county elected officer shall contribute an amount equal to 20.25 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a county elected officer shall contribute an amount equal to 17.22 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

Section 6. Subsections (2) and (5) of section 121.071, Florida Statutes, are amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(2) Until January 1, 1975, each employer shall contribute an amount equal to the total of its member contributions, made under subsection (1), each pay period. Effective January 1, 1975, and until October 1, 1978, each employer shall contribute 9 percent of gross compensation each pay period for each of its regular members and 13 percent of gross compensation each pay period for each of its special risk members. Effective October 1, 1978, each employer shall contribute 9.1 percent of gross compensation each pay period for each of its regular members and 13.95 percent of gross compensation each pay period for each of its special risk members. Effective October 1, 1981, each employer shall contribute 10.93 percent of gross compensation each pay period for each of its regular members and 13.91 percent of gross compensation each pay period for each of its special risk members. *Effective October 1, 1984, each employer shall contribute 12.50 percent of gross compensation each pay period for each of its regular members and 14.92 percent of gross compensation each pay period for each of its special risk members.* Effective July 1, 1982, each employer shall contribute 11.14 percent of gross compensation each

pay period for each of its members serving in an administrative support position in a law enforcement, firefighting, or correctional agency whose service meets the qualifications for retention of the special risk normal retirement date pursuant to the provisions of s. 121.0515(7), notwithstanding the requirement of an aggregate of 10 or more years of special risk service. *Effective October 1, 1984, each employer shall contribute 13.34 percent of gross compensation each pay period for each of its members serving in an administrative support position in a law enforcement, firefighting, or correctional agency whose service meets the qualifications for retention of the special risk normal retirement date pursuant to the provisions of s. 121.0515(7), notwithstanding the requirement of an aggregate of 10 or more years of special risk service.*

(5) Contributions made in accordance with subsections (2), (3), and (4) shall be paid by the employer into the system trust funds in accordance with rules promulgated by the administrator pursuant to chapter 120. Such contributions are due and payable no later than the 25th day of the month immediately following the month during which the payroll period ended. The division may by rule establish a different due date, which shall supersede the date specified herein; however, such due date may not be established earlier than the 20th day of the month immediately following the month during which the payroll period ended. Effective January 1, 1984, contributions made in accordance with subsection (4) shall be paid by the employer into the system trust fund in accordance with rules promulgated by the administrator pursuant to chapter 120. For any payroll period ending any day of the month before the 16th day of the month, such contributions are due and payable no later than the 20th day of the month; and, for any payroll periods ending any day of the month after the 15th day of the month, such contributions are due and payable no later than the 5th day of the next month. Contributions received in the offices of the Division of Retirement of the Department of Administration after the prescribed date shall be considered delinquent *unless, in the opinion of the division, exceptional circumstances beyond an employer's control prevented remittance by the prescribed due date notwithstanding such employer's good faith efforts to effect delivery,* and, with respect to retirement contributions due under subsections (2) and (3), each employer shall be assessed a delinquent fee of 1 percent of the contributions due for each calendar month or part thereof that the contributions are delinquent. *The above specified waiver of a deliquency fee by the division may be granted only once per employer per fiscal year.* Delinquent social security contributions shall be assessed a delinquent fee as authorized by s. 650.05(4). *The delinquent fee assessable for an employer's first delinquency after July 1, 1984, shall be as specified in s. 650.05(4), and, beginning with the second delinquency in any fiscal year by the employer subsequent to July 1, 1984, all subsequent delinquency fees shall be assessed against the employer at twice the applicable percentage rate specified in s. 650.05(4).*

Section 7. Notwithstanding the provisions of sections 5 and 6 of this act, it is the intent of the Legislature that, should any other law be enacted which provides for a membership group within the Florida Retirement System a contribution rate change to take effect October 1, 1984, the respective October 1, 1984, contribution rate shall be equal to the contribution rate specified in this act plus the contribution rate change specified in each such other law, and, should any law be enacted which provides for a membership group within the Florida Retirement System a contribution rate change to take effect subsequent to October 1, 1984, the respective contribution rate to be implemented on such effective date shall equal the respective contribution rate in effect on the day before the new contribution rate is to take effect plus the contribution rate change specified in such law. If a contribution rate rather than a contribution rate change is specified in any such other law, the contribution rate change for that law shall equal the difference between the September 30, 1984, contribution rate for the affected membership group and the contribution rate specified in such law.

Section 8. Paragraph (k) is added to subsection (1) of section 121.081, Florida Statutes, to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)*(k) A member may claim and receive past service credit under this system for employment in a Multiple Offender Project funded by a Federal Government grant to a local government not covered by this chapter if the project was implemented by a State Attorney who had the authority for hiring and firing the employees of the project and the member worked under the supervision of the State Attorney or his subordinate. Creditable service shall be granted upon certification by the State Attorney of the preceding conditions and payment by the member or the State Attorney's office of the amount due for the period of employment, based on the contribution rates in effect for regular or special risk members, as appropriate, at the time such service is claimed, plus interest compounded annually each June 30 at the rate of 4 percent until July 1, 1975 and 6.5 percent thereafter. This creditable service shall not be available to any member who receives a benefit from another state or local retirement system which is derived in whole or in part from this same service.*

Section 9. Paragraph (d) of subsection (6) of section 121.091, Florida Statutes, is amended to read:

121.091 Benefits payable under the system.—

(6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND DISABILITY RETIREMENT BENEFITS.—

(d) A member who elects the option in subparagraph 3. or subparagraph 4. of paragraph (a) shall, on a form provided for that purpose, designate his spouse or other dependent to receive the benefits which continue to be payable upon the death of the member. Such person shall be the joint annuitant of the member. ~~If,~~ After benefits have commenced under the option in subparagraph 3. or subparagraph 4., *a retired member may change his designation of a joint annuitant only twice. If such a* ~~the~~ retired member desires to change his designation of a joint annuitant, he ~~may do so only if his first designated joint annuitant is alive and can show evidence of good health which shall be substantiated by a statement from a physician licensed in this state. A member desiring to change his designation of a joint annuitant~~ shall file with the division a notarized "change of joint annuitant" form *and shall notify the former joint annuitant in writing of such change.* Upon receipt of a completed change of joint annuitant form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the *present value of the member's current* benefit ~~to which the member was otherwise entitled under the option in subparagraph 1. of paragraph (a), taking into consideration the benefits that have already been paid at the time the member elects to change his designation of a joint annuitant.~~ The consent of a retired member's first designated joint annuitant to any such change shall not be required.

Section 10. Subsections (5), (6), and (7) of section 121.101, Florida Statutes, are renumbered as sections (6), (7), and (8), respectively, and a new subsection (5) is added to said section, to read:

121.101 Cost-of-living adjustment of benefits.—

(5) The purpose of this subsection is to establish a supplementary cost-of-living adjustment for certain retirees and beneficiaries who receive monthly retirement benefits under the provisions of chapter 121 and the existing systems consolidated therein, section 112.05 for certain state officers and employees, section 238.171 for certain elderly incapacitated teachers, and chapter 291 for confederate war widows.

(a) On October 1, 1984, each such retiree, and each annuitant of such a retiree, who retired prior to January 1, 1976, who, except with respect to those persons receiving benefits pursuant to chapter 291, had 10 years of service or more, who is neither receiving nor eligible to receive social security benefits, and whose monthly benefit as of July 1, 1984, is less than $1,000, shall, upon application to the administrator, receive a supplementary cost-of-living adjustment as provided herein. Such supplementary cost-of-living adjustment shall be applied by adjusting the retiree's or annuitant's monthly benefit to an amount equal to the sum of the monthly benefit being received on October 1, 1984, plus a percentage of the October 1, 1984, benefit, which percentage shall be determined as follows:

1. With respect to members who retired with 30 years of service or more, the percentage shall equal the product resulting from the multiplication of 1 percent by the number of complete years that have elapsed between the member's date of retirement and July 1, 1984.

2. With respect to members who retired with 20 years of service or more, but less than 30 years of service, the percentage shall equal the product resulting from the multiplication of 0.9 percent by the number of complete years that have elapsed between the member's date of retirement and July 1, 1984.

3. With respect to members who retired with 10 years of service or more, but less than 20 years of service, the percentage shall equal the

product resulting from the multiplication of 0.8 percent by the number of complete years that have elapsed between the member's date of retirement and July 1, 1984.

4. With respect to persons who are receiving benefits pursuant to chapter 291, the percentage shall equal the product resulting from the multiplication of 1 percent by the number of complete years that have elapsed between the commencement of benefits to such person and July 1, 1984.

(b) Application for the supplemental cost-of-living adjustment provided by this subsection shall include certification by the retiree or annuitant that he or she is not receiving, and is not eligible to receive, social security benefits and shall include written authorization for the division to have access to information from the Federal Social Security Administration concerning his or her entitlement to, or eligibility for, social security benefits. The supplemental cost-of-living adjustment provided by this subsection shall not be paid unless and until the application requirements of this paragraph are met.

Section 11. 121.111, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 121.111, F.S., for present text.)

121.111 Credit for military service.—

(1) Creditable service of any member shall also include military service as defined in s. 121.021(20)(a) if:

(a) The member is in the active employ of an employer immediately prior to such service and leaves a position (other than a temporary position) for the purpose of induction into the Armed Forces of the United States or entry upon duty in the Armed Forces of the United States;

(b) The member is entitled to reemployment under the provisions of the Veterans' Reemployment Rights Act (38 U.S.C. ss. 2021 et. seq.);

(c) The member applies for reemployment with the same employer within the times set forth in section 2021 or section 2024 of the Veterans' Reemployment Rights Act, whichever is applicable, and is reemployed by such employer;

(d) The member makes the required employee and employer contributions for his membership class for each month of service credit during such period of military service, based upon his rate of monthly compensation as of the date that he left his position, plus 4 percent interest on such contributions compounded annually from the due date of the contribution until July 1, 1975, and 6.5 percent interest compounded annually thereafter until the payment is made to the proper retirement trust fund; and

(e) The period of service claimed pursuant to this subsection does not exceed the periods specified by the provisions of sections 2021 and 2024 of the Veterans' Reemployment Rights Act which are applicable in the member's case.

(2) Any member who has military service as defined in s. 121.021(20)(b) and who does not claim such service under subsection (1) may receive creditable service for such military service under the following conditions:

(a) The member has completed a minimum of 10 years of creditable service of employment;

(b) Creditable service, not to exceed a total of 4 years, including any service claimed under subsection (1), is claimed only as service earned in the regular class of membership; and

1. If the member claims such military service only in the Florida Retirement System, such member pays into the proper retirement trust fund 4 percent of gross salary, based upon his first year of salary subsequent to July 1, 1945, that he has credit for under this system, plus 4 percent interest thereon compounded annually from the date of first creditable service under this chapter until July 1, 1975, and 6.5 percent interest compounded thereafter until payment is made to the proper retirement trust fund; or

2. If the member also claims such military service in a pension system under chapter 67 of Title 10 of the United States Code, such member pays into the proper retirement trust fund an amount equal to the total actuarial cost of providing the additional benefit resulting from such military service credit.

Section 12. Section 121.1121, Florida Statutes, is created to read:

121.1121 Participation in system by any elected state officer whose term has been or may be shortened by legislative or judicial apportionment.—Any duly elected state officer whose term of office has been or may be shortened by legislative or judicial apportionment pursuant to the provisions of s. 16, Art. III of the State Constitution may pay into the system trust fund, after the term of office to which he was elected is completed, the amount of contributions that would have been made by his employer on his behalf, plus 4 percent interest compounded annually until July 1, 1975, and 6.5 percent interest compounded annually thereafter, and may receive service credit for the length of time for which he would have served had such term not been shortened by apportionment.

Section 13. 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.

Section 14. Sections 2 and 3 of chapter 83-115, Laws of Florida, are amended to read:

Section 2. Law enforcement officers; death benefits.—

(1) As used in this section, "law enforcement officer" means a full-time officer or employee of the state, or any political subdivision of the state, including any correctional officer, whose duties require him to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime and including any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices.

(2) If a law enforcement officer, as a consequence of the performance of his duties, is unlawfully and intentionally killed while in the actual performance of his duties, the sum of $50,000 shall be paid as follows:

(a) To the beneficiary designated by the law enforcement officer in a writing signed by him and delivered to his employing agency prior to his death;

(b) To his surviving children and spouse, if any, in equal shares, if no beneficiary is designated by the law enforcement officer pursuant to paragraph (a); or

(c) To his estate, if no beneficiary is designated by the law enforcement officer and there is no surviving child or spouse.

The death benefit shall be in addition to any worker's compensation or pension benefits, and it shall be exempt from the claims and demands of creditors of the law enforcement officer.

(3) If a law enforcement officer is unlawfully and intentionally killed while in the actual performance of his duties, the state shall pay certain educational expenses which a child of the deceased officer incurs in obtaining a vocational-technical certificate or an undergraduate education. The amount paid by the state shall be an amount equal to the cost at a state vocational-technical school as provided in s. 230.645(1), Florida Statutes, if the child attends a vocational-technical school, or the cost at a state community college as provided in s. 240.345(2)(c), Florida Statutes, if the child attends a community college, or the cost for 4 academic years at a state university as provided in s. 240.235(3), Florida Statutes, if the child attends a university. All remaining expenses shall be borne by the deceased officer's child. The provisions of this subsection apply to a child of any law enforcement officer who was killed on or after *July* ~~December~~ 1, 1980, *and the benefits provided under this subsection shall continue to such a child until the child's 25th birthday.*

(4)(a) The employer of such law enforcement officer shall be liable for the payment of said sum and shall be deemed self-insured, unless it procures and maintains, or has already procured and maintains, insurance to secure such payment. Any such insurance may cover only the risks indicated above, in the amount indicated above, or it may cover those risks and additional risks and may be in a larger amount. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier making the lowest and best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section shall be made from existing funds otherwise appropriated for the department.

Section 3. Firefighters; death benefits.—

(1) As used in this section, "firefighter" means a full-time employee of the state, or any political subdivision of the state, who is certified pursuant to s. 633.35, Florida Statutes, and whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of state, county, or municipal fire prevention codes, as well as the enforcement of laws pertaining to the prevention and control of fires, who is a member of a duly constituted fire department, and not a volunteer fireman.

(2) If a firefighter, as a consequence of the performance of his duties, is unlawfully and intentionally killed while in the actual performance of his duties, the sum of $50,000 shall be paid as follows:

(a) To the beneficiary designated by the firefighter in a writing, signed by him and delivered to his employing agency prior to his death;

(b) To his surviving children and spouse, if any, in equal shares, if no beneficiary is designated by the firefighter pursuant to paragraph (a); or

(c) To his estate, if no beneficiary is designated by the firefighter and there is no surviving child or spouse.

The death benefit shall be in addition to any worker's compensation or pension benefits, and it shall be exempt from the claims and demands of creditors of the firefighter.

(3) If a firefighter, as a consequence of the performance of his duties, is unlawfully and intentionally killed while in the actual performance of his duties, the state shall pay certain educational expenses which a child of the deceased firefighter incurs in obtaining a vocational-technical certificate or an undergraduate education. The amount paid by the state shall be an amount equal to the cost at a state vocational-technical school as provided in s. 230.645(1), Florida Statutes, if the child attends a vocational-technical school, or the cost at a state community college as provided in s. 240.345(2)(c), Florida Statutes, if the child attends a community college, or the cost for 4 academic years at a state university as provided in s. 240.235(3), Florida Statutes, if the child attends a university. All remaining expenses shall be borne by the deceased firefighter's

child. The provisions of this subsection shall apply to a child of any firefighter who was killed on or after *July* ~~December~~ 1, 1980, *and the benefits provided under this subsection shall continue to such a child until the child's 25th birthday.*

(4)(a) The employer of such firefighter shall be liable for the payment of said sum and shall be deemed self-insured, unless it procures and maintains, or has already procured and maintains, insurance to secure such payment. Any such insurance may cover only the risks indicated above, in the amount indicated above, or it may cover those risks and additional risks and may be in a larger amount. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section, shall be made from existing funds otherwise appropriated for the department.

Section 15. Notwithstanding any previous rejection or cancellation of participation in any group insurance plan or self-insurance plan provided under s. 110.123 or s. 112.0801, Florida Statutes, participation in such insurance plan shall be offered to all former employees who retired prior to the effective date of this act, as well as those employees who retire on or after such date, and the eligible dependents of such employees and former employees. Accordingly, all employers who provide insurance coverage under s. 110.123 or s. 112.0801, Florida Statutes, shall, not later than January 1, 1985, notify all previously retired former personnel or their eligible dependents in writing of their eligibility to participate in the same group insurance plan or self-insurance plan, as provided in s. 110.123 or s. 112.0801. Such previously retired personnel or their eligible dependents shall have until April 1, 1985, to, in writing, accept or reject participation in their former employer's group insurance plan or self-insurance plan.

Section 16. There is hereby appropriated from the General Revenue Fund the sum of $15,000 to fund the implementation of the supplementary cost-of-living adjustment provided pursuant to Section 10 of this act with respect to retirees and annuitants receiving benefits pursuant to s. 112.05, s. 238.171, and chapter 291.

Section 17. This act shall take effect July 1, 1984; except that the amendment to s. 121.021(24), Florida Statutes, effected by Section 2 of this act, shall take effect January 1, 1985. The amendment to s. 121.071(5), Florida Statutes, effected by Section 6 of this act shall operate retroactively to January 1, 1984.

Amendment 1 to House Amendment 1—On page 19, line 27 through page 20, line 2, strike all of said lines and insert: proper retirement trust fund.

Amendment 2 to House Amendment 1—On page 19, lines 17-19, strike all of said lines and insert: claimed as service in the regular class of membership and if the member claims such military service in

Amendment 3 to House Amendment 1—On page 29, line 15, insert:

Section 17. If this act causes an actuarial impact on the Florida Retirement System, as may be revealed by future actuarial reviews of the Florida Retirement System, the contribution rates shall be adjusted accordingly pursuant to Article X Section 14 of the Florida Constitution and s. 112.61.

(Renumber subsequent section.)

Amendment 4 to House Amendment 1—On page 24, line 20, insert a new section, renumbering existing sections, to read:

Section 14. Paragraph (d) of subsection (1) of section 121.052, Florida Statutes, is amended to read:

121.052 Membership class of certain elected state officers.—

(1)(d) On and after July 1, 1972, participation in the Elected State Officers' Class shall be optional within the time provided herein for any Governor, Lieutenant Governor, Cabinet officer, legislator, Supreme Court justice, district court of appeal judge, circuit judge, state attorney, public defender, or public service commissioner who is already a member of any existing system, the Judicial Retirement System, or the regular or special risk classes of the Florida Retirement System when elected or appointed to such office, except that, effective July 1, 1979, no public service commissioner shall be eligible for membership in the Elected State Officers' Class. Participation in the Elected State Officers' Class shall be optional within the time provided herein for any county court judge who assumed office prior to October 1, 1974. After July 1, 1980, participation in the Elected State Officers' Class shall be optional for each legislator within the time provided in paragraph (c), provided such legislator meets the requirements in paragraph (c). Any such officer may, upon application to the administrator of the Florida Retirement System, within 1 year from the date he first becomes eligible to be a member of the Elected State Officers' Class by virtue of the office he holds, except for a legislator who shall apply to the administrator within the time period provided in paragraph (c), transfer to and participate in the Elected State Officers' Class, subject to the following provisions:

1. He shall transfer and carry with him such retirement credit as he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers; and

2. He may, through June 30, 1984, purchase additional retirement credit in the Elected State Officers' Class for all creditable service as an officer within the purview of this class, which service he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers, upon the payment into the system trust fund of a sum equal to the difference between 8 percent of the gross salary he received for the period of his tenure in the office, or 8 percent of $1,000 per month, whichever is greater, for which he seeks additional retirement credit and the actual amount of his retirement contributions for such period, based on such salary, plus interest thereon at the rate of 4 percent per year compounded annually from the date of such service until July 1, 1975, and 6.5 percent per year thereafter until the date of payment. An amount equal to the member's contributions and interest payments shall be paid to the system trust fund from the General Revenue Fund. A county court judge or any other member of the Elected State Officers' Class may purchase additional retirement credit for service prior to January 1, 1973, as a county solicitor; *elected county prosecuting attorney;* county judge; judge of a court of record; judge of a criminal or civil court of record; judge of any metropolitan court established pursuant to s. 6, Art. VIII of the State Constitution; judge of a small claims court; or justice of the peace, provided an amount equal to the member's contributions and interest payments shall be paid to the system trust fund by the county or by the individual. Service as a county court judge from January 1, 1973, to October 1, 1974, may be purchased as additional retirement credit in the Elected State Officers' Class by any member of this class having such service, in the same manner as other additional retirement credit is purchased in this class.

3. He may, through June 30, 1984, if he is an elected county officer as described in paragraph (g), purchase at his own expense at the time of his retirement additional retirement credit in the Elected State Officers' Class for all the creditable service as an officer within the purview of this class, for service he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers, upon the payment into the system trust fund of a sum equal to the total actuarial cost of the credit being purchased for such service.

4. Effective July 1, 1984, he may, as an elected state officer specified in this paragraph or an elected county officer specified in paragraph (g), purchase at his own expense additional retirement credit in the Elected State Officers' Class for all creditable service as an officer within the purview of this class and such other creditable service as authorized by subparagraph 2. for which he has accumulated credit in the retirement system or class within the Florida Retirement System from which he transfers. To receive such additional retirement credit, he shall pay a sum equal to the difference between the total employee and employer contribution rate actually paid on the gross salary received, but not less than $1,000 per month for the period of his tenure in the office, and the total contribution rate which was required at the time the service was rendered for the class of elected state officers service being purchased, or the rate in effect on July 1, 1972, for such service rendered before that date, and for service as an elected county officer before July 1, 1981, the contribution rate applicable for the legislative subclass of the Elected State Officers' Class, plus interest thereon at the rate of 4 percent per year compounded annually each June 30 from the date of such service until July 1, 1975, and at the rate of 6.5 percent per year thereafter until the date of payment.

Amendment 2—On page 1, in the title, lines 1-28, strike all of said lines and insert: A bill to be entitled An act relating to retirement and the Florida Retirement System; amending s. 112.64, F.S., providing for

changes in the amortization schedule for unfunded liability of governmental retirement systems; amending s. 121.021, F.S., revising the definition of "member" in the Florida Retirement System to reflect classes of membership, revising the definition of "military service", and revising the definition of "average final compensation"; amending s. 121.031, F.S., revising the frequency of actuarial valuations of the system, specifying information to be included in such valuations, and specifying an amortization schedule for certain liabilities arising under the system; amending s. 121.0515, F.S., revising the criteria for certifying law enforcement and correctional officers eligible for special risk membership; amending s. 121.052, F.S., updating membership requirements for legislators in the Elected State Officers' Class of the Florida Retirement System and revising contribution rates applicable to members of the class; amending s. 121.071, F.S., revising contribution rates applicable to regular, special risk, and special risk administrative support members and revising provisions relating to delinquency fees for late remittance of contributions; specifying intent with respect to contribution rates specified in the act; amending s. 121.081, F.S., providing for the purchase of past service credit for employees who participated in multiple offender projects in certain State Attorneys' offices; amending s. 121.091, F.S., relating to optional forms of benefits payable under the system; deleting the requirement that a replacement joint annuitant may be selected under the survivorship options only when the previous joint annuitant is alive, providing for the recalculation of benefits upon redesignation of a joint annuitant, and providing a limitation; amending s. 121.101, F.S., providing supplemental cost-of-living adjustments for certain retirees and beneficiaries of state-administered retirement systems; amending s. 121.111, F.S.; specifying the procedure for credit for military service; providing for the purchase of service credit for military leaves of absence and specifying when service granted and used under certain federal pension systems may be claimed under the Florida Retirement System; creating s. 121.1121, Florida Statutes; authorizing elected state officers whose terms have been or may be shortened by reapportionment to pay into the system trust fund the amount of contributions that would have been made on their behalf, plus interest, after the term of office to which elected is completed and to receive service credit therefor; creating s. 112.3176, F.S., 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, and providing that said forfeiture provisions shall be supplemental to any other forfeiture provisions of law; amending sections 2 and 3 of chapter 83-115, Laws of Florida, extending to July 1, 1980, the time period for the claiming of certain educational benefits payable by the state for the children of deceased law enforcement officers or firefighters; requiring employers to allow certain retired former employees and their eligible dependents to participate in the group insurance plans required by ss. 110.123 and 112.0801, F.S., requiring written notice to former employees or their dependents, and providing a limitation; providing an appropriation; providing an effective date.

Amendment 3 to House Amendment 2—On page 3, in the title, line 25, after the semi-colon, insert: providing for an adjustment in contribution rates under certain circumstances;

Amendment 4 to House Amendment 2—On page 3, in the title, line 12, after the semi-colon, (;), insert: amending s. 121.052, F.S., providing for the purchase of additional retirement credit for service as an elected county prosecuting attorney;

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

Amendment 1—On page 8, lines 22-31; on page 9, lines 1-31; on page 10, lines 1-31; on page 11, lines 1-31 and on page 12, lines 1-8, strike all of said lines and insert: *who is a legislator shall contribute an amount equal to 10.98 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(b)1. From and after October 1, 1978, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, Cabinet officer, Supreme Court justice, district court of appeal judge, circuit judge, county court judge, state attorney, public service commissioner, or public defender shall contribute an amount equal to 16.78 percent of such member's gross compensation and shall withhold 4 percent of such member's gross compensation, the sum of which shall constitute the entire contribution with respect to such member. The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage. Effective July 1, 1979, any member of the Elected State Officers' Class who is a public service commissioner shall be removed from this class, shall become a regular member on that date, and shall be subject to the contribution provisions of s. 121.071 which pertain to regular members.

2. From and after October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, or Cabinet officer shall contribute an amount equal to 21.03 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member. *From and after October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a Governor, Lieutenant Governor, or Cabinet officer shall contribute an amount equal to 10.98 percent of such member's gross compensation, which shall constitute the entire contribution with respect to such member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(d) Effective October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a Supreme Court justice, district court of appeal judge, circuit judge, or county court judge shall contribute an amount equal to 22.55 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a Supreme Court justice, district court of appeal judge, circuit judge, or county court judge shall contribute an amount equal to 21.79 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(e) Effective October 1, 1981, the employer paying the salary of any member of the Elected State Officers' Class who is a state attorney or public defender shall contribute an amount equal to 20.95 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a state attorney or public defender shall contribute an amount equal to 10.98 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

(g) Effective July 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a county elected officer shall contribute an amount equal to 20.25 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member. *Effective October 1, 1984, the employer paying the salary of any member of the Elected State Officers' Class who is a county elected officer shall contribute an amount equal to 16.97 percent of that member's gross compensation, which shall constitute the entire contribution with respect to that member.* The employer shall, however, withhold one-half of the entire contribution of the member required for social security coverage.

Section 1. Subsection (2) of section 121.071, Florida Statutes, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(2) Until January 1, 1975, each employer shall contribute an amount equal to the total of its member contributions, made under subsection (1), each pay period. Effective January 1, 1975, and until October 1, 1978, each employer shall contribute 9 percent of gross compensation each pay period for each of its regular members and 13 percent of gross compensation each pay period for each of its special risk members. Effective October 1, 1978, each employer shall contribute 9.1 percent of gross compensation each pay period for each of its regular members and 13.95 percent of gross compensation each pay period for each of its special risk members. Effective October 1, 1981, each employer shall contribute 10.93 percent of gross compensation each pay period for each of its regular members and 13.91 percent of gross compensation each pay period for each of its special risk members. *Effective October 1, 1984, each employer shall contribute 12.24 percent of gross compensation each pay period for each*

of its regular members and 14.67 percent of gross compensation each pay period for each of its special risk members. Effective July 1, 1982, each employer shall contribute 11.14 percent of gross compensation each pay period for each of its members serving in an administrative support position in a law enforcement, firefighting, or correctional agency whose service meets the qualifications for retention of the special risk normal retirement date pursuant to the provisions of s. 121.0515(7), notwithstanding the requirement of an aggregate of 10 or more years of special risk service. *Effective October 1, 1984, each employer shall contribute 13.09 percent of gross compensation each pay period for each*

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

Amendment 2—On page 1, before line 1, insert:

Section 1. Paragraph (a) of subsection (2) of section 231.40, Florida Statutes, is amended to read:

231.40 Sick leave.—

(2) PROVISIONS GOVERNING SICK LEAVE.—The following provisions shall govern sick leave:

(a) Extent of leave.—

1. Each member of the instructional staff employed on a full-time basis shall be entitled to 4 days of sick leave as of the first day of employment of each contract year and shall thereafter earn 1 day of sick leave for each month of employment, which shall be credited to the member at the end of that month and which shall not be used prior to the time it is earned and credited to the member. However, the member shall be entitled to earn no more than 1 day of sick leave times the number of months of employment during the year of employment. Each other employee shall be credited for 1 day of sick leave for each month of employment, which shall be credited to the employee at the end of the month and which shall not be used prior to the time it is earned and credited to the employee. Such leave shall be taken only when necessary because of sickness as herein prescribed. Such sick leave shall be cumulative from year to year. There shall be no limit on the number of days of sick leave which a member of the instructional staff may accrue, except that at least one-half of this cumulative leave must be established within the district granting such leave.

2. A school board may establish policies and prescribe standards to permit an employee to be absent *6* 4 days each school year for personal reasons. However, such absences for personal reasons shall be charged only to accrued sick leave, and leave for personal reasons shall be noncumulative.

3. District school boards are authorized to adopt rules permitting the annual payment for accumulated sick leave that is earned for that year and that is unused at the end of the school year, based on the daily rate of pay of the employee multiplied by 80 percent. Days for which such payment is received shall be deducted from the accumulated leave balance.

4. A school board may establish policies to provide terminal pay for accumulated sick leave to any employee of the district school board. If termination of employment is by death of the employee, any terminal pay to which the employee may have been entitled may be made to his beneficiary. However, such terminal pay shall not exceed an amount determined as follows:

a. During the first 3 years of service, the daily rate of pay multiplied by 35 percent times the number of days of accumulated sick leave.

b. During the next 3 years of service, the daily rate of pay multiplied by 40 percent times the number of days of accumulated sick leave.

c. During the next 3 years of service, the daily rate of pay multiplied by 45 percent times the number of days of accumulated sick leave.

d. During the next 3 years of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.

e. During and after the 13th year of service, the daily rate of pay multiplied by 100 percent times the number of days of accumulated sick leave.

(Renumber subsequent sections.)

Senator Jenne moved the following amendments to House Amendment 1 which were adopted:

Amendment 3—On page 1, line 21, after "(24)" insert: (38)

Amendment 4—On page 3, between lines 10 and 11, insert: subsection (38)

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein; however, *a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of the state-administered retirement system pursuant to Chapter 122 or 321, Florida Statutes, who resigned and was subsequently reemployed in a law enforcement position, within 12 calendar months of such resignation, by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service; provided further*, with respect to state-employed law enforcement officers who meet the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. 110.203(24) *or a resignation to run for an elected office which meets the criteria specified in s. 121.0515(2)(a)*, no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer *or is elected to an office which meets the criteria specified in s. 121.0515(2)(a)*, within 12 calendar months after the date of the layoff *or resignation*, notwithstanding the fact that such period of layoff *or resignation* is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter.

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

Amendment 5—On page 29, strike all of lines 15-20 and insert:

Section 17. Subsection (4) of section 112.05, Florida Statutes, is amended to read:

112.05 Retirement; cost-of-living adjustment; employment after retirement.—

(4)(a) Any person who is retired under this section may be *reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer, without any limitations, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.* ~~employed by an employer that participates in a state-administered retirement system and may receive compensation from such employment and retirement benefits at the same time, so long as the employment does not exceed 780 hours each calendar year, or the compensation earned in such employment does not exceed $4,000 each calendar year, whichever limitation permits the longer employment. However, such limitation shall not apply to a person age 65 or older.~~

(b) Any person to whom the limitation of paragraph (a) applies who *violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his retirement benefits suspended for the balance of the 12-month limitation period. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.* ~~will exceed such limitation shall give timely notice of this fact in writing to his employer and to the~~

~~division and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefits for the remainder of the calendar year during which he continues employment in excess of the limitation of paragraph (a). Upon commencement of the next calendar year, the division shall resume payment of the retired person's benefits until he again exceeds the employment limitation of paragraph (a), at which time his benefits shall again be suspended for the remainder of the calendar year. Should such person fail to provide timely notice of his employment in excess of the limitation to the division, and should he receive and retain both benefits and compensation in excess of the limitation of paragraph (a), the division shall suspend his retirement benefits until he has repaid to the retirement trust fund all benefits received after the limitation was reached.~~

(c) *Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.* ~~Notwithstanding the provisions of paragraph (a), any retired person who is employed by an employer under the system within 1 calendar month of retirement shall forfeit his right to benefits during that month.~~

(d) The limitations of this subsection shall apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 18. Paragraph (b) of subsection (9) of section 121.091, Florida Statutes, is amended to read:

121.091 Benefits payable under the system.—

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be *reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer, without any limitations, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.* ~~employed by an employer that participates in a state-administered retirement system and receive compensation from such employment and retirement benefits at the same time, so long as the employment does not exceed 780 hours each calendar year, or the compensation earned in such employment does not exceed $4,000 each calendar year, whichever limitation permits the longer employment. However, such limitation does not apply to a person age 65 or older.~~

2. Any person to whom the limitation in subparagraph 1. applies who *violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his retirement benefits suspended for the balance of the 12-month limitation period. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.* ~~will exceed such limitation shall give timely notice of this fact in writing to his employer and to the division and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefits for the remainder of the calendar year during which he continues employment in excess of the limitation in subparagraph 1. Upon commencement of the next calendar year, the division shall resume payment of the retired person's benefits until he again exceeds the employment limitation of subparagraph 1., at which time his benefits shall again be suspended for the remainder of the calendar year. Should such person fail to provide timely notice of his employment in excess of the limitation to the division, and should he receive and retain both benefits and compensation in excess of the limitation of subparagraph 1., the division shall suspend his retirement benefits until he has repaid to the retirement trust fund all benefits received after the limitation was reached.~~

3. The employment by an employer of any retiree of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree~~, nor shall any deductions or contributions for retirement be made from or for the compensation received by the retiree with respect to such employment.~~ *Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.*

~~4. Notwithstanding the provisions of subparagraph 1., any retired person who is employed by an employer under the system within 1 calendar month of retirement shall forfeit his right to benefits during that month.~~

4.~~5.~~ Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office on or after July 1, 1969, may have his membership in the Florida Retirement System reinstated by making the necessary contributions to the retirement fund for the period of reemployment. Any person electing this alternative shall not be eligible for retirement benefits during the period of employment. During this period of employment, such compensation shall be included in the computation of the employee's average final compensation and his years of creditable service.

5.~~6.~~ Any person who has retired and subsequently is elected or appointed to an elective public office which is covered by the Florida Retirement System and who does not elect to reinstate his membership in the Florida Retirement System shall continue to receive his retirement benefits in addition to the compensation of the elective office to which he is elected or appointed without regard to the time limitations otherwise provided in this subsection.

6.~~7.~~ Any person who is holding an elective public office which is covered by the Florida Retirement System may elect to retire while continuing employment in the elective public office, provided that, if the elected official is dually employed under the Florida Retirement System, he shall be required to terminate his nonelected covered employment. Any person exercising this election shall receive his retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection; however, no additional creditable service will be earned for such continued employment.

7.~~8.~~ The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 19. Subsection (2) of section 122.16, Florida Statutes, is amended to read:

122.16 Employment after retirement.—

(2)(a) Any person retired under this chapter, except under the disability retirement provisions of ss. 122.09 and 122.34, may be *reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer without any limitations, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.* ~~employed by an employer that participates in a state-administered retirement system and may receive compensation from such employment and retirement benefits at the same time, so long as the employment does not exceed 780 hours each calendar year, or the compensation earned in such employment does not exceed $4,000 each calendar year, whichever limitation permits the longer employment. However, such limitation shall not apply to a person age 65 or older.~~

(b) Any person to whom the limitation of paragraph (a) applies who *violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his retirement benefits suspended for the balance of the 12-month limitation period. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.* ~~will exceed such limitation shall give timely notice of this fact in writing to his employer and to the division and shall advise both of the date on which he will exceed the lim-~~

~~itation. The division shall suspend such retired person's benefits for the remainder of the calendar year during which he continues employment in excess of the limitation of paragraph (a). Upon commencement of the next calendar year, the division shall resume payment of the retired person's benefits until he again exceeds the employment limitation of paragraph (a), at which time his benefits shall again be suspended for the remainder of the calendar year. Should such person fail to provide timely notice of his employment in excess of the limitation to the division, and should he receive and retain both benefits and compensation in excess of the limitation of paragraph (a), the division shall suspend his retirement benefits until he has repaid to the retirement trust fund all benefits received after the limitation was reached.~~

(c) The employment by an employer of any retiree of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree. *Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.*~~, nor shall any deductions or contributions for retirement be made from or for the compensation received by such retiree with respect to such employment.~~

~~(d) Notwithstanding the provisions of paragraph (a), any retired person who is employed by an employer under the system within 1 calendar month of retirement shall forfeit his right to benefits during that month.~~

(d)~~(e)~~ The limitations of this subsection shall apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 20. Subsection (2) of section 238.181, Florida Statutes, is amended to read:

238.181 Reemployment after retirement; conditions and limitations.—

(2)(a) Any person retired under this chapter, except under the disability retirement provisions of s. 238.07, may be *reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer without limitations, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.* ~~employed by an employer that participates in a state-administered retirement system and may receive compensation from such employment and retirement benefits at the same time, so long as the employment does not exceed 780 hours each calendar year, or the compensation earned in such employment does not exceed $4,000 each calendar year, whichever limitation permits the longer employment. However, such limitation shall not apply to a person age 65 or older.~~

(b) Any person to whom the limitation in paragraph (a) applies who *violates such limitation, and who is reemployed prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his retirement benefit suspended for the balance of the 12-month period. Any retirement benefits received while reemployed during the limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward the payment of benefits received in violation of the limitation.* ~~will exceed such limitation shall give timely notice of this fact in writing to his employer and to the division and shall advise both of the date on which he will exceed the limitation. The division shall suspend such retired person's benefits for the remainder of the calendar year during which he continues employment in excess of the limitation in paragraph (a). Upon commencement of the next calendar year, the division shall resume payment of the retired person's benefits until he again exceeds the employment limitation of paragraph (a), at which time his benefits shall again be suspended for the remainder of the calendar year. Should such person fail to provide timely notice of his employment in excess of the limitation to the division, and should he receive and retain both benefits and compensation in excess of the limitation of paragraph (a), the division shall suspend his retirement benefits until he has repaid to the retirement trust fund all benefits received after the limitation was reached.~~

(c) The employment by an employer of any retiree of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree. *Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.*~~, nor shall any deductions or contributions for retirement be made from or for the compensation received by such retiree with respect to such employment.~~

~~(d) Notwithstanding the provisions of paragraph (a), any retired person who is employed by an employer under the system within 1 calendar month of retirement shall forfeit his right to benefits during that month.~~

(d)~~(e)~~ The limitations of this subsection shall apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 21. Section 321.203, Florida Statutes, is created to read:

321.203 Reemployment after retirement; conditions and limitations.—

(1) Any person who is retired under this chapter, except under the disability provisions of s. 321.191, may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer, without any limitations, except that no person may receive both a salary and reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.

(2) Any person to whom the limitation in subsection (1) applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his retirement benefit suspended for the balance of the 12-month limitation period. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation period shall apply toward repayment of benefits received in violation of the reemployment limitation.

(3) The employment by an employer of any retiree of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree. Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.

(4) The limitations of this section shall apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 22. This act shall take effect July 1, 1984; except that the amendment to s. 121.021(4), Florida Statutes, effected by section 2 of this act, shall take effect January 1, 1985, and except that sections 17-21 of this act shall take effect July 1, 1985. The amendment to s. 121.071(5), Florida Statutes, effected by section 6 of this act shall operate retroactively to January 1, 1984.

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

Amendment 1—In title, on page 1, line 10, strike "and" and on line 11, strike the semicolon (;) and on line 11, after "compensation" insert: , redefining the term "continuous service" to provide continuous service for certain special risk members;

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

Amendment 2—In title, on page 3, line 25, after the semicolon (;) insert: amending ss. 112.05, 121.091, 122.16, 238.181, F.S., allowing retired members of state-administered retirement systems to be reem-

ployed after retirement and to receive their retirement benefits in addition to employment compensation; creating s. 321.203, F.S.; providing that retired members may not be reemployed with any agency participating in the Florida Retirement System for a 12-month period immediately subsequent to the date of retirement and receive retirement benefits during this period; providing for suspension of retirment benefits;

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

Amendment 3—On page 1, strike all of lines 2 and 3 and insert: An act relating to personnel matters; amending s. 231.40, F.S.; expanding personal leave days for school personnel; amending s. 112.64, F.S.,

On motions by Senator Jennings, the Senate refused to concur in House Amendments 1, 2 and 3 to House Amendment 1 and requested the House to recede; concurred in House Amendment 4 to House Amendment 1 and concurred in House Amendment 1 as amended by the Senate Amendments and House Amendment 4; refused to concur in House Amendment 3 to House Amendment 2 and requested the House to recede; concurred in House Amendment 4 to House Amendment 2 and concurred in House Amendment 2 as amended by the Senate Amendments and House Amendment 4; and requested the House to concur in the Senate amendments.

SB 153 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Scott

On motion by Senator Thomas, the rules were waived and by two-thirds vote SB 727 was withdrawn from the Committee on Appropriations.

The Honorable Curtis Peterson, President

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

CS for SB 342—A bill to be entitled An act relating to prepaid health care service programs; amending s. 641.01, F.S., to apply the provisions of part III of chapter 641, F.S., to prepaid health clinics; amending s. 641.19, F.S., redefining certain terms relating to health maintenance organizations; amending ss. 641.22 and 641.225, F.S., clarifying minimum surplus requirements for such organizations; amending s. 641.30, F.S., exempting holding beds in health maintenance organizations from part I of chapter 395, F.S.; creating part III of chapter 641, F.S., relating to prepaid health clinics; providing a short title; providing intent; providing definitions; providing for the regulation of prepaid health clinics by the Department of Insurance and by the Department of Health and Rehabilitative Services; requiring and providing for the issuance of certificates of authority to operate a prepaid health clinic; providing surplus requirements for prepaid health clinics and exceptions thereto; providing restrictions relating to the use of health care providers; providing a penalty; providing for temporary restraining orders; providing grounds for revocation of a certificate of authority; providing for denial or revocation proceedings; providing for an administrative penalty; providing for transfer of ownership of a clinic; requiring annual reports; providing for examinations of such clinics; providing a civil remedy; providing insolvency protection to subscribers of such clinics; providing for fees; providing for construction and relationship with other laws; providing for regulation of prepaid health clinic contracts and rates, and providing standards with respect thereto; providing additional restrictions upon contracts and other materials; providing for the execution of contracts; providing for the validity of noncomplying contracts; providing for delivery of contracts; requiring notice of cancellation; providing a restriction on provider contracts; authorizing certain payments to prepaid health clinics; providing prohibition on the use of certain words; placing restrictions on the investment of funds by prepaid health clinics; providing for rules by the Department of Insurance and the Department of Health and Rehabilitative Services; providing penalties; specifying prohibited unfair methods of competition and unfair and deceptive acts or practices; providing penalties and remedies; providing investigative powers; providing enforcement procedures; providing for cease and desist and other orders; providing penalties for violation of such orders; providing for appeals; authorizing injunctive relief; providing certain civil liability; authorizing positions and appropriating moneys from the Insurance Commissioner's Regulatory Trust Fund; providing for future review and repeal; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 3-37, strike everything after the enacting clause and insert:

Section 1. Section 641.01, Florida Statutes, is amended to read:

641.01 Definition and scope.—Any five or more persons may form a corporation for the purpose of establishing, maintaining, and operating a nonprofit health care services plan in the state, whereby medical, surgical, hospital, or other health care services related to the treatment or prevention of sickness or injury may be provided by the corporation or by physicians, surgeons, hospitals, or other providers of such services to members of the public who become subscribers under a contract with the corporation. The plan shall be governed by the provisions of the laws of this state regarding health insurance and health insurers; and the department shall have all powers pertaining to such plan as it possesses as to health insurance and health insurers, except as otherwise provided by this chapter. Health maintenance organizations shall organize under and be subject to part II of this chapter. *Prepaid health clinics shall organize under and be subject to part III of this chapter.*

Section 2. Subsections (6) and (8) of section 641.19, Florida Statutes, are amended to read:

641.19 Definitions.—As used in this part, the term:

(6) "Health maintenance organization" means any organization authorized under this part *which provides inpatient hospital services and emergency care and at least any two of the other three minimum services defined in subsection (8) to any of their subscribers and* which:

(a) Provides, either directly or through arrangements with other persons, health care services to persons enrolled with such organization, on a prepaid per capita or prepaid aggregate fixed-sum basis; *and*

(b) Provides, either directly or through arrangements with other persons, those health care services which subscribers might reasonably require to maintain good health; *and*

(c) Provides physician services directly through physicians who are either employees or partners of such organization or under arrangements with a physician or any group of physicians.

(8) "Minimum services" includes *any of the following:* ~~, but is not limited to,~~ emergency care, inpatient hospital *services,* ~~and~~ physician care, ambulatory diagnostic treatment, and preventive health care services.

Section 3. Subsection (3) of section 641.22, Florida Statutes, is amended to read:

641.22 Issuance of certificate of authority.—The department shall issue a certificate of authority within 60 days of the filing of a properly completed application to any entity filing a completed application in conformity with s. 641.21, upon payment of the prescribed fees and upon the department's being satisfied that:

(3) *The entity has met the minimum surplus requirements specified in s. 641.225.* ~~Before December 31, 1985, the health maintenance organization has a minimum surplus of $100,000 and, after December 31, 1985, the health maintenance organization has a minimum surplus as follows:~~

~~(a) As of December 31, 1986, $150,000;~~

~~(b) As of December 31, 1987, $200,000;~~

~~(c) As of December 31, 1988, $250,000.~~

~~In lieu of having a minimum surplus, the health maintenance organization may have a written guarantee insuring the payment of covered subscriber claims which guarantee is provided by an entity which has been in operation for at least 3 years and has a surplus, not including land, buildings, and equipment, equal to 2 times the statutory surplus deficiency or 2 times the statutory requirement, whichever is the greater amount. Such guaranteeing organization and the written guarantee must be acceptable to and approved by the Department of Insurance.~~

Section 4. Section 641.225, Florida Statutes, is amended to read:

641.225 Surplus requirements.—

(1) Each health maintenance organization *shall have and maintain minimum surplus in accordance with the following schedule:*

(a) On December 31, 1985, $100,000; except that every health maintenance organization issued a certificate of authority on or after October 1, 1983, but prior to December 31, 1986, shall have and maintain thereafter, subject to the increases in minimum surplus scheduled in paragraphs (b), (c), and (d), a minimum surplus of $100,000 as a condition for issuance of a certificate of authority. ~~licensed before October 1, 1983, must have by December 31, 1985, a minimum surplus of $100,000. After December 31, 1985, each health maintenance organization must have a minimum surplus as follows:~~

(b)~~(a)~~ As of December 31, 1986, $150,000.

(c)~~(b)~~ As of December 31, 1987, $200,000.

(d)~~(c)~~ As of December 31, 1988, $250,000.

(2) In lieu of having *any* ~~a~~ minimum surplus, *the* ~~there may exist for a~~ health maintenance organization *may provide* a written guarantee *to assure payment of covered subscriber claims, provided that the guaranteeing organization has been in operation for at least 3 years and has a surplus, not including land, buildings, and equipment, equal to 2 times the required statutory surplus. Such guaranteeing organization and such written guarantee must be acceptable to and approved by the department, which shall consider the likelihood of payment of subscriber claims in granting or withholding such approval* ~~of the type and subject to the same provisions as outlined in s. 641.22~~.

Section 5. Section 641.226, Florida Statutes, is created to read:

641.226 Providers of service; penalty for unauthorized use of providers; interference with judgment prohibited.—

(1) Any health maintenance organization which knowingly utilizes the services of a provider who is not licensed or otherwise authorized by law to provide such services is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Every health maintenance organization or provider shall display, in a prominent place in the organization's or provider's waiting area at which the provider treats subscribers, a true and correct copy of the current and valid license or legal authorization of each provider.

(3) The professional judgment of a physician licensed under chapter 458 or chapter 459 concerning the proper course of treatment of a subscriber shall not be subject to modification by the health maintenance organization or its board of directors, officers, or administrators. However, this subsection shall not be considered to restrict a utilization management program established by a health maintenance organization.

Section 6. Subsection (8) is added to section 641.23, Florida Statutes, to read:

641.23 Revocation of certificate of authority.—The department may revoke any certificate issued to a health maintenance organization, or order compliance within 60 days, if it finds that any of the following conditions exists:

(8) The organization knowingly utilizes or has knowingly utilized a provider that is furnishing or has furnished health care services who does not have a subsisting license or other authority to practice or furnish health care services in this state.

Section 7. Subsection (4) is added to section 641.30, Florida Statutes, to read:

641.30 Construction and relationship to other laws.—

(4) The provisions of part I of chapter 395 shall not apply to a health maintenance organization that provides not more than 10 outpatient holding beds for short-term and hospice-type patients in an ambulatory care facility for its members, provided that such health maintenance organization maintains current accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) or the Accreditation Association for Ambulatory Health Care (AAAHC).

Section 8. Section 641.385, Florida Statutes, is created to read:

641.385 Order to discontinue certain advertising.—If in its opinion any advertisement by a health maintenance organization violates any of the provisions of this part, the department may enter an immediate order requiring that the use of the advertisement be discontinued. If requested by the health maintenance organization, the department shall conduct a hearing within 10 days of the entry of such order. If after hearing or by agreement with the health maintenance organization a final determination is made that the advertising was in fact violative of any provision of this part, the department may in lieu of revocation of the certificate of authority require publication of a corrective advertisement, impose an administrative penalty of up to $10,000 and, in the case of an initial solicitation, require that the health maintenance organization, prior to accepting any application received in response to the advertisement, provide an acceptable clarification of the advertisement to each individual applicant.

Section 9. Part III of chapter 641, Florida Statutes, to be entitled "Prepaid Health Clinics" and consisting of sections 641.501, 641.502, 641.503, 641.504, 641.505, 641.506, 641.507, 641.508, 641.509, 641.511, 641.512, 641.513, 641.514, 641.515, 641.516, 641.518, 641.519, 641.521, 641.522, 641.524, 641.525, 641.526, 641.527, 641.528, 641.529, 641.531, 641.532, 641.533, 641.534, 641.535, 641.536, 641.537, 641.539, 641.541, 641.542, 641.543, 641.544, 641.545, 641.546, 641.547, 641.548, and 641.549, is created to read:

641.501 Short title.—This part shall be known and may be cited as the "Prepaid Health Clinic Act."

641.502 Declaration of legislative intent, findings, and purposes.—

(1) Faced with the continuation of mounting health care costs, coupled with the state's interest in high quality care, the Legislature has determined that there is a need to explore intermediate or limited levels of delivery of prepaid health care services, with a view toward achieving greater efficiency and economy in providing these services.

(2) Prepaid health clinics, hereinafter referred to as "clinics," are developing rapidly in communities in the state. Through these organizations, structured in various forms, basic services are provided directly to groups of people who make regular premium payments as a condition upon their participation. These plans, when properly operated, emphasize effective cost and quality controls.

(3) It is the purpose of this part to:

(a) Minimize legal barriers to the organization, promotion, and expansion of prepaid health care clinics.

(b) Recognize that prepaid health care clinics, when operating under a subsisting certificate of authority issued pursuant to this part, shall be exempt from operation of the Florida Insurance Code as defined in s. 624.01, except in the manner and to the extent set forth in this part.

(4) Although it is the intent of this part to provide an opportunity for the development of prepaid health clinics, there is no intent to impair the present system for the delivery of health services.

(5) The Legislature has determined that the operation of a prepaid health clinic without a subsisting certificate of authority or the renewal, issuance, or delivery of a prepaid health clinic contract without a subsisting certificate of authority constitutes a danger to the citizens of this state and exposes any subscriber to immediate and irreparable injury, loss, or damage.

641.503 Definitions.—As used in this part, the term:

(1) "Department" means the Department of Insurance.

(2) "Prepaid health clinic" means any organization authorized under this part which provides, either directly or through arrangements with other persons, basic services to persons enrolled with such organi-

zation, on a prepaid per capita or prepaid aggregate fixed sum basis, including those basic services which subscribers might reasonably require to maintain good health. However, no clinic which provides or contracts for, either directly or indirectly, inpatient hospital services, hospital inpatient physician services, or indemnity against the cost of such services shall be a prepaid health clinic.

(3) "Basic services" includes any of the following: emergency care, physician care other than hospital inpatient physician services, ambulatory diagnostic treatment, or preventive health care services.

(4) "Prepaid health clinic contract" means any contract entered into by a prepaid health clinic with a subscriber or group of subscribers to provide any of the basic services in exchange for a prepaid per capita or prepaid aggregate fixed sum.

(5) "Subscriber" means an individual who has contracted, or on whose behalf a contract has been entered into, with a prepaid health clinic for health care services.

(6) "Provider" means any physician or person other than a hospital that furnishes health care services and is licensed or authorized to practice in this state.

(7) "Insolvent" or "insolvency" means the inability of the prepaid health clinic to discharge its liabilities as they become due in the normal course of business.

(8) "Guaranteeing organization" means an organization which is domiciled in the United States, which has authorized service of process against it, and which has appointed the Insurance Commissioner as its agent for service of process in connection with any cause of action arising in this state, based upon any guarantee entered into under this part.

(9) "Surplus" means total unencumbered assets in excess of total liabilities. Surplus includes capital stock, capital in excess of par, and retained earnings, and may include surplus notes.

(10) "Surplus notes" means debt which has been guaranteed by the United States Government or its agencies, or debt which has been subordinated to all claims of subscribers and general creditors of the prepaid health clinic.

(11) "Reporting period" means the particular span of time by or for which accounts are redeemed on an annualized basis.

641.504 Application for certificate.—No person may operate a prepaid health clinic without first obtaining a certificate of authority from the department. Each application for a certificate shall be on such form as the department shall prescribe and shall be accompanied by the following:

(1) A copy of the basic organizational document of the applicant, if any, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable document, and all amendments thereto;

(2) A copy of the constitution, bylaws, rules and regulations, or similar form of document, if any, regulating the conduct of the affairs of the applicant;

(3) A list of the names, addresses, and official capacities with the applicant of the persons who are to be responsible for the conduct of the affairs of the clinic, including all members of the governing body, the officers and directors in the case of a corporation, and the partners or associates in the case of a partnership or association. Such persons shall fully disclose to the department and the governing body of the clinic the extent and nature of any contracts or arrangements between them and the clinic, including any possible conflicts of interest;

(4) A statement generally describing the clinic, its operations, the manner in which comprehensive health services will be regularly available, the location of the facilities at which comprehensive health care services will be regularly available to subscribers, the type of health care personnel engaged to provide the comprehensive health care services, and the quantity of personnel of each type;

(5) Forms of all prepaid health clinic contracts the applicant proposes to offer the subscribers, showing the benefits to which they are entitled, together with a table of the rates charged, or proposed to be charged, for each form of such contract;

(6) A statement describing with reasonable certainty the geographic area or areas to be served by the clinic; and

(7) A financial statement prepared on the basis of generally accepted accounting principles, except that surplus notes acceptable to the department may be included in the calculation of surplus.

641.505 Issuance of certificate of authority.—The department shall issue a certificate of authority within 60 days of the filing of a properly completed application in conformity with s. 641.504 to any applicant filing the application, upon payment of the prescribed fees and upon the department's being satisfied that:

(1) The entity proposes to establish and operate a bona fide prepaid health clinic having the capability to provide basic services in the geographic area proposed, as certified by the Department of Health and Rehabilitative Services as a condition precedent to the issuance of any certificate of authority.

(2) The proposed rates are actuarially sound for the benefits provided, including administrative costs.

(3) The applicant has met the minimum surplus requirements of s. 641.506.

(4) The applicant has made acceptable arrangements to provide all basic services offered.

(5) The terms of the contracts the applicant proposes to offer to subscribers will in fact assure that the basic services required by such subscribers will be rendered under reasonable standards of quality of care, as certified by the Department of Health and Rehabilitative Services.

(6)(a) The procedures for offering basic services and offering and terminating contracts to subscribers will not unfairly discriminate on the basis of age, health, or economic status. However, this paragraph shall not prohibit reasonable underwriting classifications for the purposes of establishing contract rates, nor shall it prohibit experience rating.

(b) The procedure for offering basic services and offering and terminating contracts to subscribers will not discriminate on the basis of sex, race, or national origin.

(7) The applicant furnishes evidence of adequate insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of basic services.

(8) The applicant has provided, through contract or otherwise, for periodic review of its medical facilities and services.

(9) The ownership, control, or management of the applicant is competent and trustworthy and possesses managerial experience that would make the proposed clinic operation beneficial to the subscribers. The department shall not grant or continue authority to transact the business of a prepaid health clinic in this state at any time during which it has good reason to believe that the ownership, control, or management of the clinic is under the control of any person whose business operations are or have been marked by business practices or conduct that is to the detriment of the public, stockholders, investors, or creditors; by the improper manipulation of assets or of accounts; or by bad faith.

(10) The application and the applicant are in conformity with all requirements of this part.

641.506 Minimum surplus.—Each prepaid health clinic shall have and thereafter maintain minimum surplus in accordance with the following schedule:

(1) On December 31, 1985, $30,000.

(2) On December 31, 1986, $45,000.

(3) On December 31, 1987, $60,000.

(4) On December 31, 1988, $75,000.

In lieu of having any minimum surplus, the prepaid health clinic may provide a written guaranty to assure payment of covered subscriber claims, provided that the guaranteeing organization has been in operation for at least 3 years and has a surplus, not including land, buildings, and equipment, equal to 2 times the required statutory surplus. Such guaranteeing organization and such written guaranty must be accept-

able to and approved by the department which shall consider the likelihood of payment of subscriber claims in granting or withholding such approval.

641.507 Providers of service; penalty for unauthorized use of providers; interference with judgment prohibited.—

(1) Any prepaid health clinic which utilizes a provider who is not licensed or otherwise authorized by law to provide such services is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Every prepaid health clinic or provider shall display, in a prominent place in the clinic's or provider's waiting area at which the provider treats subscribers, a true and correct copy of the current and valid license or legal authorization of each provider.

(3) The professional judgment of a physician licensed under chapter 458 or chapter 459 concerning the proper course of treatment of a subscriber shall not be subject to modification by the prepaid health clinic or its board of directors, officers, or administrators. However, this subsection shall not prohibit a utilization management program established by a prepaid health clinic.

641.508 Temporary restraining orders.—

(1) The department is vested with the power to seek a temporary restraining order on its behalf or on behalf of a subscriber or subscribers of a prepaid health clinic being operated by any person or entity without a subsisting certificate of authority, or on its behalf or on behalf of a subscriber or subscribers to whom a prepaid health clinic, person, or entity is renewing, issuing, or delivering prepaid health clinic contracts without an existing certificate of authority.

(2) The department and the Department of Health and Rehabilitative Services are each vested with the power to seek a temporary restraining order on their behalf or on behalf of a subscriber or subscribers of a prepaid health clinic being operated in violation of any provision of this part or any rule promulgated under this part or any other applicable law or rule.

641.509 Revocation of certificate of authority.—The department may revoke any certificate issued to a prepaid health clinic, or order compliance within 60 days, if it finds that any of the following conditions exists:

(1) The clinic is not operating in compliance with this part or any rule promulgated thereunder;

(2) The clinic is in substantial violation of its prepaid health clinic contracts; provided that a substantial violation of its prepaid health clinic contracts as to quality and nature of basic services provided shall be certified as such by the Department of Health and Rehabilitative Services;

(3) The clinic is unable to fulfill its obligations under outstanding prepaid health clinic contracts entered into with its subscribers. If the clinic's inability to fulfill such obligation is due to the quality and nature of basic services provided, then this fact shall be so certified by the Department of Health and Rehabilitative Services;

(4) The plan is no longer actuarially sound or the clinic does not have the minimum surplus as required by this part;

(5) The existing contract rates are excessive, inadequate, or unfairly discriminatory;

(6) The clinic has advertised, merchandised, or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading, or unfair practices with respect to advertising or merchandising;

(7) The organization is insolvent;

(8) The clinic has not complied with the grievance procedures for subscribers set forth in any prepaid health clinic contract;

(9) The clinic utilizes or has utilized a provider that is furnishing or has furnished basic services who does not have a subsisting license or other authority to practice or furnish basic services in the state; or

(10) The clinic has not fully satisfied a judgment against the clinic within 10 days of entry of the judgment by any court in the state or, in the case of an appeal from such judgment, has not fully satisfied the judgment within 60 days after affirmance of the judgment by the appellate court.

641.511 Denial and revocation proceedings; Department of Health and Rehabilitative Services participation.—In connection with any decision regarding denial or revocation of a certificate, the recommendations and findings of the Department of Health and Rehabilitative Services with respect to matters relating to the quality and nature of basic services being provided shall be furnished by the Department of Health and Rehabilitative Services to the department and shall be conclusive and binding upon the department.

641.512 Administrative penalty in lieu of revocation.—The department may, in lieu of revocation of a certificate of authority, levy an administrative penalty in an amount not more than $10,000 for each violation by a clinic. In levying such fine, the department shall consider the number of members and total revenues of the clinic and whether the violation was committed knowingly and willfully.

641.513 Transfer of ownership.—Each prepaid health clinic which desires to transfer ownership of more than 10 percent of the stock or ownership interest in the clinic shall submit to the department an application for approval of the new stockholder or owner. The application shall contain the name and address of the applicant or applicants and such other information as required by the department. The application shall be filed with the department no later than 60 days prior to the effective date of the transfer of ownership.

641.514 Annual report.—

(1) Each prepaid health clinic shall, annually on or before March 1, or within 3 months of the end of its reporting period, or within such extension of time therefor as the department, for good cause, may grant, on forms prescribed by the department, file a report with the department, verified by the oath of two executive officers of the clinic or, if not a corporation, of two persons who are principal managing directors of the affairs of the clinic, showing its condition on the last day of the immediately preceding reporting period. Such report shall include:

(a) A financial statement of the clinic, including its balance sheet and a statement of operations for the preceding year;

(b) A list of the names and residence addresses of all persons responsible for the conduct of its affairs, together with a disclosure of the extent and nature of any contracts or arrangements between such persons and the clinic, including any possible conflicts of interest;

(c) The number of prepaid health clinic contracts issued and outstanding and the number of prepaid health clinic contracts terminated and a compilation of the reasons for such terminations;

(d) A description by location and specialty of the providers retained or otherwise engaged by the clinic to satisfy its contractual obligations with its subscribers;

(e) Such statistical information as is requested by the department reflecting the rates of the clinic for all basic services provided under prepaid health clinic contracts;

(f) The number and amount of damage claims for medical injury initiated against the clinic and any of the providers engaged by it during the reporting year, broken down into claims with and without formal legal process, and the disposition, if any, of each such claim; and

(g) Such other information relating to the performance of the clinic as is required by the department.

(2) Any clinic which neglects to file the annual report in the form and within the time required by this section shall be subject to an administrative penalty not to exceed $100 for each day during which the neglect continues; and, upon notice by the department to that effect, its authority to do business in this state shall cease while such default continues.

641.515 Examination by the department.—The department shall examine the affairs, transactions, accounts, business records, and assets of any prepaid health clinic as often as it deems it expedient for the protection of the people of this state. The Department of Health and Rehabilitative Services may conduct periodic examinations regarding the quality of basic services being provided by the clinic. Every clinic shall submit its books and records and take other appropriate action as

may be necessary to facilitate an examination. However, medical records of individuals and records of physicians providing service under contract to the clinic shall not be subject to audit, although they may be subject to subpoena by court order upon a showing of good cause. For the purpose of examinations, the respective departments may administer oaths to and examine the officers and agents of a clinic concerning its business and affairs. The expenses of examination of each clinic by the department shall be subject to the same terms and conditions as apply to insurers under part II of chapter 624 of the Florida Insurance Code. The expenses of examination of each clinic by the Department of Health and Rehabilitative Services shall be paid by the clinic. In no event shall expenses of all examinations exceed a maximum of $15,000 per year. Any rehabilitation, liquidation, conservation, or dissolution of a clinic shall be conducted under the supervision of the department, which shall have all power with respect thereto granted to it under the laws governing the rehabilitation, liquidation, conservation, or dissolution of life insurance companies.

641.516 Civil remedy.—In any civil action brought to enforce the terms and conditions of a prepaid health clinic contract, the prevailing party is entitled to recover reasonable attorney's fees and court costs. This section shall not be construed to authorize a civil action against the department, its employees, or the Insurance Commissioner or against the Department of Health and Rehabilitative Services, its employees, or the secretary of that department.

641.518 Insolvency protection.—

(1) Every prepaid health clinic shall comply with one of the following:

(a) Secure insurance to the satisfaction of the department to protect subscribers in the event the prepaid health clinic is unable to meet its obligations to subscribers under the terms of any prepaid health clinic contract issued to any subscriber.

(b) File with the department a surety bond issued by an authorized surety insurer. The bond shall be for the same purpose as the insurance in lieu of which it is filed. The department shall not approve any bond under the terms of which the protection afforded against insolvency is not equivalent to the protection afforded by such insurance. The bond shall guarantee that the prepaid health clinic will faithfully and truly perform all the conditions of any prepaid health clinic contract. No such bond shall be cancelled or subject to cancellation unless at least 60 days' notice thereof, in writing, is filed with the department. In the event that notice of termination of the bond is filed with the department, the prepaid health clinic insured thereunder shall, within 30 days of the filing of notice of termination, provide the department with a replacement bond meeting the requirements of this part or secure insurance as required by paragraph (a). The cancellation of a bond does not relieve the obligation of the issuer of the bond for claims arising out of contracts issued prior to cancellation of the bond unless a replacement bond or insurance is secured. In no event shall the issuer's aggregate liability under the bond exceed the face amount of the bond. If, within 30 days of filing the notice of termination, no replacement bond or insurance has been secured and filed with the department, the department shall suspend the certificate of the prepaid health clinic until the deposit requirements are satisfied. Whenever the prepaid health clinic ceases to do business in this state and furnishes to the department satisfactory proof that it has discharged or otherwise adequately provided for all of its obligations to its subscribers, the department shall release any bond filed by the prepaid health clinic.

(2) In determining the sufficiency of the insurance required under paragraph (1)(a) or the surety bond required under paragraph (1)(b), the department may consider the number of subscribers, the basic services included in subscriber contracts, and the cost of providing such basic services to subscribers in the geographic area served.

(3) Every prepaid health clinic shall deposit with the department a cash deposit in the amount of $30,000 to guarantee that the obligations to the subscribers will be performed.

641.519 Fees.—Every prepaid health clinic shall pay to the department the following fees:

(1) For filing a copy of its application for a certificate of authority or amendment thereto, a nonrefundable fee in the amount of $150.

(2) For filing each annual report, a fee in the amount of $150. Fees charged under this section shall be distributed as follows: One third to the Department of Health and Rehabilitative Services, and two thirds to the department.

(3) Fees, administrative penalties, examination expenses, and other sums collected by the department under this part shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund; provided, however, fees, examination expenses, and other sums collected by or allocated to the Department of Health and Rehabilitative Services under this part shall be deposited to the credit of the General Revenue Fund.

641.521 Construction and relationship to other laws.—

(1) Except as provided in this part, the Florida Insurance Code as defined in s. 624.01 does not apply to prepaid health clinics certificated under this part, and prepaid health clinics certificated under this part are not subject to part I or part II of this chapter.

(2) Solicitation of subscribers by a prepaid health clinic or its representative shall not be construed to be violative of any provisions of law relating to solicitation or advertising by health professionals if the prepaid health clinic is operating pursuant to a subsisting certificate of authority.

641.522 Prepaid health clinic contracts.—

(1) Any applicant issued a certificate of authority which is subsisting and otherwise in compliance with this part may enter into prepaid health clinic contracts in this state.

(2) The rates charged by any clinic to its subscribers shall not be excessive, inadequate, or unfairly discriminatory. The department, in accordance with generally accepted actuarial practice, may define by rule what constitutes excessive, inadequate, or unfairly discriminatory rates and may require whatever information it deems necessary to determine that a rate or proposed rate meets the requirements of this subsection.

(3) No clinic shall issue or agree to issue any prepaid health clinic contract to its subscribers unless the contract has first been filed with and approved by the department.

(4) Every contract must clearly state all of the services, including basic services, to which a subscriber is entitled under the contract and must include a clear and understandable statement of any limitations on the services or kinds of services to be provided, including any exclusions of any copayment feature or any schedule of benefits required by the contract or by any insurer or entity which is underwriting any of the services offered by the clinic. The contract shall also state where and in what manner the basic services may be obtained.

(5) Every subscriber shall receive a clear and understandable description of the method of the clinic for resolving subscriber grievances; provided that such method shall be set forth in the contract and shall be approved by the department on the basis of its underlying fairness.

(6) The consideration paid for a prepaid health clinic contract shall be a part of the contract and shall be stated in individual contracts issued to subscribers. Regardless of the duration or term of the prepaid health clinic contract, the consideration shall be payable monthly, prorated based upon the contract duration or term.

(7)(a) If a clinic desires to amend any contract with its subscribers or desires to change any rate charged therefor, it may do so, upon filing with the department any proposed amendments or change in rates.

(b) No prepaid health clinic contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed amendment, addendum, rider, or endorsement form or form of renewal certificate, shall be delivered or issued for delivery in this state, unless the form has been filed with the department at its offices in Tallahassee by or in behalf of the clinic which proposes to use such form and has been approved by the department. Every such filing shall be made not less than 30 days in advance of any such use or delivery. At the expiration of such 30 days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by the department. Approval of any such form by the department shall constitute a waiver of any unexpired portion of

such waiting period. The department may extend by not more than an additional 15 days the period within which it may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial 30-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The department may, for cause, withdraw a previous approval. No clinic shall issue or use any form disapproved by the department, or as to which the department has withdrawn approval.

(c) The department shall disapprove any form filed under this subsection, or withdraw any previous approval thereof, only if the form:

1. Is in any respect in violation of, or does not comply with, any provision of this part or rule adopted thereunder.

2. Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

3. Has any title, heading, or other indication of its provisions which is misleading.

4. Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.

5. Provides benefits which are unreasonable in relation to the rate charged or contains provisions which are unfair or inequitable or contrary to the public policy of this state or which encourage misrepresentation.

(d) In determining whether the benefits are reasonable in relation to the rate charged, the department, in accordance with reasonable actuarial techniques, shall consider:

1. Past loss experience and prospective loss experience.

2. Allocation of expenses.

3. Risk and contingency margins, along with justification of such margins.

4. Acquisition costs.

5. Other factors deemed appropriate by the department based on sound actuarial techniques.

641.524 Readable language in contracts.—All prepaid health clinic contracts or forms shall be printed in English. All advertisements by a prepaid health clinic, if printed or broadcast in a language other than English, shall also be available in English and shall be furnished to the department when requested. As used in this subsection, "advertisement" means any advertisement, circular, pamphlet, brochure, or other printed material disclosing or disseminating advertising material or information by a clinic to prospective or existing subscribers and includes any radio or television transmittal of an advertisement or information. If the negotiations by a prepaid health clinic with a subscriber leading up to the effectuation of a prepaid health clinic contract are conducted in a language other than English, the prepaid health clinic shall supply a written translation of the contract, which accurately reflects the substance of the contract, to the subscriber in the language used to negotiate the contract. Any translation shall be furnished to the department as part of the prepaid health clinic contract form filing and shall be approved by the department prior to use. No translation shall be approved by the department unless it accurately reflects the substance of the prepaid health clinic contract form which it translates. When a translation of a prepaid health clinic contract is used, it shall clearly and conspicuously state on its face in the language of the translation:

"READ THIS FIRST

This is a translation of the document that you are about to sign."

641 525 Charter, bylaw provisions.—No prepaid health clinic contract shall contain any provision purporting to make any portion of the charter, bylaws, or other constituent document of the clinic a part of the contract unless the provision is set forth in full in the contract. Any contract provision in violation of this section is invalid, unless the provision operates to the benefit of the subscriber.

641.526 Execution of contracts.—

(1) Every prepaid health clinic contract shall be executed in the name of and on behalf of the clinic by its officer, attorney in fact, employee, or representative duly authorized by the clinic.

(2) A facsimile signature of any such executing individual may be used in lieu of an original signature.

(3) No contract which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the clinic by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the contract.

641.527 Validity of noncomplying contracts.—

(1) Any prepaid health clinic contract, rider, endorsement, attachment, or addendum otherwise valid which contains any condition or provision not in compliance with the requirements of this part shall not be thereby rendered invalid, except as provided in s. 641.524, but shall be construed and applied in accordance with such conditions and provisions as would have applied had such contract, rider, endorsement, attachment, or addendum been in full compliance with this contract. In the event a clinic issues or delivers any contract for an amount which exceeds any limitations otherwise provided in this part, such clinic shall be liable to the subscriber or his beneficiary for the full amount stated in the contract in addition to any other penalties that may be imposed under this part.

(2) Any contract delivered or issued for delivery in this state covering a subscriber resident, located, or to be performed in this state, which subscriber, pursuant to the provisions of this part, the clinic may not lawfully provide under such a contract, shall be cancellable at any time by the clinic, any provision of the contract to the contrary notwithstanding; and the clinic shall promptly cancel the contract in accordance with the request of the department therefor. No such illegality or cancellation shall be deemed to relieve the clinic of any liability incurred by it under the contract while in force, or to prohibit the clinic from retaining the pro rata earned premium thereon. This provision does not relieve the clinic from any penalty otherwise incurred by the clinic under this part on account of any such violation.

641.528 Construction of contracts.—

(1) Every prepaid health clinic contract shall be construed according to the entirety of its terms and conditions as set forth in the contract and as amplified, extended, or modified by any application therefor or any rider, endorsement, attachment, or addendum thereto.

(2) The word "physician" or "medical doctor," when used in any contract providing for the payment of surgical procedures which are specified in the contract or are performed in an accredited hospital in consultation with a licensed physician and are within the scope of a dentist's professional license, shall be construed to include a dentist who performs such specified procedures.

(3) Notwithstanding any other provision of law, when any contract provides for the payment for procedures specified in the contract which are within the scope of an optometrist's or podiatrist's professional license, such contract shall be construed to include payment to an optometrist or podiatrist who performs such procedures. In the case of podiatry services, payments shall be made in accordance with the coverage now provided for medical and surgical benefits.

641.529 Delivery of contract.—Unless delivered upon execution or issuance, every prepaid health clinic contract shall be mailed or delivered to the subscriber within 10 days of its execution or issuance, except when a condition required by the clinic has not been met by the applicant or subscriber.

641.531 Notice of cancellation of contract.—No prepaid health clinic may cancel or otherwise terminate or fail to renew a prepaid health clinic contract without giving the subscriber at least 30 days notice in writing of the cancellation, termination or non-renewal of the contract. The written notice shall state the reason or reasons for the cancellation, termination or non-renewal. All prepaid health clinic contracts shall contain a clause which requires that this notice be given.

641.532 Provider contracts.—Whenever a prepaid health clinic provides services to subscribers through arrangements with providers there shall be a written contract with the provider which shall include a provision that if the prepaid health clinic fails to meet its obligation to pay fees for services already rendered by providers to subscribers, the prepaid health clinic and not the subscriber shall be liable for the payment of such fee or fees.

641.533 Acceptable payments.—Each prepaid health clinic may accept from governmental agencies, corporations, associations, groups, or individuals payments covering all or part of the cost of contracts entered into between the prepaid health clinic and its subscribers.

641.534 Certain words prohibited in the name of a prepaid health clinic.—

(1) No person issued a certificate of authority as a prepaid health clinic, other than a licensed insurer, insofar as its name is concerned, shall use in its name, contracts, or literature any of the words "insurance," "casualty," "surety," "mutual," "HMO," "health maintenance organization," or any other words descriptive of the insurance, casualty, health maintenance organization or surety business, or deceptively similar to the name or description of any health maintenance organization, insurance, or surety corporation doing business in this state.

(2) No person, not issued a certificate of authority under the provisions of this part, shall use in its name, logo, contracts, or literature the phrase "prepaid health clinic" or the initials "PHC"; imply, directly or indirectly, that it is a prepaid health clinic; or hold itself out to be a prepaid health clinic.

641.535 Investment of funds.—The funds of any prepaid health clinic shall be invested only in securities permitted by the laws of this state for the investment of assets of life insurance companies.

641.536 Promulgation of rules.—The department shall promulgate rules necessary to carry out the provisions of this part other than rules regarding the quality and nature of basic services. The Department of Health and Rehabilitative Services shall promulgate rules necessary to carry out the provisions of this part which relate to its regulatory authority including rules regarding the quality and nature of basic services.

641.537 Penalty.—Any person or entity who operates a prepaid health clinic or renews, issues, or delivers any prepaid health clinic contract without first obtaining and then maintaining thereafter a certificate of authority is guilty of a felony of the third degree and is, in addition to any prescribed applicable denial, suspension, or revocation of a certificate of authority, punishable as provided in s. 775.082 or s. 775.083. Each instance of such violation shall be considered a separate offense.

641.539 Unfair methods of competition and unfair or deceptive acts or practices prohibited.—No person, entity, or prepaid health clinic shall engage in this state in any trade practice which is defined in this part as, or determined pursuant to s. 641.542 to be, an unfair method of competition or an unfair or deceptive act or practice involving the business of prepaid health clinics.

641.541 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(1) MISREPRESENTATION AND FALSE ADVERTISING OF PREPAID HEALTH CLINIC CONTRACTS.—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any prepaid health clinic contract.

(b) Is misleading, or is a misrepresentation as to the financial condition of any person.

(c) Uses any name or title of any contract misrepresenting the true nature thereof.

(d) Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any prepaid health clinic contract, health maintenance contract as defined in s. 641.19(6), or health insurance policy or contract providing health insurance as defined in 624.603.

(e) Misrepresents the benefits, nature, characteristics, uses, standard, quantity, quality, cost, rate, scope, source, or geographic origin or location of any goods or services available from or provided by, directly or indirectly, any prepaid health clinic.

(f) Misrepresents the affiliation, connection, or association of any goods, services, or business establishment.

(g) Advertises goods or services with intent not to sell them as advertised.

(h) Disparages the goods, services, or business of another person by any false or misleading representation.

(i) Misrepresents the sponsorship, endorsement, approval, or certification of goods or services.

(j) Uses an advertising format which, by virtue of the design, location, or size of printed matter, is deceptive or misleading, or which may tend to be deceptive or misleading, or which would be deceptive or misleading to any reasonable person.

(k) Offers to provide a service which the prepaid health clinic is unable to provide.

(l) Misrepresents the availability of a service provided by the prepaid health clinic, either directly or indirectly, including the availability of the service as to location.

(m) Disseminates any advertisement, information, or other material pertaining to the clinic, including any radio or television transmittal of an advertisement or of information, without disclosing as a part of such dissemination adequate reference to the existence of any limitations or exclusions contained in the contract.

(n) Disseminates any advertisement, information, or other material, including any radio or television transmittal of an advertisement or of information, which contains any limitation or exclusion in a language which is not the language principally used in such dissemination or in such advertisement.

(o) Makes an offer in which there is a material contingency, condition, exclusion, or limitation without conspicuously stating the contingency, condition, exclusion, or limitation in the offer and in the language in which the offer was made.

(2) FALSE INFORMATION AND ADVERTISING GENERALLY.—Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

(a) In a newspaper, magazine, or other publication,

(b) In the form of a notice, circular, pamphlet, letter, or poster,

(c) Over any radio or television station, or

(d) In any other way,

an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of the prepaid health clinic which is untrue, deceptive, or misleading.

(3) DEFAMATION.—Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of, or derogatory to, any person and which is calculated to injure such person.

(4) FALSE STATEMENTS AND ENTRIES.—

(a) Knowingly:

1. Filing with any supervisory or other public official,

2. Making, publishing, disseminating, or circulating,

3. Delivering to any person,

4. Placing before the public, or

5. Causing, directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or place before the public, any false statement.

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person.

(5) UNFAIR CLAIM SETTLEMENT PRACTICES.—

(a) Attempting to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the subscriber or group of subscribers to a prepaid health clinic;

(b) A material misrepresentation made to the subscriber for the purpose and with the intent of effecting settlement of claims, loss, or damage under a prepaid health clinic contract on less favorable terms than those provided in, and contemplated by, the contract; or

(c) Committing or performing any of the following:

1. Failure to properly investigate claims;

2. Misrepresentation of pertinent facts or contract provisions relating to coverage at issue;

3. Failure to acknowledge and act promptly upon communications with respect to claims;

4. Denial of claims without conducting reasonable investigations based upon available information;

5. Failure to affirm or deny coverage of claims upon written request of the subscriber within a reasonable time not to exceed 30 days after a claim or proof-of-loss statements have been completed; or

6. Failure to promptly provide a reasonable explanation to the subscriber of the basis in the contract, in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement.

7. Unless a legitimate coverage defense exists, failure to provide any subscriber with services, care, or treatment contracted for pursuant to any prepaid health clinic contract.

(6) FAILURE TO MAINTAIN COMPLAINT-HANDLING PROCEDURES.—Failure of any person to maintain a record of all the complaints received for a 3-year period after the date of the receipt of a written complaint.

(7) REFUSAL TO ISSUE A CONTRACT.—The refusal to issue a prepaid health clinic contract solely because of an individual's race, color, creed, marital status, sex, or national origin.

(8) OPERATION WITHOUT A SUBSISTING CERTIFICATE OF AUTHORITY.—Operation of a prepaid health clinic by any person or entity without a subsisting certificate of authority, or renewal, issuance, or delivery of any prepaid health clinic contract by a prepaid health clinic, person, or entity without a subsisting certificate of authority.

641.542 Power of department.—The department shall have the power to examine and investigate the affairs of every person, entity, or prepaid health clinic in order to determine whether the person, entity, or prepaid health clinic is operating in accordance with the provisions of this part or has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 641.539.

641.543 Defined practices; hearings, witnesses, appearances, production of books, and service of process.—

(1) Whenever the department has reason to believe that any person, entity, or prepaid health clinic has engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice as defined in s. 641.541, or is operating a prepaid health clinic without a certificate of authority as required by this part or is otherwise operating in violation of any provision of this part or rule adopted pursuant thereto, and that a proceeding by it in respect thereto would be to the interest of the public, the department shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(2) The department or a duly empowered hearing officer shall, during the conduct of such hearing, have those powers enumerated in s. 120.58; however, the penalties for failure to comply with a subpoena or with an order directing discovery shall be limited to a fine not to exceed $1,000 per violation.

(3) Statements of charges, notices, and orders under this part may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person, entity, or prepaid health clinic affected by the statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of the service, shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, certified and mailed as aforesaid, shall be proof of service of the same.

641.544 Cease and desist and penalty orders.—After the hearing provided in s. 641.543, the department shall enter a final order in accordance with s. 120.59. If it is determined that the person, entity or prepaid health clinic charged has engaged in an unfair or deceptive act or practice or the unlawful operation of a prepaid health clinic, the department shall also issue an order requiring the violator to cease and desist from engaging in such method of competition, act, or practice or unlawful operation of a prepaid health clinic. Further, the department may, at its discretion, order any one or more of the following:

(1) Suspension or revocation of the prepaid health clinic's certificate of authority if it knew, or reasonably should have known, it was in violation of this part.

(2) If it is determined that the person or entity charged has engaged in the business of operating a prepaid health clinic without a certificate of authority, an administrative penalty not to exceed $1,000 for each prepaid health clinic contract offered or effectuated.

641.545 Appeals from the department.—Any person, entity, or prepaid health clinic subject to an order of the department under s. 641.544 may obtain a review of the order by filing an appeal therefrom in accordance with the provisions and procedures for appeal under s. 120.68.

641.546 Penalty for violation of cease and desist orders.—Any person, entity, or prepaid health clinic who violates a cease and desist order of the department under s. 641.533 while such order is in effect, after notice and hearing as provided in s. 641.532, shall be subject, at the discretion of the department, to any one or more of the following:

(1) A monetary penalty of not more than $50,000 as to all matters determined in such hearing.

(2) Suspension or revocation of the prepaid health clinic's certificate of authority.

641.547 Injunction.—In addition to the penalties and other enforcement provisions of this part, if any person, entity, or prepaid health clinic has engaged in any activity prohibited by this part or any rule adopted pursuant thereto, the department may resort to proceedings for injunction in the circuit court of the county where such person, entity, or prepaid health clinic is located or has his or its principal place of business, and therein apply for such temporary and permanent orders as the department may deem necessary to restrain the person, entity, or prepaid health clinic from engaging in any such activities, until the person, entity, or prepaid health clinic complies with the provisions and rules.

641.548 Civil liability.—The provisions of this part are cumulative to rights under the general civil and common law, and no action of the department shall abrogate such rights to damage or other relief in any court.

641.549 Operational prepaid health clinics; issuance of certificate.—The provisions of this part do not apply to those prepaid health clinics providing the services defined in ss. 641.501 through 641.549 which have been continuously engaged in providing such services since January 1, 1947, provided that any prepaid health clinic claiming an exemption under this section notifies the department of its claim on or before January 1, 1985. This exemption shall terminate upon a change in controlling ownership of the organization.

Section 10. Part III of chapter 641, Florida Statutes, as created by this act, shall stand repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 11. There is hereby appropriated for fiscal year 1984-1985 the sum of $97,200 from the Insurance Commissioner's Regulatory Trust Fund and four positions for the Department of Insurance and $24,362 from the General Revenue Fund and one position for the Department of Health and Rehabilitative Services to carry out the purposes of this act.

Section 12. This act shall take effect on December 31, 1984; provided, however, that any prepaid health clinic in business prior to December 31,

1984, shall have until May 1, 1985, to make a complete and proper application for a certificate of authority as required by this act, and shall have until December 31, 1985, to obtain a certificate of authority as required by this act.

Amendment 1 to House Amendment 1—On page 8, line 31, after the period, insert:

Section 9. Subsection (10) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(10) All health maintenance contracts which provide coverage, benefits, or services for a member of the family of the subscriber shall, as to such family member's coverage, benefits, or services, also provide that the coverage, benefits, or services applicable for children shall be provided with respect to a pre-enrolled newborn child of the subscriber, or covered family member of the subscriber, from the moment of birth. The coverage, benefits, or services for newborn children shall consist of coverage for injury or sickness, including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity, and transportation costs of the newborn to and from the nearest appropriate facility appropriately staffed and equipped to treat the newborn's condition, when such transportation is certified by the attending physician as medically necessary to protect the health and safety of the newborn child.

Amendment 2—In title, on pages 1 and 2, strike the entire title and insert: A bill to be entitled An act relating to prepaid health care service programs; amending s. 641.01, F.S., to apply the provisions of part III of chapter 641, F.S., to prepaid health clinics; amending s. 641.19, F.S., redefining certain terms relating to health maintenance organizations; amending ss. 641.22 and 641.225, F.S., clarifying minimum surplus requirements for such organizations; creating s. 641.226, F.S., prohibiting such organizations from using unlicensed health care providers; providing a penalty; requiring notice; prohibiting certain interference with such providers; amending s. 641.23, F.S.; providing an additional ground for revocation of the certificate of authority of such organizations; amending s. 641.30, F.S.; exempting holding beds in health maintenance organizations from part I of chapter 395, F.S.; creating s. 641.385, F.S., authorizing the Department of Insurance to order the discontinuance of certain advertising; creating part III of chapter 641, F.S., relating to prepaid health clinics; providing a short title; providing intent; providing definitions; providing for the regulation of prepaid health clinics by the Department of Insurance and by the Department of Health and Rehabilitative Services; requiring and providing for the issuance of certificates of authority to operate a prepaid health clinic; providing surplus requirements for prepaid health clinics and exceptions thereto; providing restrictions relating to the use of health care providers; providing a penalty; providing for temporary restraining orders; providing grounds for revocation of a certificate of authority; providing for denial or revocation proceedings; providing for an administrative penalty; providing for transfer of ownership of a clinic; requiring annual reports; providing for examinations of such clinics; providing a civil remedy; providing insolvency protection to subscribers of such clinics; providing for fees; providing for construction and relationship with other laws; providing for regulation of prepaid health clinic contracts and rates, and providing standards with respect thereto; providing additional restrictions upon contracts and other materials; providing for the execution of contracts; providing for the validity of noncomplying contracts; providing for construction of contracts; providing for delivery of contracts; requiring notice of cancellation; providing a restriction on provider contracts; authorizing certain payments to prepaid health clinics; providing prohibition on the use of certain words; placing restrictions on the investment of funds by prepaid health clinics; providing for rules by the Department of Insurance and the Department of Health and Rehabilitative Services; providing penalties; specifying prohibited unfair methods of competition and unfair and deceptive acts or practices; providing penalties and remedies; providing investigative powers; providing enforcement procedures; providing for cease and desist and other orders; providing penalties for violation of such orders; providing for appeals; authorizing injunctive relief; providing certain civil liability; exempting certain clinics from the provisions of the act; providing for future review and repeal; providing appropriations and positions; providing an effective date.

Amendment 3—In title, on page 1, line 23, insert: amending s. 641.31, F.S., relating to health maintenance contracts;

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

CS for SB 342 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Beard	Girardeau	Langley	Rehm
Childers, D.	Gordon	Malchon	Scott
Childers, W. D.	Grant	Mann	Stuart
Crawford	Grizzle	Margolis	Thomas
Deratany	Hair	McPherson	Thurman
Dunn	Henderson	Meek	Vogt
Fox	Hill	Myers	
Frank	Jenne	Neal	
Gersten	Jennings	Plummer	

Nays—1

Carlucci

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 352—A bill to be entitled An act relating to transportation and matters connected therewith; providing that chapters 334-339, 341, 348, and 349, F.S., constitute the "Florida Transportation Code"; amending and revising chapter 334, F.S., relating to transportation administration; amending and revising chapter 335, F.S., relating to the state highway system; amending and revising chapter 336, F.S., relating to the county road system; amending and revising chapter 337, F.S., relating to the Department of Transportation, contracts, acquisition and disposal of property, and utilities; amending and revising chapter 338, F.S., relating to limited access and toll facilities; amending and revising chapter 339, F.S., relating to transportation finance, planning, and miscellaneous provisions; repealing chapter 340, F.S., relating to the "Florida Turnpike Law"; amending and revising chapter 341, F.S., relating to public transit and to airport development and assistance; amending various provisions of Florida Statutes to correct cross-references and to otherwise conform to the provisions of this act; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1 striking everything after the enacting clause inserted the text of a new bill. On motion by Senator Thomas, the rules were waived and the Senate dispensed with printing the amendment in the Journal due to its length.

Amendment 3 to House Amendment 1—On page 55, line 31; on page 56, lines 1-31; and on page 57, lines 1-9, strike all of said lines and insert:

335.13 Regulation of advertising signs.—

~~(1) No person shall erect any billboard or advertisement adjacent to the right-of-way of the state highway system, outside the corporate limits of any city or town, except as provided for in chapter 479.~~

(1)(a)~~(2)~~ No person shall erect any *sign, as defined in chapter 479,* ~~billboard, advertisement, advertising sign, advertising structure~~ or light within the right-of-way limits of any road *on the interstate highway system, the federal-aid primary highway system,* ~~in~~ the state *highway* ~~road~~ system, the state park road system, or the county road system ~~or any municipal connecting link thereof~~; however, the Department ~~of Transportation~~ is authorized to adopt rules ~~and regulations~~ concerning the placement of signs, canopies, and other overhanging encroachments along and over *any* ~~all~~ state roads which are within ~~corporate limits of~~ municipalities, or which are of curb-and-gutter construction outside *municipalities* ~~corporate limits~~, provided no supports are located within the right-of-way.

(b) The department shall have the authority to direct ~~immediate~~ removal of any violations of *paragraph (a) as provided herein.*

1. Removal of a sign from the right-of-way of the interstate highway system, the federal-aid primary highway system, the state park road system or the state highway system shall be in accordance with the provisions of chapter 479.

2. If a sign or light is located on the right-of-way of the county road system in violation of paragraph (a), the department shall direct immediate removal. However, if the value of the sign ~~the above section. However, in the event the value of the billboard, advertisement, advertising sign, advertising structure~~ or light is greater than $500 and bears thereon the name of *such* ~~the~~ owner *or person or firm whose advertisement is on the sign, such sign,* ~~no such billboard, advertisement, advertising sign, advertising structure~~ or light shall *not* be removed until *such* ~~the~~ owner *or person or firm* ~~thereof~~, as shown thereon, shall have received a 30-day notice as provided by chapter 479.

(c) The ~~Division of Road Operations of the~~ department may not authorize the erection of signs *where such signs are* prohibited by *the local governmental entity having jurisdiction* ~~any municipality~~.

(2)~~(3)~~(a) The provisions of *subsection* ~~subsections~~ (1) ~~and (2)~~ shall not apply to benches or transit shelters, or advertising thereon, on the right-of-way of any municipal, county, or state road, except a limited-access highway, which benches or shelters have been erected for the ~~safety,~~ comfort, or convenience of ~~schoolchildren and~~ the general public or at designated stops on official bus routes, provided written permission has been secured from the *appropriate local governmental entity* ~~pertinent political subdivision~~ and such benches or transit shelters do not interfere with right-of-way preservation and maintenance.

Amendment 4 to House Amendment 1—On page 61, lines 1-27, strike all of Section 50, and insert a new Section 50:

335.14 Traffic devices on State Highway System or State Park Road System.—*All traffic control devices installed on any road on the state highway system or state park road system shall conform to the uniform system of traffic control devices adopted pursuant to s. 316.0745.*~~The Department of Transportation shall designate and prescribe the location, form, and character of informational, regulatory, and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority, or other agency, upon any road in the State Highway System or State Park Road System.~~ No *such device* ~~such sign, marking, or signal~~ shall be *installed on the state highway system* ~~located or placed~~ without the approval of the department and, if a federal aid road, the additional concurrence of the Federal Highway Administration. Any *such device installed* ~~sign, marking, or signal placed~~ without *said* ~~the~~ approval ~~of the department with concurrence of the Federal Highway Administration when required~~ may be removed~~,~~ without payment to the *owner* ~~erecting authority,~~ if, upon request of the department, the *owner* ~~erecting authority~~ refuses to remove such *device* ~~sign, marking, or signal. Subject to approval by the Federal Highway Administration, all new or replacement speed limit signs erected by the Department of Transportation shall show the legal speed limit both in miles per hour and in kilometers per hour.~~

Amendment 5 to House Amendment 1—On page 44, line 11, strike "*However, this provision*" and insert: *Prior to resurfacing such roads the governing body of the county shall certify that it has the financial ability to maintain the road. If the department and county are unable to agree on the county's financial ability, the county shall have the right to administrative and judicial review as provided in chapter 120. In determining the county's ability to maintain the road the hearing officer, or court shall consider whether the county has imposed the taxes as provided in s. 336.021 and 336.025, and the level of ad valorem property taxes imposed by the county for transportation purposes. In the event it is determined that the county does not have the financial ability to maintain such road, the department shall continue the maintenance of the road if it serves a significant inter-regional benefit to the state highway system and the department receives a specific legislative appropriation for maintenance of such road. For roads transferred prior to the effective date of this act, a county may seek an administrative or judicial review in accordance with chapter 120 if there is disagreement as to the condition of the road or the financial ability of the county to maintain said road. However, this subsection*

Amendment 2—On page 1 in the title, lines 1-27, strike the title and insert: An act relating to transportation and matters connected therewith; providing that chapters 334-339, 341, 348, and 349, F.S., constitute the "Florida Transportation Code"; amending and revising chapter 334, F.S., relating to transportation administration; amending and revising chapter 335, F.S., relating to the state highway system; amending and revising chapter 336, F.S., relating to the county road system; amending and revising chapter 337, F.S., relating to the Department of Transportation, contracts, acquisition and disposal of property, and utilities; amending and revising chapter 338, F.S., relating to limited access and toll facilities; amending and revising chapter 339, F.S., relating to transportation finance, planning, and miscellaneous provisions; repealing chapter 340, F.S., relating to the "Florida Turnpike Law"; amending and revising chapter 341, F.S., relating to public transit and to airport development and assistance; amending various provisions of Florida Statutes to correct cross-references and to otherwise conform to the provisions of this act; providing an effective date.

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

Amendment 1—On page 2, strike all of lines 20-23 and insert:

(3) The secretary shall appoint an assistant secretary who shall possess qualifications similar to those for the secretary and who shall act in his absence. The assistant secretary shall be directly responsible to the secretary and

On motion by Senator Beard, the Senate concurred in House Amendment 3 to House Amendment 1.

Senator Beard moved that the Senate refuse to concur in House Amendment 4 to House Amendment 1. The motion failed.

On motion by Senator Beard, the Senate refused to concur in House Amendment 5 to House Amendment 1.

On motion by Senator Langley, the Senate concurred in House Amendment 4 to House Amendment 1.

On motion by Senator Beard, the Senate concurred in House Amendment 1 as amended by Senate Amendment 1 and House Amendments 3 and 4, and the House was requested to concur in the House amendment as amended and recede from House Amendment 5 to the House amendment.

On motion by Senator Beard, the Senate concurred in House Amendment 2.

SB 352 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Meek

The Honorable Curtis Peterson, President

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

SB 868—A bill to be entitled An act relating to transportation planning; amending s. 334.21, F.S.; providing for the funding and development of a transportation plan by the Department of Transportation; providing that such plan shall be developed cooperatively with metropolitan planning organizations; providing that the plan shall include to the extent feasible the plans, priorities and transportation improvement programs of metropolitan planning organizations; providing for public hearings; providing that metropolitan planning organizations may request further consideration of specific projects not included or adequately addressed in the 5-year transportation plan; providing that revenues appropriated in excess of those required for projects in the 5-year transportation plan shall only be used on projects on the submitted list; providing that projects may not be undertaken unless they are listed in the annual transportation plan; providing for the substitution of projects and for an exemption for emergency projects; providing for the certification forward as fixed capital outlay of unexpended funds; amending s. 334.211, F.S.; providing definitions; providing for the establishment of a

statewide transportation plan known as the Florida Transportation Plan; providing that mandated transportation planning functions of state and local governmental entities shall be undertaken to the extent feasible with the policies and guidelines section of the Florida Transportation Plan; providing that the Florida Transportation Plan shall be developed in coordination with affected state agencies, regional planning agencies, metropolitan planning organizations, private business enterprises and the general public; providing that the metropolitan planning organizations of the state shall submit a listing of 5-year construction and periodic maintenance projects to the Department of Transportation; providing that the regional planning councils shall develop transportation goals and objectives which shall to the extent feasible be consistent with the goals and objectives of the metropolitan planning organizations and the policies and guidelines section of the Florida Transportation Plan; providing that the transportation plans of the metropolitan planning organizations and other local entities shall be consistent, to the extent feasible, with regional transportation goals and objectives; providing for the establishment of a systematic planning process to be used in the development of the statewide transportation plan; providing for the adoption of the Florida Transportation Plan; amending s. 334.215, F.S; providing that there shall be at least one metropolitan planning organization within each urbanized area; providing for the apportionment of the memberships; providing for review at least every 5 years; providing for the development of a comprehensive transportation plan; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 33, strike lines 19 and 20 and insert: Section 4. This act shall take effect October 1, 1984.

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

SB 868 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Beard	Gersten	Langley	Scott
Carlucci	Girardeau	Malchon	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Henderson	McPherson	Vogt
Deratany	Hill	Myers	Weinstein
Dunn	Jenne	Neal	
Fox	Jennings	Plummer	
Frank	Kirkpatrick	Rehm	

Nays—None

Vote after roll call:

Yea—Meek

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—

CS for SB 869—A bill to be entitled An act relating to rail transportation; creating ss. 341.301-341.303, F.S.; establishing the role of the Department of Transportation in rail transportation; providing definitions; providing duties and responsibilities of the department; providing that appropriation requests shall be based on funding required for implementation of the rail component of the 5-year transportation plan; providing for project eligibility; providing levels of state participation in eligible capital and service development projects; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 7, line 5, strike "operating assistance" and insert: "service development"

Amendment 2—On page 7, line 7, strike: percent of the net operating cost of any eligible intercity or, and insert: percent of the capital and net operating cost of any eligible intercity or

Amendment 3—On page 7, line 11, strike: percent of the net operating costs of any eligible intercity, and insert: percent of the capital and net operating costs of any eligible intercity

Amendment 4—On page 7, between lines 26 and 27 insert: "Net Operating Costs" means all operating costs of the project less any federal funds, fares, or other sources of income to the project.

Amendment 5—On page 7, strike lines 27 and 28 and insert:

Section 4. This act shall take effect October 1, 1984.

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

CS for SB 869 passed as amended and the action of the Senate was 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	Henderson	McPherson	Vogt
Deratany	Hill	Myers	Weinstein
Fox	Jenne	Neal	
Frank	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Meek

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 584—A bill to be entitled An act relating to transportation; creating ss. 341.201-341.205, F.S.; establishing the Florida Airport Development and Assistance Act; providing definitions; providing duties and responsibilities of the Department of Transportation; providing that federal funding of local aviation projects shall be wholly between local airport sponsors and appropriate federal agencies; authorizing the department to receive federal aid; requiring a 5-year aviation and airport development plan; providing that appropriation requests shall be based on the plan; providing that certain airport access transportation facility projects shall be eligible for funding; providing a limitation on annual funding to a single airport; providing for transfer of funds between aviation and airport programs; providing for project eligibility; providing levels of state participation in eligible projects; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 8, strike lines 7-12

Amendment 2—On page 8, strike lines 13 and 14 and insert:

Section 6. This act shall take effect October 1, 1984.

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

SB 584 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Hill	Plummer
Beard	Frank	Jennings	Rehm
Carlucci	Gersten	Langley	Scott
Childers, D.	Girardeau	Malchon	Stuart
Childers, W. D.	Grant	Margolis	Thomas
Crawford	Grizzle	McPherson	Thurman
Deratany	Hair	Myers	Vogt
Dunn	Henderson	Neal	Weinstein

Nays—1

Mann

Vote after roll call:

Yea—Jenne, Meek

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—

CS for SB 569—A bill to be entitled An act relating to rights-of-way acquisition by the Department of Transportation; amending s. 127.01, F.S.; specifying powers of the counties to acquire property by eminent domain; amending s. 337.27, F.S.; specifying powers of the department to acquire property and rights by eminent domain and purposes therefor; providing that when land and property falls within a designated transportation corridor the department may acquire it prior to preparation or completion of specific plans; providing that the acquisition of land and property for future transportation needs is a public purpose; providing a definition and conditions for such acquisition; providing that the department may acquire an entire lot, block, or tract of land in certain instances; providing that the value of the property to be acquired is the value on the date that the project scope is known in the market; authorizing the department to enter upon property under certain conditions and for specified purposes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 5, strike lines 5 and 6 and insert:

Section 2. This act shall take effect October 1, 1984.

Amendment 2—On page 5, line 4, after the period, insert:

Section 3. Section 73.0716, Florida Statutes, is created to read:

73.0716 Forfeiture.—

(1) Where property has been condemned through eminent domain proceedings, the right of the condemnor to maintain possession of the property may be forfeited if the condemnor fails to devote the property to the use for which it was condemned within 5 years from the date of condemnation. The condemnor may petition the circuit court of the county wherein the property lies within that 5-year period for an extension of time which shall not exceed 2 years.

(2) If the condemnor fails to devote the property to the use for which it was condemned, the state has the option, within 4 months of the time limitation set forth in subsection (1), to purchase the property at the condemnor's original purchase price plus interest at the prevailing rate from the date of the condemnor's purchase. If the state does not purchase the property, the original owner or his heirs shall have 4 months to purchase the property at the condemnor's original purchase price plus interest at the prevailing rate from the date of the condemnor's purchase. If the original owner or his heirs do not purchase the property, the applicable local government unit shall have 4 months to purchase the property at the condemnor's original purchase price plus interest at the prevailing rate from the date of the condemnor's purchase.

(3) At the time the property is purchased by the condemnor, the condemnor shall notify the Executive Director of the Department of Natural Resources, the owner of the property, and the governing body of the applicable local government unit by registered mail of the provisions of this section. Failure to provide notice as provided in this subsection shall render the condemnor liable for damages, costs and reasonable attorney's fees.

Amendment 1 to House Amendment 2—On page 1, line 25, after the period, insert: In the event that the condemnor is a department or agency of the state of Florida and the condemnor fails to devote the property to the use for which it was condemned within four months of the time limitation set forth in subsection (1) the original owner or his heirs shall have four months to purchase the property at the condemnor's original purchase price plus interest at the prevailing rate from the date of the condemnor's purchase. If the original owner or his heirs do not purchase the property, the applicable local government unit shall have 4 months to purchase the property at the condemnor's original purchase price plus interest at the prevailing rate from the date of the condemnor's purchase.

(Renumber subsequent sections.)

Amendment 3—In the title on page 1, line 23, after the semi-colon, insert: creating s. 73.0716, F.S., relating to forfeiture;

Amendment 4—On page 1, line 27, insert:

Section 1. Section 73.092, Florida Statutes, is amended to read:

73.092 Attorney's fees.—

(1) In assessing attorney's fees in eminent domain proceedings, the court shall consider:

(a)~~(1)~~ Benefits resulting to the client from the services rendered *which relate to eminent domain issues and which stem directly from the eminent domain proceedings.*

(b) The attorney's time and labor reasonably required adequately to represent the client. Prior to the court's assessment of attorney's fees, the attorney for the condemnee shall submit a detailed statement of services performed by date, nature of services performed, and time spent performing such service. Reasonable attorney fees as authorized in this section shall not exceed the general trial rate and the general hourly rate for preparation in the county or judicial district in which the proceeding was instituted.

(c)~~(2)~~ The novelty, difficulty, and importance of the questions *involved, and legal rights obtained.*

(d)~~(3)~~ The skill employed by the attorney in conducting the case.

~~(4) The amount of money involved.~~

(e)~~(5)~~ The responsibility incurred and fulfilled by the attorney.

~~(6) The attorney's time and labor reasonably required adequately to represent the client.~~

(2) Where an offer of judgment made by the petitioner, pursuant to the Florida Rules of Civil Procedure, is either rejected or expires, and the verdict or settlement is less than or equal to the offer of judgment, no attorney fees or costs shall be awarded for time spent by the attorney or costs incurred after the time of rejection or expiration of the offer. Where an offer of judgment is accepted or the verdict exceeds the offer of judgment, attorney fees and costs shall be determined in accordance with s. 73.091 and subsection (1). In assessing attorney's fees for time spent and costs incurred prior to rejection or expiration of the offer under this subsection, the court shall consider, and attorney for the defendant shall submit, a detailed statement of services performed by date, nature of services performed, time spent performing such services and a detailed statement of the nature and date of costs incurred.

Amendment 1 to House Amendment 4—On page 1, line 13, strike all of said line and insert: *rate for similar services in the judicial circuit in which the*

Amendment 5—In title on page 1, line 3, after the semi-colon, insert: Amending s. 73.092, F.S., relating to attorney's fees;

Amendment 6—On page 4, line 16, after the period, insert:

(4) Any increase or decrease in the value of property to be acquired by the department for a particular project which occurs after the date of the Secretary of Transportation's Project Resolution, and which is a result of the knowledge of the project location, shall not be considered in arriving at the value of the property acquired. However, this provision shall be inapplicable in the event that the date of the project resolution occurs more than thirty months prior to the date of valuation in an eminent domain proceeding,

(Renumber subsequent sections.)

On motions by Senator Beard, the Senate refused to concur in the House amendments.

Further consideration of CS for SB 569 was deferred.

The Honorable Curtis Peterson, President

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

CS for CS for SB 1030—A bill to be entitled An act relating to public transportation; amending s. 341.011, F.S.; correcting a cross-reference; repealing s. 341.021, F.S., relating to legislative intent; amending s. 341.031, F.S.; correcting a cross-reference; providing definitions; amending s. 341.041, F.S.; providing responsibilities of the Department of Transportation; amending s. 341.051, F.S.; providing for project eligibility for funding; providing limitations on state participation in transit projects not approved for federal funding; providing for the advance of state funds to assist transit systems to become self-sufficient; providing for state participation in service development projects or transit urban corridor projects; providing for increases in the duration of such service development projects; creating s. 341.061, F.S.; providing for minimum safety standards for bus transit and fixed guideway transit systems; providing for the inspection of bus transit systems and safety reviews of fixed guideway public transit systems; amending s. 341.101, F.S.; amending the scope of "municipal purpose" for state purchase of mass transit vehicles and facilities; amending s. 341.102, F.S.; substituting "local government entity" for county or municipality; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 17, strike lines 1 and 2 and insert:

Section 9. This act shall take effect October 1, 1984.

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

CS for CS for SB 1030 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Barron	Frank	Jennings	Rehm
Carlucci	Gersten	Kirkpatrick	Stuart
Childers, D.	Girardeau	Langley	Thomas
Childers, W. D.	Grant	Malchon	Vogt
Crawford	Hair	Margolis	Weinstein
Deratany	Henderson	McPherson	
Dunn	Hill	Myers	
Fox	Jenne	Plummer	

Nays—None

Vote after roll call:

Yea—Meek, Neal, Scott

The bill was ordered engrossed and then enrolled.

On motions by Senator Beard, by two-thirds vote HB 1278 was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Beard, by unanimous consent—

HB 1278—A bill to be entitled An act relating to motor carriers; amending s. 207.002, F.S., providing definitions with respect to the "Florida Special Fuel and Motor Fuel Use Tax Act of 1981"; amending s. 207.004, F.S., providing for issuance of motor fuel use tax identifying devices to certain vehicles; providing fees; establishing reporting periods; providing for imposition of fees or taxes on motor carriers based in other states under certain circumstances; amending s. 207.005, F.S., providing for reporting periods; providing for delinquency of reports; amending s. 207.021, F.S., providing for the settlement or compromise of penalties or interest under the act; amending s. 316.545, F.S., providing inspection criteria at weigh stations; amending s. 316.605, F.S., providing an exception to licensing requirements; amending s. 320.01, F.S., defining the term "apportioned motor vehicle"; amending s. 320.03, F.S., designating the Department of Revenue as an agent of the Department of Highway Safety and Motor Vehicles for registration of apportioned motor vehicles; amending s. 320.055, F.S., providing for registration periods with respect to certain vehicles; amending s. 320.06, F.S., establishing requirements for registration certificates, license plates, and validation stickers; creating s. 320.0706, F.S., providing for display of truck-tractor license plates; amending s. 320.39, F.S., authorizing membership in the International Registration Plan; providing effective dates.

—was taken up out of order. On motions by Senator Beard, by two-thirds vote HB 1278 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—32

Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Neal
Carlucci	Girardeau	Kirkpatrick	Plummer
Childers, D.	Grant	Langley	Stuart
Childers, W. D.	Grizzle	Malchon	Thomas
Deratany	Hair	Mann	Thurman
Dunn	Henderson	Margolis	Vogt
Fox	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Meek, Scott

SPECIAL ORDER, continued

SB 549—A bill to be entitled An act relating to the Department of Transportation; renumbering and amending s. 340.12, F.S.; providing for motorist services on turnpike projects; providing that such services shall be secured through a request for proposal process; providing factors to be used in the evaluation of proposals; providing a limitation of the number of service stations that may be operated by a single person on a turnpike project; providing a limitation on the number of stations that may offer a single brand of motor fuel; providing an effective date.

—was read the second time by title.

Senator Beard moved the following amendment which was adopted:

Amendment 1—On page 4, strike all of lines 28 and 29 and insert:

Section 2. This act shall take effect October 1, 1984.

On motion by Senator Beard, by two-thirds vote SB 549 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28

Beard	Grant	Mann	Rehm
Carlucci	Grizzle	Margolis	Scott
Childers, D.	Hair	McPherson	Stuart
Childers, W. D.	Hill	Meek	Thomas
Dunn	Jennings	Myers	Thurman
Fox	Johnston	Neal	Vogt
Girardeau	Langley	Plummer	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

SB 553—A bill to be entitled An act relating to Department of Transportation contracts; amending s. 337.11, F.S; providing for additional uses for supplemental agreements; providing for the use of supplemental agreements in certain instances to expand the physical limits of a project; eliminating limitation on change orders in certain cases; providing an effective date.

—was read the second time by title.

Senator Beard moved the following amendment which was adopted:

Amendment 1—On page 2, strike all of lines 24 and 25 and insert:

Section 2. This act shall take effect October 1, 1984.

On motion by Senator Beard, by two-thirds vote SB 553 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Beard	Childers, D.	Crawford	Fox
Carlucci	Childers, W. D.	Dunn	Girardeau

Grant	Jennings	Neal	Thomas
Hair	Langley	Plummer	Thurman
Henderson	Margolis	Rehm	Vogt
Hill	Myers	Stuart	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Scott

SB 948—A bill to be entitled An act relating to the functional classification of roads; amending s. 335.04, F.S.; requiring the mutual agreement of concerned parties to transfer responsibility for a mechanically operated bridge over the intracoastal waterway; returning responsibility for such bridges to the governing body which had responsibility prior to functional classification; providing for retroactive application; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendments which were moved by Senator Carlucci and adopted:

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

Section 1. A new subsection (8) is added to section 335.04, Florida Statutes, to read:

Section 335.04 Functional classification plan for roads; responsibilities of department.—

(8) If as a result of the functional classification of a road pursuant to this section, a municipality would otherwise be required to assume the operation and maintenance responsibility of a mechanically-operated bridge over the Florida Intracoastal Waterway in addition to the road attendant to said bridge, and if prior to such functional clssification the bridge had been constructed, operated and maintained with funds of a governmental entity other than that municipality, then the bridge and roadway shall continue to be operated and maintained by, and be within the jurisdiction of, that governmental entity. Further, the provisions of this subsection shall be applicable to all transfers or attempted transfers of responsibility pursuant to functional classification in accordance with this section which have occurred since January 1, 1978 or which may occur subsequent to the effective date hereof.

Section 2. This act shall take effect July 1, 1984.

Amendment 2—In title, on page 1, line 12, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the functional classification of roads; amending s. 335.04, F.S.; providing that the responsibility for maintenance and operation of mechnically-operated bridges over the Florida Intracoastal Waterway shall remain with the governing entity which had operation and maintenance responsibility and jurisdiction over said bridges prior to functional classification pursuant to s. 335.04, F.S.; providing for applicability to all transfers of responsibility which have occurred since January 1, 1978, or which may occur subsequent to the effective date of this bill; providing an effective date.

On motion by Senator Carlucci, by two-thirds vote SB 948 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal

HB 1068— A bill to be entitled An act relating to expressway authorities; creating part IX of chapter 348, F.S., creating the "Santa Rosa Bay Bridge Authority Law"; providing definitions; creating the Santa Rosa Bay Bridge Authority; providing purposes and powers; providing for bonds; providing for a lease-purchase agreement; providing that the Department of Transportation may be appointed agent of the Division of Bond Finance of the Department of General Services for construction purposes; providing for the acquisition of lands and property; providing for cooperation; providing for the covenant of the state; providing an effective date.

—was read the second time by title.

Senator W. D. Childers moved the following amendments which were adopted:

Amendment 1—On page 3, strike all of lines 12-23 and insert: of seven members. The six members appointed by the Governor and the Board of County Commissioners shall be permanent residents of Santa Rosa County at all times during their terms of office.

(a) Three members shall be appointed by the Governor and three members shall be appointed by the Board of County Commissioners of Santa Rosa County none of whom shall be elected officials at the time of his appointment. The seventh member shall be the District III Engineer of the Department of Transportation. Two of the members of the authority who are appointed by the Governor shall be designated to serve for terms expiring January 3, 1986 and the third member appointed by the Governor shall be designated to serve for a term expiring January 3, 1988. One of the members of the authority appointed by the Board of County Commissioners shall be designated to serve for a term expiring January 3, 1986 and the two remaining members appointed by the Board of County Commissioners shall be designated to serve for a term expiring January 3, 1988. The District Engineer shall serve ex-officio. Thereafter, the

Amendment 2—On page 4, lines 11 and 12, strike "three" and insert: four

Amendment 3—On page 8, between lines 6 and 7, insert: (4) Any provision of law to the contrary notwithstanding, the authority shall not begin any actions to construct the system or acquire any land therefore until it makes a recommendation to a resource planning and management committee established pursuant to s. 380.045, F.S. and the resource planning and management committee approves the system.

Senator Margolis moved the following amendments which were adopted:

Amendment 4—On page 12, between lines 20 and 21, insert:

Section 2. That portion of United States Highway 441 which extends from the Dade-Broward county line to the Golden Glades Interchange is hereby designated "John I. Smith Boulevard."

Section 3. The Department of Transportation is authorized and directed to erect appropriate markers designating "John I. Smith Boulevard."

(Renumber subsequent section.)

Amendment 5—In title, on page 1, line 14, after the semicolon (;) insert: designating a portion of United States Highway 441 in Dade County as John I. Smith Boulevard; directing the Department of Transportation to erect appropriate markers;

On motion by Senator W. D. Childers, by two-thirds vote HB 1068 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Barron	Fox	Malchon	Stuart
Beard	Girardeau	Mann	Thomas
Carlucci	Grant	McPherson	Thurman
Castor	Hair	Myers	Vogt
Childers, D.	Henderson	Neal	Weinstein
Childers, W. D.	Hill	Plummer	
Deratany	Kirkpatrick	Rehm	
Dunn	Langley	Scott	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

HB 231—A bill to be entitled An act relating to juveniles; amending s. 39.09, F.S., specifying certain types of community-based sanctions which may be imposed upon a child who has been found to have committed a delinquent act; amending s. 39.11, F.S., providing for restitution by parents as a part of community-based sanctions with respect to a child who has been found to have committed a delinquent act; providing an effective date.

—was read the second time by title. On motion by Senator Carlucci, by two-thirds vote HB 231 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Dunn	Kirkpatrick	Rehm
Beard	Fox	Langley	Scott
Carlucci	Frank	Mann	Stuart
Castor	Girardeau	Margolis	Thomas
Childers, D.	Grant	McPherson	Thurman
Childers, W. D.	Hair	Myers	Weinstein
Crawford	Henderson	Neal	
Deratany	Hill	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

Senator Stuart presiding

SB 997—A bill to be entitled An act relating to education; amending s. 232.425, F.S.; prescribing standards for student participation in interscholastic extracurricular activities; providing an effective date.

—was read the second time by title.

Five amendments were adopted to conform SB 997 to CS for HB 282.

On motion by Senator Thurman, the rules were waived and by two-thirds vote CS for HB 282 was withdrawn from the Committee on Education.

On motion by Senator Thurman—

CS for HB 282—A bill to be entitled An act relating to education; amending s. 232.425, F.S.; prescribing standards for student participation in interscholastic extracurricular activities; providing an effective date.

—a companion measure, was substituted for SB 997 and read the second time by title.

Senator Thurman moved the following amendment:

Amendment 1—On page 1, lines 10-31, strike everything after the enacting clause and insert:

Section 1. Section 232.425, Florida Statutes, is amended to read:

232.425 Student standards for participation in interscholastic extracurricular student activities.—Beginning with the second semester of the 1983-1984 school year, in order for a student to be eligible to participate in interscholastic extracurricular student activities, he must maintain a grade point average of 1.5 on a 4.0 scale, or its equivalent, *and in 1984-1985 and thereafter pass five subjects* for the *grading period* ~~semester~~ immediately preceding participation; except that *in 1984-1985 and thereafter a student exempt from attending a full school day under s. 228.041(13) shall be required to maintain a 1.5 grade point average and pass each class for which he is enrolled.* ~~This section does not apply to students enrolled in exceptional education programs. Such student shall also be progressing satisfactorily toward graduation as provided for in the district approved pupil progression plan and shall meet such~~ *Each student shall meet such* other requirements for participation as may be established by the school district.

Section 2. This act shall take effect upon becoming a law.

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

Amendment 1A—On page 1, between lines 19 and 20, insert:

Section 2. Section 228.083, Florida Statutes, is created to read:

228.083 Educational equity.—

(1) SHORT TITLE.—This section may be cited as the "Florida Educational Equity Act."

(2) DISCRIMINATION PROHIBITED.—Discrimination on the basis of race, sex, national origin, marital status, or handicap against a student or an employee in the state system of public education is prohibited. No person in this state shall, on the basis of race, sex, national origin, marital status, or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity, or in any employment conditions or practices, conducted by a public educational institution which receives or benefits from federal or state financial assistance.

(3) DISCRIMINATION IN GUIDANCE, COUNSELING, AND FINANCIAL ASSISTANCE PROHIBITED.—Guidance, counseling, and financial assistance services in the state system of public education shall be available to students equally. Guidance and counseling services, materials, and promotional events shall stress access to academic, career, and vocational opportunities for students without regard to race, sex, national origin, marital status, or handicap.

(4) DISCRIMINATION IN PROGRAMS AND COURSE OFFERINGS PROHIBITED.—

(a) Criteria for admission to programs and courses shall not have the effect of restricting access of persons of a particular race, sex, national origin, marital status, or handicap.

(b) All public education classes shall be available to all students without regard to race, sex, national origin, marital status, or handicap; however, this is not intended to eliminate the provision of programs designed to meet the needs of students with limited proficiency in English or exceptional education students.

(c) Students may be separated by sex for any portion of a class which deals with human reproduction or during participation in bodily contact sports. For the purposes of this part, bodily contact sports include wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(5) DISCRIMINATION IN RECREATIONAL AND ATHLETIC ACTIVITIES PROHIBITED.—

(a) No person shall, on the basis of sex, be excluded from participating in, be denied the benefits of, or be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by an educational institution, and no such institution shall provide athletics separately on such basis.

(b) Notwithstanding the requirements of paragraph (a), an educational institution may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a bodily contact sport. However, where an educational institution operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a bodily contact sport.

(c) This subsection does not prohibit the grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex. However, where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the educational institution shall use appropriate standards which do not have such effect.

(d) An educational institution which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the Commissioner of Education shall consider, among other factors:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

2. The provision of equipment and supplies;

3. Scheduling of games and practice time;

4. Travel and per diem allowance;

5. Opportunity to receive coaching and academic tutoring;

6. Assignment and compensation of coaches and tutors;

7. Provision of locker rooms, practice, and competitive facilities;

8. Provision of medical and training facilities and services;

9. Provision of housing and dining facilities and services;

10. Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if an educational institution operates or sponsors separate teams shall not constitute nonimplementation of this subsection, but the Commissioner of Education shall consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(e) An educational institution may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities shall be comparable to such facilities provided for students of the other sex.

(6) STRATEGIES TO OVERCOME UNDERREPRESENTATION.—Educational institutions within the state system of public education shall develop and implement methods and strategies to increase the participation of students of a particular race, sex, national origin, marital status, or handicap in programs and courses in which students of that particular race, sex, national origin, marital status, or handicap have been traditionally underrepresented, including, but not limited to, mathematics, science, computer technology, electronics, communications technology, engineering, and vocational education.

(7) ADOPTION OF RULES.—The State Board of Education shall adopt rules to implement this section.

(8) IMPLEMENTATION BY DEPARTMENT OF EDUCATION.—The functions of the Office of Equal Educational Opportunity of the Department of Education shall include, but not be limited to, the following; it shall:

(a) Require of all boards the development and submission of plans for the implementation of this section to the Department of Education.

(b) Conduct periodic reviews of educational agencies to determine compliance with this section, and, after a finding that an educational agency is not in compliance with this section, notify the agency of the steps it shall take to attain compliance.

(c) Provide technical assistance, including assisting educational agencies in identifying unlawful discrimination and instructing them in remedies for correction and prevention of such discrimination.

(d) Conduct studies of the effectiveness of methods and strategies designed to increase participation of students in programs and courses in which students of a particular race, sex, national origin, marital status, or handicap have been traditionally underrepresented, and monitor the success of students in such programs of courses.

(e) Require of all boards the submission of data and information necessary to determine compliance with this section. The Commissioner of Education shall prescribe the format and the date for submission of this data and any other educational equity data. If any district does not submit the required compliance data, or any other required educational equity data, by the prescribed date, the commissioner shall notify the district school board of this fact and, if the appropriate action is not taken to immediately submit the required report, the school board shall be directed to proceed pursuant to the provisions of s. 230.23(11)(b). If any community college or university does not submit required data and information by the prescribed date, the same policy prescribed above for school districts shall be implemented.

(9) BOARD OF REGENTS.—The Board of Regents shall comply with all of the requirements and duties as provided in subsection (8), except that the Commissioner of Education may delegate to the Chancellor of the State University System any duties required of the Commissioner of Education with regard to this act.

(10) REMEDIES.—A person aggrieved by a violation of this section or of a rule adopted under this section has a right of action for such equitable relief as the court may determine. The court may also award reasonable attorneys' fees and court costs to a prevailing party.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent section.)

Amendment 1 as amended was adopted.

Senator Fox moved the following amendment which was adopted:

Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert: creating s. 228.083, F.S.; providing that neither students nor public education employees shall be discriminated against on the basis of race, sex, national origin, marital status, or handicap by an educational institution that receives federal or state financial assistance; providing a definition; providing for rulemaking authority; providing penalties for failure to report certain data; providing remedies; providing for attorneys' fees; providing severability;

On motion by Senator Thurman, by two-thirds vote CS for HB 282 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Hill	Myers
Beard	Frank	Jennings	Neal
Carlucci	Girardeau	Johnston	Rehm
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crawford	Grizzle	Mann	Thurman
Deratany	Hair	Margolis	Vogt
Dunn	Henderson	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Scott

SB 997 was laid on the table.

On motion by Senator Carlucci, the rules were waived and by two-thirds vote CS for HB 764 was withdrawn from the Committee on Education.

On motion by Senator Carlucci—

CS for HB 764—A bill to be entitled An act relating to community colleges; providing that any internal auditor employed by a community college shall be hired by and report to the board of trustees; providing an effective date.

—a companion measure, was substituted for CS for SB 199 and read the second time by title. On motion by Senator Carlucci, by two-thirds vote CS for HB 764 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Carlucci	Grant	Langley	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Henderson	Myers	Weinstein
Dunn	Hill	Plummer	
Girardeau	Jennings	Scott	
Gordon	Kirkpatrick	Stuart	

Nays—3

Castor	Frank	Mann

Vote after roll call:

Yea—Gersten, Neal

Nay to Yea—Frank

CS for SB 199 was laid on the table.

On motions by Senator Dunn, by two-thirds vote CS for HB 1153 was withdrawn from the Committees on Economic, Community and Consumer Affairs; Natural Resources and Conservation; Appropriations; and Rules and Calendar.

On motions by Senator Dunn—

CS for HB 1153—A bill to be entitled An act relating to state and regional planning; providing a short title; amending s. 11.60, F.S., 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, F.S., providing legislative findings and intent; amending s. 23.0112, F.S., providing definitions; creating s. 23.01131, F.S., granting certain powers and responsibilities relating to state and regional planning to the Executive Office of the Governor; amending s. 23.0114, F.S., 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, F.S., requiring the Executive Office of the Governor to prepare a proposed state comprehensive plan and providing for its adoption; providing for legislative implementation and for administrative action in the absence of legislative action; providing for implementation of the plan; creating s. 23.0131, F.S., requiring state agencies to adopt state agency functional plans; creating s. 23.0132, F.S., requiring state agencies to prepare state agency functional plans consistent with the state comprehensive plan; providing for review thereof; providing for resolution of disputes; amending s. 23.015, F.S., changing the purposes of the Governor's annual report of the state's economic condition; amending s. 160.01, F.S., requiring county membership in regional planning councils; amending s. 160.07, F.S., changing requirements and adoption procedures for comprehensive regional policy plans; creating s. 160.072, F.S., requiring certain review of such plans prior to adoption; creating s. 160.074, F.S., providing for the mediation of conflicts; creating s. 160.076, F.S., 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, F.S., 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), F.S., deleting the definition of the Department of Community Affairs in provisions relating to regional planning councils; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 550 and read the second time by title.

Senators Dunn, Neal, Mann, McPherson, Stuart, Myers, Frank, Jennings, Henderson, Castor, Malchon, Hair, Meek, Margolis, Kirkpatrick, Gersten, Carlucci, Hill and D. Childers offered the following amendments which were moved by Senator Dunn and adopted:

Amendment 1—On page 3, line 6, strike everything after the enacting clause and insert:

Section 1. This act shall be known and may be cited as the "Florida State and Regional Planning Act of 1984."

Section 2. Section 23.01, Florida Statutes, is created to read:

23.01 Findings and intent.—

(1) The Legislature finds and declares that:

(a) Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit can plan or implement policies to deal with these issues without affecting other units.

(b) It is necessary to establish an integrated planning system and to ensure coordinated administration of government policies, especially those dealing with land use, water resources, and transportation system development.

(c) The preservation and enhancement of the quality of life of the people of this state requires that a state comprehensive plan be adopted and implemented by state and regional agencies.

(2) The intent of this act is that the state comprehensive plan guide state and regional agency policies, especially those dealing with land use, water resources, and transportation system development. It is intended that state agency functional plans be effectively coordinated to facilitate the orderly, positive management of growth consistent with the public interest. It is also intended that the implementation of state and regional plans enhance the quality of life of the citizens of the state.

Section 3. Section 23.0112, Florida Statutes, is amended to read:

23.0112 Definitions.—As used in this part:

(1) "Executive Office of the Governor" means the Executive Office of the Governor, Office of Planning and Budgeting.

(2) "State agency" means the Executive Office of the Governor, each executive department, the Game and Fresh Water Fish Commission, the Parole and Probation Commission, and the Department of Military Affairs.

(3)~~(1)~~ "Regional planning agency" means the *regional planning council created pursuant to chapter 160* ~~agency designated by the Executive Office of the Governor~~ to exercise responsibilities under this part in a particular region of the state.

(4)~~(2)~~ "State comprehensive plan" means the goals~~, objectives,~~ and policies contained within the state comprehensive plan *initially* prepared by the *Executive Office of the Governor and adopted pursuant to s. 23.013* ~~division~~.

(5) "State agency functional plan" means the agency program policies and objectives and administrative directions contained within the plan prepared pursuant to s. 23.0131.

(6) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(7) "Policy" means the ways in which programs and activities are conducted to achieve identified goals.

(8) "Objective" means specific, measurable, intermediate ends that are achievable and mark progress toward a goal.

Section 4. Section 23.01131, Florida Statutes, is created to read:

23.01131 Powers and responsibilities.—For the purpose of establishing consistency and uniformity in the state and regional planning process and in order to insure that the intent of this part is accomplished, the Executive Office of the Governor shall:

(1) Identify and monitor on a continuing basis statewide conditions and trends which impact the state.

(2) Prepare and update or revise on a regular basis the state comprehensive plan.

(3) Prepare and adopt by rule criteria, formats, and standards for the preparation and the content of state agency functional plans and comprehensive regional policy plans.

(4) Designate the geographic boundaries of comprehensive planning districts.

(5) Designate, prepare, or direct to be prepared specific data, assumptions, forecasts, and projections for use by each state and regional agency in the preparation of plans.

(6) Coordinate planning among federal, state, regional, and local levels of government and between Florida and other states.

(7) Prepare or direct appropriate state or regional agencies to prepare such studies, reports, data collections, or analyses as are necessary or useful in the preparation or revision of the state comprehensive plan, state agency functional plans, or regional comprehensive policy plans.

(8) Act as the state clearinghouse and designate the regional planning councils as the regional data clearinghouses.

(9) Direct state and regional agencies to prepare and implement, consistent with their authority and responsibilities under law, such plans as are necessary to further the purposes and intent of the state comprehensive plan.

(10) Provide such data and information to the public and to public and private agencies as it may have available.

(11) Contract with public agencies or private firms or consultants for specialized services or research facilities using federal, state, local, or private funds, whenever such services or facilities are not otherwise available to it.

(12) Perform such other functions as are necessary to carry out the intent of this part.

Section 5. Subsection (1) of section 23.0114, Florida Statutes, is amended, present subsection (4) is transferred and renumbered as subsection (3) of section 380.21, Florida Statutes, present subsections (2) and (3) are renumbered as subsections (7) and (8), respectively, and new subsections (2), (3), (4), (5), and (6) are added to said section, to read:

23.0114 State comprehensive plan; preparation; revision.—

(1) The *Executive Office of the Governor shall prepare a proposed* state comprehensive plan *which provides* ~~shall be advisory only, except as specifically authorized by law; shall be based on the best available data; and shall provide~~ long-range guidance for the orderly social, economic, and physical growth of the state ~~by setting forth goals, objectives, and policies~~. *The plan shall be composed of goals and policies briefly stated in plain, easily understood words that give specific policy direction to state and regional agencies. The goals and policies shall be consistent and compatible with each other, and shall be statewide in scope. The state comprehensive plan shall not include a land use map.* ~~To the extent feasible, the Executive Office of the Governor shall utilize the services and plans of local governments and regional planning agencies when preparing and revising the provisions of the state comprehensive plan.~~

(2) In preparing goals and policies of the state comprehensive plan, the Executive Office of the Governor shall analyze the problems, opportunities, and needs associated with growth and development in Florida, particularly those related to land use, water resources, and transportation system development. The Executive Office of the Governor shall document present conditions and trends, forecast future conditions and trends based on expected growth patterns, and identify needs. Such conditions, trends, and needs shall be used to prepare goals and policies designed to preserve and enhance the quality of life of Florida's citizens.

(3) The Executive Office of the Governor may include in the state comprehensive plan goals and policies related to the following program areas: economic opportunities; agriculture; employment; public safety; education; health concerns; social welfare concerns; housing and community development; natural resources and environmental management; recreational and cultural opportunities; transportation; and governmental direction and support services.

(4) The Executive Office of the Governor shall prepare statewide goals and policies related to the opportunities, problems, and needs associated with growth and development in Florida, which shall constitute the growth management portion of the state comprehensive plan. In preparing the growth management goals and policies, initial emphasis shall be placed on the management of land use, water resources, and transportation system development.

(5)(a) The Executive Office of the Governor shall prepare a separate portion of the state comprehensive plan related to the long-term infrastructure and capital outlay needs of the state. This portion shall be prepared based upon a comprehensive assessment of needs conducted by the Executive Office of the Governor and shall be updated annually as part of the budgeting process prescribed by chapter 216. The assessment shall estimate by area the future infrastructure needs of the state that result from expected growth patterns, and shall include recommendations for directing state expenditures to particular areas of the state in order to implement the growth management goals and policies of the state comprehensive plan.

(b) All capital outlay recommendations submitted in the budget of the Governor to the Legislature shall be consistent with the goals and policies of the state comprehensive plan and the long-term infrastructure and capital outlay portion once adopted.

(c) Notwithstanding the provisions of this part, the Executive Office of the Governor shall prepare the long-term infrastructure and capital outlay portion of the state comprehensive plan no later than July 1, 1986.

(6) The adopted state comprehensive plan shall provide, in addition to other criteria established by law, standards and criteria for the review and approval of state agency functional plans and comprehensive regional policy plans.

Section 6. Section 23.013, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 23.013, F.S., for present text.)

23.013 State comprehensive plan; adoption; and implementation.—

(1) On or before December 1, 1984, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, a proposed state comprehensive plan. The Governor shall transmit the proposed state comprehensive plan to the Administration Commission within 15 days of his acceptance of the plan. Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.

(2) On or before February 15, 1985, the Administration Commission shall review the proposed state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, transmitting the proposed state comprehensive plan to the Legislature, together with any amendments approved by the commission, and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.

(3) All amendments, revisions, or updates to the plan shall be adopted in the same manner as the original adoption.

(4) The Legislature shall have the primary responsibility to give statewide effect to the state comprehensive plan by enacting it into law, with any necessary modifications. If the Legislature fails to adopt or to reject a state comprehensive plan during the session that commences not less than 45 days after the Administration Commission transmits the proposed plan to the Legislature, the proposed comprehensive plan shall automatically return to the Administration Commission. Notwithstanding s. 14.202, the Administration Commission may adopt by rule all or any part of the plan consistent with existing law, pursuant to chapter 120, with approval of five members of the commission.

(5) The state comprehensive plan shall be implemented and enforced by all state agencies consistent with their lawful responsibilities whether it is put in force by law or administrative rule. The Governor, as chief planning officer of the state, shall oversee the implementation process.

(6) All state agency budgets and programs shall be consistent with the adopted state comprehensive plan and shall support and further its goals and policies.

(7) The Public Service Commission, in approving the plans of the utilities subject to its regulation, shall take into consideration the compatibility of each utility's plan and all related utility plans taken together with the adopted state comprehensive plan.

Section 7. Section 23.0131, Florida Statutes, is created to read:

23.0131 State agency functional plans.—

(1) Consistent with the adopted state comprehensive plan and with its statutory authority and responsibilities, each state agency shall prepare and adopt by rule a state agency functional plan.

(2) A state agency functional plan shall contain, at a minimum, a statement of the policies guiding the agency's programs and functions, and shall specify those objectives against which the agency's achievement of its policies and the state comprehensive plan's goals and policies shall be evaluated. A state agency functional plan shall also identify specific agency programs which support and further the goals and policies of the growth management portion of the state comprehensive plan. Each state agency functional plan shall identify infrastructure and capital improvement needs associated with the agency programs.

(3) Preparation of state agency functional plans is a continuing process, and each agency shall be required to prepare its initial plan within 1 year of the adoption of the state comprehensive plan. State agencies may continue to implement existing plans until they are required to adopt state agency functional plans pursuant to this section.

(4) All amendments, revisions, or updates to a state agency functional plan shall be adopted in the same manner as the original adoption and shall be prepared as needed because of changes in the state comprehensive plan or changes in an agency's statutory authority and responsibility.

(5) Notwithstanding the provisions of subsection (3), the Department of Environmental Regulation, with regard to the plan required by s. 373.036, and the state land planning agency, with regard to the plan defined in s. 380.031(17), shall prepare such state agency functional plans no later than 6 months after the adoption of the state comprehensive plan.

Section 8. Section 23.0132, Florida Statutes, is created to read:

23.0132 State agency functional plan adoption; consistency with state comprehensive plan.—

(1) Within 1 year of the adoption of the state comprehensive plan, each state agency, except as provided in s. 23.0131, shall prepare and submit to the Executive Office of the Governor its proposed state agency functional plan. The Executive Office of the Governor shall review the proposed state agency functional plan for consistency with the adopted state comprehensive plan and shall, within 90 days, return the proposed state agency functional plan to the agency, together with any revisions recommended by the Governor.

(2) The state agency shall, within 60 days of the return of its proposed state agency functional plan, initiate rulemaking to adopt the state agency functional plan, incorporating all revisions recommended by the Governor, or shall petition the Florida Land and Water Adjudicatory Commission to resolve any disputes regarding the consistency of the state agency functional plan or the revisions recommended by the Governor with the state comprehensive plan. The Florida Land and Water Adjudicatory Commission shall resolve all such disputes within 60 days of initiation.

(3) The Florida Land and Water Adjudicatory Commission, on its own motion by a majority vote of all its members or on the petition of the Executive Office of the Governor, shall require any state agency to submit its state agency functional plan or any rule or program implementing such plan to the commission for review for consistency with the state comprehensive plan.

(4) The Florida Land and Water Adjudicatory Commission shall order any state agency to amend each portion of a state agency functional plan found to be inconsistent with the state comprehensive plan or shall amend the appropriate portions of the state comprehensive plan to achieve consistency with a state agency functional plan.

(5) The Governor shall mediate all disputes between state agencies regarding whether an agency's programs, policies, or functional plans are consistent with the state comprehensive plan. If mediation is unsuccessful, the dispute shall be resolved by the Land and Water Adjudicatory Commission. State agencies shall meet as necessary, at the direction and under the supervision of the Governor, to resolve conflicts that arise in the implementation of the state comprehensive plan or functional agency plan.

Section 9. Section 23.015, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 23.015, F.S., for present text.)

23.015 Annual report.—The Governor as the chief planning and budget officer of the state shall annually report to the Legislature and the public on the state's economic conditions, its infrastructure and capital outlay needs, and the impacts of growth and development, and shall assess state, regional, and local government efforts in addressing such conditions, needs, and impacts. The report shall appraise current growth trends, shall evaluate the extent to which existing growth management policies effectively address such trends, and shall review such other factors and indicators as are appropriate. The report shall contain timely and authoritative data and information about economic and demographic growth patterns and an analysis of such information as it affects the state's goals and policies for growth and development. The report shall contain specific recommendations for legislative and administrative change needed to continue to manage growth effectively and to build upon the opportunities available. The report shall be related to and developed in conjunction with the regular updates of the state comprehensive plan.

Section 10. Subsection (3) is added to section 160.002, Florida Statutes, to read:

160.002 Legislative findings; public purpose.—

(3) The regional planning councils are designated as the primary organization to address problems and plan solutions that are of greater than local concern or scope, and the regional planning councils shall be recognized by local governments as one of the means to provide input into state policy development.

Section 11. Subsection (4) of section 160.01, Florida Statutes, is amended to read:

160.01 Regional planning councils; creation; membership.—

(4) Nothing contained in this act shall be construed to mandate *municipal* ~~local general purpose~~ government membership or participation in a regional planning council. *However, each county shall be a member of the regional planning council created within the comprehensive planning district encompassing the county.*

Section 12. Subsection (20) is added to section 160.02, Florida Statutes, to read:

160.02 Regional planning councils; powers and duties.—Any regional planning council created hereunder shall have the following powers:

(20) To provide technical assistance to local governments on growth management matters.

Section 13. Section 160.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 160.07, F.S., for present text.)

160.07 Comprehensive regional policy plans.—

(1) A comprehensive regional policy plan shall contain regional goals and policies, specifically including growth management policies, and shall be consistent with and shall further the state comprehensive plan and implement and accurately reflect the goals and policies of the state comprehensive plan. Regional plans shall address significant regional resources, infrastructure needs, or other issues of importance within the region. Regional plans shall specify regional issues that may be used in reviewing a development of regional impact. Such issues shall be consistent with any state statutes, rules, or policies that specifically relate to or govern a regional issue or criteria adopted for DRI reviews. All regional issues and criteria shall be included in the comprehensive regional policy plan adopted by rule pursuant to s. 160.072.

(2) The Executive Office of the Governor shall adopt by rule minimum criteria to be addressed in each comprehensive regional policy plan and a uniform format for each plan. Such criteria shall emphasize the need for each regional planning council to focus on regional rather than local issues when preparing and adopting a comprehensive regional policy plan.

(3) In preparing the comprehensive regional policy plan, the regional planning council shall seek the full cooperation and assistance of local governments to identify key regional issues and shall document present conditions and trends with respect to the policy areas addressed, forecast future conditions and trends based on expected growth patterns of the region, and analyze the problems, needs, and opportunities associated with growth and development in the region, especially as they relate to land use, water resources, and transportation system development.

(4) The regional goals and policies shall be used to develop a coordinated program of regional actions directed at resolving the identified problems and needs.

(5) The draft regional plan shall be circulated to all local governments in the region. Local governments shall be afforded a reasonable opportunity to comment on the regional plan. The council shall give consideration to existing state, regional, and local plans in accomplishing the purposes of this section.

(6) The council shall provide for adequate citizen input into the regional planning process.

(7) Once adopted, a comprehensive regional policy plan shall provide, in addition to other criteria established by law, the basis for regional review of developments of regional impact, federally assisted projects, and other regional overview and comment functions.

(8) Regional planning councils shall consider and make accessible to the public appropriate data and studies, including development of regional impact applications and agency reports, in order to assist participants in the development of regional impact review process. A major objective of the regional planning process shall be to coordinate with the state land planning agency to achieve uniformity and consistency in land use information and data collection efforts in this state, and to provide a usable and accessible data base to local governments and the private sector.

Section 14. Section 160.072, Florida Statutes, is created to read:

160.072 Comprehensive regional policy plan adoption; consistency with state comprehensive plan.—

(1) Within 18 months of the adoption of the state comprehensive plan, each regional planning council shall submit to the Executive Office of the Governor its proposed comprehensive regional policy plan. The Executive Office of the Governor shall review the proposed comprehensive regional policy plan for consistency with the adopted state comprehensive plan and shall, within 90 days, return the proposed comprehensive regional policy plan to the council, together with any revisions recommended by the Governor.

(2) The regional planning council shall, within 60 days of the return of its proposed comprehensive regional policy plan, initiate rulemaking to adopt the council's comprehensive regional policy plan, incorporating all revisions recommended by the Governor, or shall petition the Florida Land and Water Adjudicatory Commission to resolve any disputes regarding the consistency of the comprehensive regional policy plan or the revisions recommended by the Governor with the state comprehensive plan. The Florida Land and Water Adjudicatory Commission shall resolve all such disputes within 60 days of initiation.

(3) If the Executive Office of the Governor rejects the regional plan, the region shall submit a revised plan within 6 months. The Executive Office of the Governor shall state the reasons for rejecting the regional plan. If the region fails to resubmit its plan within 6 months, the state land planning agency shall develop a regional plan and submit the plan to the Florida Land and Water Adjudicatory Commission. The commission shall adopt the plan by rule for the region, with any necessary amendments, after allowing a reasonable opportunity for public comment.

(4) The Florida Land and Water Adjudicatory Commission, on its own motion by a majority vote of all its members or on the petition of the Executive Office of the Governor, shall require any regional planning council to submit its comprehensive regional policy plan or any rule or program implementing such plan to the commission for review for consistency with the state comprehensive plan.

(5) The Florida Land and Water Adjudicatory Commission shall order any regional planning council to amend each portion of a comprehensive regional policy plan found to be inconsistent with the state comprehensive plan or shall amend the appropriate portions of the state comprehensive plan to achieve consistency with a comprehensive regional policy plan.

Section 15. Section 160.074, Florida Statutes, is created to read:

160.074 Mediation of conflicts.—The regional planning council shall establish an informal mediation process to resolve conflicts between local governments relating to comprehensive plans. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

Section 16. Section 160.076, Florida Statutes, is created to read:

160.076 Evaluation of comprehensive regional policy plans.—

(1) The planning process shall be a continuous and ongoing process. Each regional planning council shall prepare an evaluation report on its comprehensive regional policy plan at least once every 3 years, assess the successes or failures of the plan, and prepare amendments, revisions, or updates to the plan.

(2) All amendments, revisions, or updates to a comprehensive regional policy plan shall be adopted in the same manner as the original adoption and shall be prepared as needed because of changes in the state comprehensive plan or based upon the evaluation report required by this section.

Section 17. Growth Management Trust Fund.—

(1) There is established within the state land planning agency a nonlapsing fund, to be entitled the Growth Management Trust Fund. The moneys in this fund, exclusive of refunds, may be used for the purpose of providing grants to state agencies, regional planning agencies, and local governments to carry out the provisions of chapters 23, 160, 163, 373, and 380, Florida Statutes, and are subject to the provisions of chapters 215 and 216, Florida Statutes.

(2) Moneys from the Growth Management Trust Fund may be used for the preparation of any studies, plans, or reports required pursuant to the provisions of chapters 23, 160, 163, 373, or 380, Florida Statutes; provided, however, that no funds shall be used for fixed capital outlay projects without prior legislative authorization.

(3) The state land planning agency shall adopt rules for eligibility, application procedures, certification, and other necessary requirements. These rules shall require that all work performed by all grant recipients funded from the Growth Management Trust Fund shall be consistent with an adopted state comprehensive plan and with the state land development plan.

(4) Moneys in the fund not needed to meet current obligations incurred under this section shall be transferred to the State Treasurer to the credit of the fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the fund.

Section 18. Sections 23.0115, 23.012, 23.0125, 23.014, 23.016, 23.0161, and 23.017, Florida Statutes, and subsection (6) of section 160.003, Florida Statutes, as amended by chapter 83-55, Laws of Florida, are hereby repealed.

Section 19. This act shall take effect July 1, 1984.

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 state and regional planning; providing a short title; creating s. 23.01, F.S.; providing legislative findings and intent; amending s. 23.0112, F.S.; providing definitions; creating s. 23.01131, F.S.; granting certain powers and responsibilities relating to state and regional planning to the Executive Office of the Governor; amending s. 23.0114, F.S.; 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, F.S.; requiring the Executive Office of the Governor to prepare a proposed state comprehensive plan and providing for its adoption; providing for legislative implementation and for administrative action in the absence of legislative action; providing for implementation of the plan; creating s. 23.0131, F.S.; requiring state agencies to adopt state agency functional plans; creating s. 23.0132, F.S.; requiring state agencies to prepare state agency functional plans consistent with the state comprehensive plan; providing for review thereof; providing for resolution of disputes; amending s. 23.015, F.S.; changing the purposes of the Governor's annual report of the state's economic condition; amending s. 160.002, F.S.; designating regional planning councils as the primary organizations for certain purposes; amending s. 160.01, F.S.; requiring county membership in regional planning councils; amending s. 160.02, F.S.; providing for technical assistance by regional planning councils; amending s. 160.07, F.S.; changing requirements and adoption procedures for comprehensive regional policy plans; creating s. 160.072, F.S.; requiring certain review of such plans prior to adoption; creating s. 160.074, F.S.; providing for the mediation of conflicts; creating s. 160.076, F.S.; 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, F.S.; 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), F.S.; deleting the definition of the Department of Community Affairs in provisions relating to regional planning councils; providing an effective date.

On motion by Senator Dunn, by two-thirds vote CS for HB 1153 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Scott

CS for CS for SB 550 was laid on the table.

CS for SB 687—A bill to be entitled An act relating to pawnbrokers; amending s. 715.04, F.S.; providing definitions for "pawn" and "pawnbroker"; reducing the holding period for articles pledged as security for a loan; creating s. 715.042, F.S.; providing a penalty and prohibiting a defense; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for SB 687 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Frank	Jennings	Myers
Carlucci	Girardeau	Johnston	Plummer
Childers, D.	Gordon	Kirkpatrick	Rehm
Childers, W. D.	Grant	Langley	Stuart
Crawford	Grizzle	Malchon	Thomas
Deratany	Hair	Mann	Thurman
Dunn	Henderson	Margolis	Vogt
Fox	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Neal, Scott

On motions by Senator Jennings, the rules were waived and by two-thirds vote HB 475 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Jennings—

HB 475—A bill to be entitled An act relating to insurance; amending s. 627.419, F.S., requiring chiropractic coverage in certain insurance policies, plans, and contracts; providing an effective date.

—a companion measure, was substituted for SB 279 and read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 2 and 3, insert a new Section 2:

Section 2. 110.123(5)(a), Florida Statutes, is amended to read:

(5) DEPARTMENT OF ADMINISTRATION; POWERS AND DUTIES.—The Secretary of Administration shall be responsible for the administration of the state group insurance program. The Department of Administration shall initiate and supervise the program as established by this section. To implement this program, the department shall, subject to legislative approval:

(a) Determine the benefits to be provided and the contributions to be required for the state group insurance program. Any physician's fee schedule used in the health and accident plan shall not be available for inspection or copying by medical providers or other persons not involved in the administration of the program. However, in the determination of the design of the program, the department shall consider existing and complementary benefits provided by the Florida Retirement System and the Social Security System. *Provided however, with respect to payments to chiropractic physicians under the State Group Insurance Program under s. 627.419(4), F.S., such payments shall be limited to $400 annually or 28 office visits annually whichever limitation results in the lesser payment of insurance benefits.*

(Renumber subsequent sections.)

Amendment 2—On page 1, line 5, after the semicolon (;) insert: amending s. 110.123(5)(a), F.S., relating to payments to chiropractic physicians under the State Group Insurance Program Law;

On motion by Senator Jennings, by two-thirds vote HB 475 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Beard	Frank	Jennings	Myers
Carlucci	Girardeau	Johnston	Neal
Childers, W. D.	Grant	Langley	Plummer
Crawford	Grizzle	Malchon	Stuart
Deratany	Hair	Mann	Thomas
Dunn	Henderson	Margolis	Vogt
Fox	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Rehm, Scott

SB 279 was laid on the table.

CS for CS for SB 601—A bill to be entitled An act relating to state public facilities; providing legislative findings and intent; providing for a comprehensive capital facilities planning and budgeting process; providing for needs assessment; providing for an inventory of current facilities; providing for an assessment of certain trends and conditions; providing for legislative adoption of state goals and objectives; providing for assessment of facility needs; providing for policy statements guiding public facility development to be adopted by the Governor, the Administration Commission, and the Legislature; providing for monitoring and evaluation; amending s. 255.25, F.S.; providing for approval of certain financing techniques; amending s. 255.29, F.S.; providing for adoption of procedures for entering into performance based contracts; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Dunn moved the following amendment which was adopted:

Amendment 1—On page 4, line 28, after "equipment", strike the period (.) and insert: , nor transportation facilities of the state transportation system.

Further consideration of CS for CS for SB 601 was deferred.

SB 668—A bill to be entitled An act relating to economic development; amending s. 288.063, F. S.; providing that any governmental body contracting for construction of transportation projects with the Department of Commerce provide the Division of Economic Development with quarterly program reports and maintain specific records subject to audit; amending s. 288.39, F.S.; requiring the Division of Economic Development to provide information to small businesses on enterprise zone incentives and programs and their use; requiring the division's annual report on assistance to small business to detail assistance provided to small business regarding enterprise zone incentives and programs; requiring said report contain information on the activity of the statewide certified development corporation receiving assistance from the division; authorizing the division to enter contracts with nonprofit statewide certified development corporations for provision of administrative and technical staff assistance and support; providing for reimbursement for such assistance; providing for termination of such assistance; requiring such contracts to allow for audit of the development corporation by the division and auditor general for certain purposes; providing an effective date.

—was read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 2, line 2, insert:

Section 1. Subsection (3) of section 20.17, Florida Statutes, is amended to read:

20.17 Department of Commerce.—There is created a Department of Commerce.

(3)(a) There is created within the Division of Economic Development the Motion Picture, ~~and~~ Television, *and Recording Industry* Advisory Council, hereinafter referred to as the "council." The council shall consist of *24* ~~19~~ persons, each of whom is, or has been, actively engaged in the motion picture, ~~or~~ television, *or recording* industry or a related area. The members of the council shall possess the qualifications provided herein and shall, with the consent of the Secretary of Commerce, be appointed by the Director of the Division of Economic Development *for 4-year terms*~~, who shall appoint 10 members to 4-year terms and 9 members to 3-year terms~~. *Each council member serving on the Motion Picture and Television Advisory Council on the effective date of this act shall be permitted to remain in office as a member of the Motion Picture, Television, and Recording Industry Advisory Council until the completion of his or her current term. Upon the expiration date of each such term, a successor shall be appointed, in the manner prescribed herein, to serve for a 4-year term. The five additional members shall be appointed, in the manner prescribed herein, for 4-year terms initially commencing on September 20, 1984.* The council shall function as a body from which the secretary may obtain differing and varying views as to what actions or proposals are needed throughout the state regarding economic development. The council shall meet no less than quarterly, in conjunction with the secretary, to offer its views on the state of motion picture, ~~and~~ *television, and recording industry* development and to recommend proposed action.

(b) The council shall also:

1. Promote the use of locations in Florida for the filming of motion pictures or television films by the motion picture industry, the television industry, and independent film producers, *and promote the use of Florida facilities and locations by the recording industry.*

2. Develop graphic presentations to the motion picture, ~~and~~ *television, and recording* industries concerning the many possible sites in Florida which are suitable for filming *and taping.*

(c) A majority of the members of the council shall constitute a quorum for the transaction of all business and the carrying out of the duties of the council.

(d) For the accomplishment of its purposes, the council shall have the power and authority to perform such duties and functions as are authorized by the Secretary of Commerce.

(e) Members of the council shall be compensated for per diem and traveling expenses as provided in s. 112.061.

Section 2. Subsection (26) is added to section 288.03, Florida Statutes, to read:

288.03 Powers and duties of division.—The general purposes of the Division of Economic Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient, and beneficial development of the state and its regions, counties, and municipalities in accordance with present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. For the accomplishment of such purposes, the division shall have the power and authority to make expenditures for and to:

(26) Promote the expansion of the motion picture, television, and recording industry by sponsoring and contracting for technical training programs with educational institutions in the State of Florida, provided that any agreement entered into pursuant to such a contract shall require the educational institution to provide the division with quarterly progress reports and a final report. Further, any such agreement shall require that all records, including records of all payments made by the educational institution in connection with such technical training programs, shall be retained and maintained by the educational institution in accordance with accepted governmental accounting principles and practices, and shall be subject to periodic financial audit. Payment of travel expenses pursuant to such contracts shall be made in accordance with s. 288.011. Such contracts may provide for the advancement of funds by the division to the educational institutions, if appropriate. The division shall seek the recommendation of the Motion Picture, Television, and Recording Industry Advisory Council, established pursuant to s. 20.17(3)(a), prior to selection of any contractor educational institution.

(Renumber subsequent sections.)

Amendment 2—On page 2, between lines 28 and 29, insert:

Section 2. Section 288.3475, Florida Statutes, is created to read:

288.3475 Columbus Hemispheric Trade Commission; creation; membership; powers and duties; report.—

(1)(a) Within the Department of Commerce there is created the Columbus Hemispheric Trade Commission, herein referred to as the commission. The purposes of the commission shall be to lead the celebration in Florida of the 500th Anniversary of the Discovery of America and to promote the fullest possible trade relations with all nations of the hemisphere. The commission shall encourage participation throughout the state; provide communication and coordination between local, state, and federal efforts; provide assistance to and suggest specific projects to local groups involved in the celebration; and prepare the citizens, institutions, and infrastructure for the celebration.

(b) The commission shall consist of 35 members, 31 of whom shall be appointed by the Governor. The term of office of each appointed member shall be 4 years; however, of the members first appointed, seven shall be appointed for terms of 1 year, eight shall be appointed for terms of 2 years, eight shall be appointed for terms of 3 years, and eight shall be appointed for terms of 4 years.

(c) The President of the Senate shall appoint two members of the Senate to serve as members of the commission. Such members shall serve at the pleasure of the President and during their terms of office in the Senate.

(d) The Speaker of the House of Representatives shall appoint two members of the House to serve as members of the commission. Such members shall serve at the pleasure of the Speaker and during their terms of office in the House.

(e) Any member of the commission may be reappointed. Any vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as for the original appointment.

(f) The Secretary of Commerce or his designee, the Secretary of Community Affairs or his designee, the Secretary of Transportation or his designee, and each member of the Cabinet or his designee shall serve as ex officio members.

(g) The commission shall elect from among its members an executive committee to consist of a chairperson who shall preside, a vice-chairperson, a secretary, a treasurer, and such other officers as the commission may deem necessary or expedient in the performance of its functions. The same person may serve both as secretary and treasurer, if so designated. No more than three members from any congressional district or county may serve on the executive committee.

(h) The commission may delegate to any of its members, officers, agents, or employees any of its powers or duties, which delegation it deems necessary to fulfill its responsibilities.

(i) The commission shall meet no less than four times per year and at other times at the call of the chair.

(j) A majority of the members of the commission shall constitute a quorum. No vacancy in the membership shall impair the right of a quorum to exercise all of the powers, functions, and duties of the commission.

(k) Members of the commission shall not receive compensation for their services, but shall be reimbursed for travel and expenses incurred in the performance of their duties from funds appropriated to or raised by the commission.

(2) The commission shall have authority to:

(a) Employ staff and consultants as may be deemed necessary and to prescribe their powers and duties and fix their compensation.

(b) Enter into contracts with or accept loans or grants of money, property, or personal services from any agency, corporation, or person.

(c) In accordance with chapter 120, adopt, promulgate, amend, or rescind such rules as it deems necessary to carry out the provisions of this act.

(d) Assume such other functions as are necessary to carry out the provisions of this act.

(3) Annually, at least 60 days prior to the convening of the Legislature, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a comprehensive report outlining the progress and the activities of the commission.

Section 3. The Department of Commerce will expend no state funds to carry out the provisions of this act.

Section 4. Section 288.3475, Florida Statutes, is repealed on July 1, 1993.

(Renumber subsequent sections.)

Amendment 3—In title, on page 1, between lines 8 and 9 insert: creating s. 288.3475, F.S.; creating the Columbus Hemispheric Trade Commission; providing for members and their duties; providing for a report; providing for future repeal;

Amendment 4—In title, on page 1, line 2, strike An act relating to economic development; and insert: An act relating to the Department of Commerce; amending ss. 20.17 and 288.03, F.S., renaming the Motion Picture and Television Advisory Council as the Motion Picture, Television, and Recording Industry Advisory Council; providing for expanded membership; providing for council responsibilities; authorizing the Division of Economic Development to sponsor and enter into contracts with educational institutions for technical training programs which will promote the expansion of the motion picture, television, and recording industry in the State of Florida; specifying requirements; authorizing advance funding; providing that advice of the advisory council shall be sought prior to selection of contractors;

On motion by Senator Grant, by two-thirds vote SB 668 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Beard	Gersten	Johnston	Plummer
Carlucci	Girardeau	Langley	Stuart
Childers, D.	Gordon	Malchon	Thurman
Childers, W. D.	Grant	Mann	Vogt
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hair	McPherson	
Fox	Henderson	Myers	
Frank	Jennings	Neal	

Nays—None

Vote after roll call:

Yea—Jenne, Rehm, Scott, Thomas

CS for SB 651—A bill to be entitled An act relating to employment security; amending s. 443.191, F.S., relating to money credited under section 903 of the Social Security Act (Reed Act funds), to conform to changes in federal law; providing an appropriation from Reed Act funds for the purchase of land and construction of a parking lot adjacent to the office of the Division of Unemployment Compensation of the Department of Labor and Employment Security in the City of Cocoa; limiting use of such funds to employment security purposes; limiting the period during which such funds may be obligated for such purposes; limiting the amount which may be obligated during the federal and state fiscal year periods; authorizing the withdrawal of funds; providing for deposit of such funds in a separate account with separate recordkeeping requirements relative thereto; authorizing employment of certain parties and the execution of contracts; providing for repayment; 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 Vogt and adopted:

Amendment 1—On page 3, line 27, strike "$70,000" and insert: $91,040

Amendment 2—On page 5, line 22, strike "division" and insert: Department of Labor and Employment Security

Senator Vogt moved the following amendment which was adopted:

Amendment 3—On page 4, line 6, insert after the period (.):

All improvements, paving and landscaping shall be in accordance with local zoning restrictions and building code requirements.

On motion by Senator Vogt, by two-thirds vote CS for SB 651 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Hill	Plummer
Barron	Gersten	Johnston	Stuart
Beard	Girardeau	Malchon	Thomas
Childers, D.	Gordon	Mann	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Deratany	Grizzle	McPherson	Weinstein
Dunn	Hair	Myers	
Fox	Henderson	Neal	

Nays—None

Vote after roll call:

Yea—Jenne, Rehm, Scott

On motions by Senator Malchon, the rules were waived and by two-thirds vote CS for HB 426 was withdrawn from the Committees on Commerce, Agriculture and Appropriations.

On motion by Senator Malchon—

CS for HB 426—A bill to be entitled An act relating to toxic substances; providing legislative intent; providing definitions; providing for liability and responsibility of contractors to employees; providing for the determination of the Florida Substance List; creating the Toxic Substances Advisory Council; providing for membership, terms, and meetings of the council; providing for annual review of the Florida Substance List; providing notice requirements; providing employee education and training requirements; providing for employee rights; providing for protection of trade secrets; providing for notice to fire departments, emergency medical service providers, and law enforcement agencies; providing recordkeeping requirements; providing for annual evaluation reports; providing penalties; prohibiting local standards; providing an appropriation; providing for review and repeal; providing effective dates.

—a companion measure, was substituted for CS for CS for SB 326 and read the second time by title.

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. Legislative intent.—It is hereby found and declared that there exists a danger to the health of employees and their families throughout the state because of exposure to toxic substances encountered in the course of employment. Sometimes the tragic results of this exposure may not be realized for years or even for generations. Because of this, it is necessary to require employers to give notice to each employee of the toxic substances involved in his employment which may endanger or cause death to the employee or members of the employee's family. It is further found and declared that employees have an inherent right to know about the toxic substances at their workplace so that they may make more knowledgeable and reasoned decisions with respect to the continued personal costs of their employment and the need for corrective action. It is also found and declared that the workplace often provides an early warning mechanism for the rest of the environment. The Legislature intends, by this act, to ensure that employees must be given information concerning the nature of the toxic substances with which they are working.

Section 2. Definitions.—As used in this act:

(1) "Article" means a finished product or manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use functions dependent in whole or in part upon its shape or design during end use; and

(c) Which has either no change of chemical composition during end use, or only those changes of composition which have no commercial purpose separate from that of the article.

(2) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(3) "Common name" means any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

(4) "Department" means the Department of Labor and Employment Security.

(5) "Designated representative" means an employee's treating physician, upon written authorization by said employee, and the employee's collective bargaining agent who is certified or is recognized by the employer of the employee. No other individual or organization shall be eligible to serve as a designated representative.

(6) "Distributor" means an individual or employer, other than the manufacturer or importer, who supplies toxic substances directly to users or to other distributors.

(7) "Employee" means any person employed on or after the effective date of this act who is, has been, or may be exposed under normal operating conditions or foreseeable emergencies to any toxic substance in the employer's workplace.

(8) "Employer" means any person, firm, corporation, partnership, association, or other entity engaged in a business or in providing services, including the State of Florida and any of its political subdivisions, that manufactures, produces, uses, applies, or stores toxic substances. An independent contractor or subcontractor shall be deemed the sole employer of his employees, even when said employees are performing work at the workplace of another employer. Employer shall not include:

(a) Employers employing two or fewer employees.

(b) Employers of domestic workers in private homes.

(c) Bona fide farmers or an association of farmers employing employees in agricultural labor performed on a farm, or in the onsite packing facilities for agricultural products from such farms, who employ 12 or fewer regular employees and who employ 24 or fewer other employees at one time for seasonal or occasional agricultural labor that is completed in less than 30 continuous days, provided that such seasonal or occasional employment does not exceed 60 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, timekeepers, checkers, and other farm labor supervisory personnel.

(d) Employers of professional athletes, such as professional boxers and wrestlers and baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players.

(e) Employers employing labor under a sentence of a court to perform community services as provided in s. 316.193, Florida Statutes.

(9) "Expose" or "exposure" means any situation arising from or related to the work operation of an employer where an employee may inhale, absorb through the skin or eyes, accidentally ingest, or otherwise come into contact with a toxic substance.

(10) "Florida Substance List" means a compilation of toxic substances which are to be subject to the provisions of this act.

(11) "Health professional" means a physician, industrial hygienist, toxicologist, or epidemiologist.

(12) "Importer" means the first individual or employer within the Customs Territory of the United States who receives toxic substances produced in other countries for the purpose of supplying them to distributors or users within the United States.

(13) "Impurity" means a toxic substance which is unintentionally present with another substance or mixture.

(14) "Manufacturer" means a person who produces, synthesizes, extracts, or otherwise makes toxic substances.

(15) "Material safety data sheet" or "MSDS" means written or printed material concerning a toxic substance which sets forth the following information:

(a) The chemical name and the common name of the toxic substance.

(b) The hazards or other risks in the use of the toxic substance, including:

1. The potential for fire, explosion, corrosivity, and reactivity;

2. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and

3. The primary routes of entry and symptoms of overexposure.

(c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.

(d) The emergency procedures for spills, fire, disposal, and first aid.

(e) A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.

(f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

(16) "Medical emergency" means a serious medical condition which poses an imminent threat to a person's health, caused or suspected to have been caused by exposure to a toxic substance, and which requires immediate treatment by a physician.

(17) "Mixture" means any combination of two or more substances, if the combination is not, in whole or in part, the result of a chemical reaction.

(18) "Produce" means to manufacture, process, formulate, or repackage.

(19) "Secretary" means the Secretary of Labor and Employment Security.

(20) "Specific chemical identity" means the chemical name, the Chemical Abstracts Service (CAS) Registry Number, or any other specific information which reveals the precise chemical designation.

(21) "Toxic substance" means any chemical substance or mixture in a gaseous, liquid, or solid state, if such substance or mixture causes a significant risk to safety or health during, or as a proximate result of, any customary or reasonably foreseeable handling or use and which is listed in the Florida Substance List compiled in accordance with the provisions of section 4, and which is manufactured, produced, used, applied, or stored in the workplace.

(22) "Trade secret" means any confidential formula, pattern, process, device, information, or compilation of information, including chemical name or other unique chemical identifier, that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(23) "Work area" means a room or defined space in a workplace where toxic substances are produced, used, or applied and where employees are present in the course of their employment.

(24) "Workplace" means an establishment or business of an employer at one geographic location at which work is performed and which contains one or more work areas. In the case of the state or any of its political subdivisions acting as an employer, the workplace shall be defined as all work areas wholly owned or controlled by the state or said subdivisions. In the case of an independent contractor or subcontractor, the workplace shall be defined as all work areas wholly owned or controlled by said independent contractor or subcontractor.

Section 3. Liability and responsibility of independent contractor, general contractor and subcontractor.—

(1) For purposes of compliance with this act, an independent contractor or subcontractor shall be responsible for his employees in the workplace of another employer.

(2) In case a general contractor sublets any part or parts of his contract work to a subcontractor or subcontractors, all of the employees of such general contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment, and the general contractor shall be responsible for satisfying the provisions of sections 6, 7, 8, and 10 of this act, except with respect to employees of a subcontractor who has complied with such provisions.

(3) In those instances where the general contractor carries out the provisions of sections 6, 7, 8, and 10 of this act with respect to the employees of a subcontractor, his liability to such employees shall be limited solely to the provisions of this act and shall in no way absolve the liabilities imposed upon the subcontractor with respect to said employees by any other statute or common law.

Section 4. Determination of substance list.—

(1) For the purposes of this act, the secretary shall establish the Florida Substance List and make said list available to manufacturers and employers. Substances on the list may be designated by their chemical name or common name. Only those substances specifically enumerated on the list shall be subject to the provisions of this act. The secretary shall prepare and amend the list according to the procedures in this section. The list shall be promulgated only after opportunity has been provided for public comment and hearing pursuant to chapter 120, Florida Statutes, and upon a finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that exposure to, or use of, the substance will result in acute or chronic risk to human health or safety. This list shall become official for purposes of sections 6, 7, 8, and 10 of this act upon adjournment of the 1985 Legislature unless the Legislature affirmatively delays implementation of such list prior to adjournment. The secretary shall, no later than 45 days prior to the convening of the Legislature in regular session each year, make a recommendation to the President of the Senate and the Speaker of the House of Representatives on the need for revising the list. The revised list shall become effective upon adjournment of the Legislature in the year in which the revision was made unless the Legislature affirmatively delays implementation of such list prior to adjournment. If at any time it is found that a substance that is not on the revised list poses a serious threat to human health or safety the secretary may promulgate emergency revisions to the list after providing opportunity for public comment and hearing pursuant to chapter 120, Florida Statutes. The emergency revisions shall become effective upon promulgation and shall remain effective unless the Legislature in the year in which the emergency revisions were promulgated affirmatively repeals them.

(2) The list shall contain only specific chemical substances. Generic substances or categories are to be excluded. The list shall be drawn exclusively from those chemical substances enumerated in the most current edition of the following designated source lists:

(a) International Agency for Research on Cancer (Sublist: "Substances found to have at least sufficient evidence of carcinogenicity in animals").

(b) National Toxicology Program List of chemicals published in the Annual Report on Carcinogens.

(c) Occupational Safety and Health Administration Toxic and Hazardous Substances—29 CFR 1910, Subpart Z.

(d) National Institute for Occupational Safety and Health/Occupational Safety and Health Administration Occupational Health Guidelines for Chemical Hazards.

(e) American Conference of Governmental Industrial Hygienists Threshold Limit Value for Chemical Substances and Physical Agents in the Workplace.

(f) Environmental Protection Agency Carcinogenic Assessment Group's List of Carcinogens.

(g) National Cancer Institute (Substances that meet the National Toxicology Program criteria for significant carcinogenic effect).

(h) National Fire Protection Association Hazardous Chemicals (NFPA 49).

(i) National Fire Protection Association Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325M). (All items rated II through IV as health hazards or III through IV as flammability or reactivity hazards.)

(3) For the purposes of this act, a toxic substance is present in any mixture if it is 1 percent or more of the mixture, or 2 percent if the toxic substance exists as an impurity in the mixture; provided, however, that the secretary may, by rule, raise the concentration requirement for a toxic substance which it finds is not toxic at the threshold levels, and may lower the concentration requirement for a toxic substance including carcinogens and neurotoxins for which there is valid and substantial scientific evidence that the substance is extraordinarily toxic. The manufacturer of a toxic substance shall notify the secretary of any valid evidence which indicates either:

(a) That the concentration requirement for a toxic substance is higher than what is necessary to protect employees who work with or may be exposed to the substance; or

(b) That the concentration levels should be lowered because there is valid and substantial evidence that the substance is extraordinarily toxic.

(4) The provisions of this act shall not apply to:

(a) Impurities which develop as intermediate materials during chemical processing but are not present in the final mixture and to which employee exposure is unlikely;

(b) Substances which are toxic solely due to chronic ingestion;

(c) Alcoholic beverages as defined in the Beverage Law;

(d) Articles intended for personal consumption by employees in the workplace;

(e) Articles packaged for distribution to, and used by, the general public;

(f) Articles sold or used in retail food establishments and retail trade establishments;

(g) Substances which are merely being transported through the state as part of a through-shipment in interstate commerce; or

(h) Substances or mixtures which may be toxic but which are labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, the Federal Food, Drug and Cosmetic Act, as amended, and the Federal Resource Conservation and Recovery Act.

(5) The secretary shall review the Florida Substance List annually. Any revision of the Florida Substance List shall be made only after opportunity has been provided for public comment and hearing pursuant to chapter 120, Florida Statutes, and upon the secretary's finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that any substances added pursuant to this subsection result in an acute or chronic risk to human health or safety.

(6) Substances not present on the Florida Substance List established pursuant to this section shall not be subject to the provisions of this act.

(7) The secretary shall be responsible for the dissemination of appropriate information available on the nature and hazards of toxic substances from the Chemical Substance Information Network of the Federal Environmental Protection Agency and the Health Hazard Evaluation Program of the National Institute of Occupational Safety and Health (NIOSH). The secretary shall promptly assist employers, employees, and state personnel with inquiries concerning the toxic nature of such substances.

Section 5. Toxic Substances Advisory Council; creation; membership meetings.—

(1) There is created a state Toxic Substances Advisory Council to assist the secretary in reviewing and preparing the Florida Substances List.

(a) The council shall consist of nine members, including four technically qualified employer representatives, four technically qualified employee representatives, and one member to be selected by the secretary to serve as chairman.

(b) The members of the council shall be appointed by the secretary on or before July 1, 1984, and the council shall be funded by General Revenue prior to the effective date of the other provisions of this act. Initially, the Secretary shall appoint three members for terms of 4 years, 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 4-year terms. A vacancy shall be filled for the remainder of the unexpired term.

(c) The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the secretary, or at such times as may be prescribed by its rules, but not less than twice a year. The council shall make a report of each meeting, which shall include a record of its discussions and recommendations. The secretary shall make such reports available to any interested person or group.

(d) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and traveling expenses as provided in s. 112.061, Florida Statutes.

(2) The initial recommendations of the Toxic Substances Advisory Council shall be made in a report to the secretary on or before January 1, 1985.

(3) The secretary shall consider the advice and recommendations of the Toxic Substances Advisory Council in promulgating the Florida Substances List and its amendments. In compiling the initial Florida Substance List, the Toxic Substances Advisory Council shall recommend only substances for which, according to the preponderance of the evidence, substantial and valid scientific evidence exists that such substances result in an acute or chronic risk to human health or safety. If the secretary rejects the advice and recommendations of the Toxic Substances Advisory Council, the secretary must provide written reasons for such rejection.

(4) The Toxic Substances Advisory Council shall submit its recommendations to the secretary for the revision of the Florida Substance List on or before January 1 of each year.

Section 6. Notice requirements.—

(1) The manufacturer, importer or distributor of any toxic substance shall prepare and provide direct purchasers of said toxic substances and, upon request, the secretary, with an MSDS which, to the best of the manufacturer's, importer's or distributor's knowledge, is current, accurate, and complete, based on information then reasonably available to the manufacturer, importer, or distributor.

(2) Any person who produces a mixture may, for the purposes of this section, prepare and use a mixture MSDS, subject to the provisions of subsection 11.

(3) A manufacturer, importer, distributor, or employer may provide the information required by this section on an entire mixture, instead of on each toxic substance in it, when all of the following conditions exist:

(a) Toxicity test information exists on the mixture itself or adequate information exists to form a valid judgment of the toxic properties of the mixture itself and the MSDS indicates that the information presented and the conclusions drawn are from some source other than direct test data on the mixture itself, and that an MSDS on each constituent toxic substance identified on the MSDS is available upon request.

(b) Provision of information on the mixture will be as effective in protecting employee health as information on the ingredients.

(c) The toxic substances in the mixture are identified on the MSDS unless it is either infeasible to describe all the ingredients in the mixture or the identity of the ingredients is itself a valid trade secret; provided, that in either case, the reason why the toxic substances in the mixture are not identified shall be stated on the MSDS.

(d) A single mixture MSDS may be provided for more than one formulation of a product mixture if the information provided does not vary for the formulation.

(4) A manufacturer, importer, or distributor who is responsible for preparing and transmitting an MSDS under the provisions of this section shall revise said MSDS on a timely basis, as appropriate to the importance of any new information which would affect the contents of the existing MSDS, and in any event within 3 months of such information becoming available to the manufacturer, importer, or distributor.

(5) Any person subject to the provisions of this section shall be relieved of the obligation to provide a direct purchaser of a toxic substance with an MSDS:

(a) If he has a record of having provided the direct purchaser with the most recent version of the MSDS;

(b) If the substance is labeled pursuant to:

1. The Federal Insecticide, Fungicide, and Rodenticide Act;

2. The Atomic Energy Act;

3. The Food, Drug and Cosmetics Act;

4. The Resource Conservation Recovery Act; or

(c) If the article is one sold at retail and is incidentally sold to an employer or the employer's employees in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the article is not significantly greater than the consumer exposure occurring during the principal consumer use of the article.

(6) If an employer, other than an employer regulated pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, who is licensed as provided for in chapter 388, chapter 482, or chapter 487, Florida Statutes, is not supplied with an MSDS by a manufacturer, importer, or distributor for a toxic substance other than a substance or mixture regulated pursuant to the Food, Drug and Cosmetics Act, the Atomic Energy Act, or the Resource Conservation Recovery Act, pursuant to the mandates of this section, said employer shall, within a reasonable amount of time after discovering that an MSDS has not been supplied, use diligent efforts to obtain said MSDS from the manufacturer, importer, or distributor. For purposes of this subsection, "diligent efforts" shall mean a prompt inquiry by the employer to the manufacturer, importer, or distributor of the toxic substances; provided, however, that an independent contractor or subcontractor shall be responsible for obtaining the MSDS for his employees in the workplace of another; and, provided further, that for an independent contractor, subcontractor, the state, or any of its political subdivisions acting as an employer, "diligent efforts" shall mean a prompt inquiry to the manufacturer, importer, distributor, or to the owner of a workplace when applicable.

(7) If after having used diligent efforts, an employer still fails to obtain an MSDS, he shall request the secretary to obtain said MSDS on his behalf.

(8) An employer who has used diligent efforts as defined herein and who has made a documented request to the secretary pursuant to this section shall not be found in violation of this section with respect to the MSDS which was not supplied by the manufacturer, importer, or distributor as required by this section.

(9) Every employer, except as provided in subsection (10), who manufactures, produces, uses, applies, or stores toxic substances in the workplace shall post a notice as prescribed by rule promulgated by the department in a place where notices are normally posted, informing employees of their rights under this act.

(10) Any employer regulated pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and who is licensed as provided for in chapter 388, chapter 482, or chapter 487, Florida Statutes, shall post a notice as prescribed by rules promulgated by the department in a place where notices are normally posted, informing employees of their education and training requirements. Such an employer is exempt from all other provisions of this act.

(11) Every employer who manufactures, produces, uses, applies, or stores toxic substances in the workplace shall maintain an MSDS for each product which is present in said workplace. All MSDS's shall be readily available in the workplace.

(a) An MSDS may be kept in any form, including operations procedures, and may be designed to cover groups of toxic chemicals in a work area where it may be appropriate to address the hazards of a process rather than individual toxic chemicals. However, the employer shall ensure that in all cases the required information is provided for each toxic chemical, and is readily accessible during each workshift to employees when they are in their work areas.

(b) Any employee or his designated representative may request in writing and shall have the right to examine and obtain the MSDS's for the toxic substances to which he is, has been, or may be exposed. The employer shall provide any MSDS within its possession within 5 of the requesting employee's working days, subject to the provisions of subsection (7). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(c) An independent contractor or subcontractor working in the workplace of another employer may request in writing and shall have the right to examine the MSDS's for the toxic substances to which he or his employees, are, have been, or may be exposed. The employer shall provide any MSDS within its possession within 5 of the requesting independent contractor's or subcontractor's working days, subject to the provisions of subsection (7). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(d) If an employee who has requested an MSDS pursuant to this act has not received said MSDS within 5 of the requesting employee's working days, subject to the provisions of subsection (7), that employee may refuse to work with the substance for which he has requested the MSDS until said MSDS is provided; provided, however, that nothing contained herein shall be construed to permit any employee of the state or any of its political subdivisions to refuse to perform essential services; and provided, further, that nothing shall be construed to interfere with the right of the employer to transfer an employee who so refuses to work to other duties until said MSDS is provided, such a transfer not to be considered as a discriminatory act under section 8 of this act. No pay, position, seniority, or other benefits shall be lost for exercise of any right provided by this act as a result of such a transfer.

(12) For the purposes of this section, an independent contractor, subcontractor, the state, or any of its political subdivisions shall maintain MSDS's for their own workplaces only; provided, however, that employees of such independent contractor or subcontractor, insofar as they are exposed in the course of their employment to toxic substances in other workplaces, shall have the right to examine MSDS's for those substances to which they are exposed from the workplace employer through a written request to their own employer as provided in paragraph (b) of subsection (11).

(13) Employers must advise employees that they can obtain further information from the secretary.

(14) Nothing contained in this act shall be construed to require an employer to conduct studies to develop new information.

Section 7. Employee education and training.—

(1) Employers shall furnish employees with instruction on the nature and effects of those toxic substances present in the workplace either in written form or in training programs as may be appropriate. Such instruction shall be in nontechnical language, but may be generic to the extent appropriate and related to the job. Such instruction shall include:

(a) The chemical name and any common names, unless withheld from an MSDS as a trade secret, of the toxic substance to which an employee may be exposed under normal operating conditions;

(b) The location of the substance in the workplace;

(c) Appropriate first aid treatment and antidotes in the event of improper exposure or overexposure;

(d) The proper and safe handling of said substance;

(e) The health effects of said substance as described in the relevant MSDS;

(f) Appropriate emergency treatment;

(g) The procedures for clean-up of leaks and spills of such substances;

(h) The potential for flammability, explosion, and reactivity of such substances; and

(i) The rights and duties of employees as set forth in this act.

(2) Employers shall provide their current employees with instruction as described herein within 9 months of the effective date of this act and at least annually thereafter, and, for employees hired thereafter, within the first 30 days of employment and at least annually thereafter.

(3) Training or information given pursuant to chapter 482, Florida Statutes, and s. 487.1585, Florida Statutes, or safety consultations provided pursuant to s. 440.56(4), Florida Statutes, shall serve to satisfy the requirements of the program if the training otherwise meets the criteria set forth in this section.

Section 8. Employee rights.—

(1) No person shall discharge or cause to be discharged, or otherwise discipline, or in any manner discriminate against, any employee for any of the following reasons:

(a) The employee has requested information regarding toxic substances, filed any complaint or suit, or has instituted, or caused to be instituted, any proceeding under this act;

(b) The employee has testified or is about to testify in any proceeding in his own behalf or on behalf of others; or

(c) The employee has exercised any other right afforded pursuant to the provisions of this act.

(2) No pay, position, seniority, or other benefits shall be lost for exercise of any right provided by this act.

(3) A violation of this section by the employer shall create in the employee a private cause of action cognizable in the circuit court. An employee who believes that he has been discharged, disciplined, or in any manner discriminated against by his employer for reasons of exercising rights under this act may, within 120 days of such violation or within 120 days after obtaining knowledge that a violation did occur, file a cause of action. The court shall award a reasonable attorney's fee and costs to the prevailing party arising from a suit filed pursuant to this section.

Section 9. Trade secrets.—

(1) A trade secret claim may be made by a chemical manufacturer or employer by withholding the specific chemical identity from the MSDS, provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) Information contained in the MSDS concerning the properties and effects of the toxic substance is disclosed;

(c) The MSDS indicates that the specific chemical identity is being withheld as a trade secret; and

(d) The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this section.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a toxic chemical is necessary for emergency or first-aid treatment, the chemical manufacturer or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (3) and (4), as soon as circumstances permit.

(3) In nonemergency situations, a chemical manufacturer or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (1), to a health professional if:

(a) The request is in writing;

(b) The request describes with reasonable detail one or more of the following occupational health needs for the information:

1. To assess the toxicity of the chemicals to which employees will be exposed;

2. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

3. To conduct pre-assignment or periodic medical surveillance of exposed employees;

4. To provide medical treatment to exposed employees;

5. To select or assess appropriate personal protective equipment for exposed employees;

6. To design or assess engineering controls or other protective measures for exposed employees; and

7. To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in this subsection:

1. The properties and effects of the chemical;

2. Measures for controlling workers' exposure to the chemical;

3. Methods of monitoring and analyzing worker exposure to the chemical; and

4. Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(e) The health professional and the employer or contractor of the health professional's services (i.e., downstream employer, labor organization, or individual employer) agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health needs asserted and agree not to release the information under any circumstances other than to the secretary, as provided in subsection (6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer or employer.

(4) The confidentiality agreement authorized by paragraph (d) of subsection (3):

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable preestimate of likely damages; and

(c) May not include requirements for posting of a penalty bond.

(5) Nothing in this act is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to the secretary, the chemical manufacturer or employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional within 30 days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional whose request for information is denied under subsection (3) may refer the request and the written denial of the request to the secretary for consideration.

(9) When a health professional refers the denial to the secretary under subsection (8), the secretary shall consider the evidence to determine if:

(a) The chemical manufacturer or employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional has supported the claim that there is a medical or occupational health need for the information; and

(c) The health professional has demonstrated adequate means to protect the confidentiality.

(10)(a) If the secretary determines that the specific chemical identity requested under subsection (3) is not a bona fide trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer or employer will be subject to an order by the secretary to show cause as to why said chemical manufacturer or employer should not be held in violation of this act.

(b) If a chemical manufacturer or employer demonstrates to the secretary that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret's specific chemical identity, the secretary may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer or employer.

(11) If, following the issuance of an order to show cause and any protective orders, the chemical manufacturer or employer continues to withhold the information, a hearing on the order to show cause shall be held pursuant to chapter 120. All final agency action shall be subject to full judicial review pursuant to the Florida Appellate Rules. Filing a timely appeal under this section shall act as an automatic stay of the chemical manufacturer or employer's obligation to supply withheld information.

(12) Notwithstanding the existence of a trade secret claim, a chemical manufacturer or employer shall, upon request, disclose to the secretary any information which this section requires the chemical manufacturer or employer to make available.

(13) Nothing in this section shall be construed as requiring the disclosure, under any circumstances, of process or percentage-of-mixture information which is a trade secret.

Section 10. Notice to fire departments, emergency medical service providers, and law enforcement agencies required.—

(1) An employer, unless specifically exempted pursuant to subsection (4), shall provide within 9 months after the effective date of this act to the person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision, including a fire chief or fire administrator or that person's designee:

(a) A list of work areas, sufficiently identified by name and location, where toxic substances are present, containing the chemical and common name of each substance regularly present unless such information is protected pursuant to the trade secret provisions of this act; and

(b) Upon request, any MSDS for each toxic substance regularly present.

(2) Whenever circumstances regarding the name and location of the substances change sufficiently to warrant an updated report, the employer shall update the information provided pursuant to subsection (1).

(3) Employers who become covered under this act after October 1, 1985, shall provide the information required by subsection (1) within 60 days after becoming covered.

(4) An employer operating a plant or facility which continues in operation, including maintenance periods, 24 hours a day, 7 days a week, 365 days a year, shall not be required to provide the information specified in subsection (1) with respect to any such plant or facility, provided that such plant or facility is manned at all times by personnel qualified to provide such information.

(5) The person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision, including a fire chief or fire administrator or that person's designee, shall maintain for at least 4 years the information provided by the employer as required in subsection (1) and shall provide copies of such information only to the following agencies located within the geographic jurisdiction of such fire department:

(a) Fire suppression and fire inspection divisions;

(b) Emergency medical service providers licensed under chapter 401, Florida Statutes; and

(c) Upon request, law enforcement agencies.

Section 11. Recordkeeping.—An employer subject to the provisions of this act shall be required to maintain as records for a period of 30 years only the MSDS's required by section 6.

Section 12. Reports.—The secretary shall submit an annual evaluation report on the program outlined in this act to the Governor and to the members of the Legislature. The report shall include a statement of the scope, status, and quality of the program, and the costs associated with the program.

Section 13. Penalties.—

(1) Any employer who fails to comply with the provisions of this act shall be liable for a civil penalty not to exceed $1,000 per violation in addition to any other damages for which an employer may be liable pursuant to any other provision of law. This civil penalty shall be assessed by the secretary in accordance with the provisions of chapter 120, Florida Statutes. The department may bring an action in the circuit court in the county where the employer's workplace is situated against any person or persons alleged to have violated the provisions of this act. In any such action, the circuit court shall have the jurisdiction to restrain violations of this act. An employer shall not be considered to be in violation of this act in instances where injury or death occurs as the result of contact with or exposure to a substance which a reasonably prudent adult would or should recognize to be hazardous as a matter of common knowledge.

Section 14. Local standards prohibited.—Units of local government, as defined in chapter 165, Florida Statutes, are strictly prohibited from enacting or promulgating any rules, standards, or ordinances relating to toxic substances in the workplace.

Section 15. There is hereby appropriated from the General Revenue Fund to the Department of Labor and Employment Security an amount sufficient to carry out the purposes of this act.

Section 16. Any federal statute, or rule or regulation adopted pursuant to such statute, which statute, rule, or regulation is equal or more stringent than the comparable provisions of this act shall prevail over the less stringent provisions of this act.

Section 17. Section 5 of this act is repealed effective October 1, 1994 and shall be reviewed pursuant to s. 11.611, Florida Statutes.

Section 18. This act shall take effect January 1, 1985, except that this section and section 5 of this act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, line 1, strike the entire title and insert:

A bill to be entitled An act relating to toxic substances; providing legislative intent; providing definitions; providing for liability and responsibility of contractors to employees; providing for the determination of the Flordia Substance List; creating the Toxic Substances Advisory Council; providing for membership, terms, and meetings of the council; providing for annual review of the Florida Substance List; providing notice requirements; providing employee education and training requirements; providing for employee rights; providing for protection of trade secrets; providing for notice to fire departments, emergency medical service providers, and law enforcement agencies; providing recordkeeping requirements; providing for annual evaluation reports; providing penalties; prohibiting local standards; providing an appropriation; providing for review and repeal; providing effective dates.

On motion by Senator Malchon, by two-thirds vote CS for HB 426 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Frank	Hill	McPherson
Carlucci	Gersten	Jennings	Myers
Childers, D.	Girardeau	Johnston	Neal
Childers, W. D.	Gordon	Kirkpatrick	Plummer
Crawford	Grant	Langley	Stuart
Deratany	Grizzle	Malchon	Thomas
Dunn	Hair	Mann	Vogt
Fox	Henderson	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Rehm, Scott, Thurman

CS for CS for SB 326 was laid on the table.

Consideration of SB 827 was deferred.

SB 898—A bill to be entitled An act relating to agriculture; creating the Florida Viticulture Policy Act; providing legislative intent; creating the Office of Agriculture Development in the Department of Agriculture and Consumer Services and providing for duties of the office, including the development of a statewide viticulture plan; creating the Viticulture Commission and providing for commission membership, duties, terms of office, reimbursement, and frequency of meetings; requiring the Commissioner of Agriculture to submit periodic reports on viticulture to specified officials; creating the Agriculture Interagency Coordinating Council and prescribing council membership, terms, and duties; providing an appropriation; providing for legislative review and repeal of the Viticulture Commission and the Agriculture Interagency Coordinating Council; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendments which were moved by Senator Frank and adopted:

Amendment 1—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. Short title.—This act may be cited as the "Florida Viticulture Policy Act."

Section 2. Legislative declaration; public policy.—

(1) The Legislature declares that viticulture, the production and utilization of grapes, is an underdeveloped agricultural commodity enterprise in the State of Florida. The Legislature recognizes that Florida possesses many resources and geographic advantages that favor the expansion and growth of present day viticulture into a broad-based, economically viable industry. The growth potential of the present industry offers good opportunities for local economic development and supply trade. Development of viticulture is compatible with the economies, lifestyles and interests of both rural and urban Florida.

(2) Further, the Legislature finds that factors, such as minimal new grape cultivar development, lack of printed production and processing information, minimal understanding of winemaking techniques and requirements which will capitalize on the unique characteristics of available grape cultivars, minimal understanding of grape juice processing requirements, lack of fresh fruit handling and processing technology specifically for muscadine grape cultivars, lack of quality standards for wine and other processed grapes, lack of assistance and printed information for overall business planning and marketing, and lack of coordination of the many diverse interests and expertise which could contribute to the further development of viticulture in the state are inhibitory to the development of viticulture to the potential of which it is reasonably capable, going into the 21st century.

(3) The Legislature further declares that in order to effectively support the efficient and expeditious development and growth of viticulture into a broad-based, economically sound industry, there is a need for leadership and statewide viticultural planning.

Section 3. Viticulture Advisory Council.—

(1) There is hereby created within the Department of Agriculture and Consumer Services the Viticulture Advisory Council to consist of eight members as follows: the president of the Florida Grape Growers' Association or a designee thereof; the chairman of the Agriculture Advisory Council or a designee thereof; a representative from the Institute of Food and Agricultural Sciences; a representative from the viticultural science program at Florida Agricultural and Mechanical University; and four additional commercial members to be appointed for a 2-year term by the Commissioner of Agriculture, including a wine producer, a fresh fruit producer, a nonwine product (juice, jelly, pie fillings, etc.) producer, and a viticultural nurseryman.

(2) Immediately after their appointment, the members of the council shall meet and organize by electing a chairman, a vice chairman, and a secretary, and shall adopt rules of procedure for governing their deliberations. The terms of such officers shall be for 1 year.

(3) The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the Commissioner of Agriculture, or at such times as may be prescribed by its rules.

(4) Three-fourths of the members of the council shall constitute a quorum for all purposes, and an act by a majority of such quorum at any meeting shall constitute an official act of the council.

(5) The primary responsibilities of the Viticulture Advisory Council shall be to provide necessary assistance, review and recommendations for drafting the State Viticulture Plan.

Section 4. State Viticulture Plan.—

(1) The Commissioner of Agriculture, in consultation with the Viticulture Advisory Council, shall, at least 90 days prior to the 1985 Session of the Legislature, transmit to the President of the Senate, the Speaker of the House of Representatives, and the chairmen of appropriate Senate and House committees, the State Viticulture Plan, which shall identify problems and constraints of the viticultural industry, propose possible solutions to such problems, and develop planning mechanisms for orderly growth of the industry, including:

(a) Criteria for viticultural research, service and management priorities.

(b) Additional proposed legislation which may be required.

(c) Plans for upgrading the Viticultural Science Program, established by the 1978 Legislature, at Florida A&M University.

(d) Plans relating to other viticultural programs and viticulturally related disciplines in the state university system.

(e) The potential for viticultural products in terms of market and needs for development.

(f) Evaluating wine policy alternatives, including, but not limited to, continued improvement in wine quality, blending considerations, promotion and advertising, labeling and vineyard designations, and development of production and marketing strategies.

(g) Evaluating production and fresh fruit policy alternatives, including, but not limited to, setting minimum grades and standards, promotion and advertising, development of production and marketing strategies, and setting minimum standards on types and quality of nursery plants.

(h) Evaluating policy alternatives for nonwine processed products, including, but not limited to, setting minimum quality standards and development of production and marketing strategies.

(i) Research and service priorities for further development of the viticulture industry.

(j) The identification of state agencies and public and private institutions concerned with research, education, extension, services, planning, promotion and marketing functions related to viticultural development, and delineation of contributions and responsibilities.

(k) Business planning, investment potential, financial risks and economics of production and utilization.

(2) A revision and update of the viticulture plan shall be submitted biennially to the officials specified in subsection (1) and a progress report and budget request shall be submitted annually.

Section 5. The sum of $25,000 is hereby appropriated from the General Revenue Fund to the Department of Agriculture and Consumer Services for the purpose of funding the expenses incurred in developing the State Viticulture Plan and reimbursing members of the Viticulture Advisory Council for per diem and travel expenses for the 1984-1985 fiscal year.

Section 6. This act is repealed on October 1, 1994, and the Viticulture Advisory Council shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 7. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike all of lines 4-21 and insert: legislative intent; creating the Viticulture Advisory Council and providing for council membership, duties, terms of office, reimbursement, and frequency of meetings; requiring the development of a statewide viticulture plan and submission of that plan by the Commissioner of Agriculture to specified officials; providing an appropriation; providing for legislative review and repeal of the Viticulture Advisory Council; providing an effective date.

On motion by Senator Frank, by two-thirds vote SB 898 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Rehm

On motion by Senator Beard, the Senate reconsidered the vote by which SB 352 passed this day.

ENROLLING REPORTS

Senate Bills 90, 149, 162, 166, 185, 233, 556, 609, 682, 686, 695, 795, CS for SB 319, CS for SB 544, CS for SB 251, CS for SB 598, CS for SB 626 and CS for SB 692 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 31, 1984.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 30 was corrected and approved as follows: Page 586, column 2, from bottom strike lines 14 and 15 and insert: which was read the first time by title. On motions by Senator Margolis, by two-thirds vote CS for SB 1152 was read the second time by title and by two-thirds vote read the third time by title,

The Journal of May 29 was further corrected and approved as follows: Page 527, column 1, from bottom, strike line 8 and insert: Nays—1 Jenne and delete "Jenne" from yea column

CO-INTRODUCERS

Senator Grizzle—SB 11; Senator Neal—SB 253; Senator Peterson—CS for SB 392; Senator Beard—SB 422; Senator Gordon—SB 444; Senator W. D. Childers—SB 469; Senator Scott—SB 486; Senator Dunn—SB 1032

ADJOURNMENT

The hour of adjournment having arrived, the Senate adjourned at 5:00 p.m. to reconvene at 9:00 a.m., Friday, June 1.