



Journal of the Senate

Number 25

Tuesday, May 28, 1985

Prayer

The following prayer was offered by Dr. Robert M. McMillan, Pastor, First Baptist Church, Tallahassee:

We thank you, our God, for the refreshment of home, family and friends we have enjoyed these past few days. Help us to realize the value of getting apart from our daily pressures and resting awhile that these bodies and minds of ours may not be abused but kept effective.

Bless the tasks of this week and make them productive and worthwhile for the people we represent. We shall need continued patience, our God, and some of us are short in this virtue. Minister to us in this our need.

Keep us circumspect in our involvements through government and in these days when there is so much public and private preoccupation with wrongness, help us not to become so wallowed in the slough of despond that we fail to see greatness, and goodness and light around us. You have taught us that as men think in their hearts so do they become. Help us, therefore, our God, to recognize that pessimism, distrust, depression and negativism can breed sorrows for our own lives and for our nation.

So we thank you today for the good, the beautiful, the generous, the industrious, and those within our ranks with vision who transform problems into challenges. Amen.

Votes Recorded

Senator Deratany was recorded as voting yea on SB 832 which was considered May 22.

Call to Order

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

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

Excused: periodically, conferees and alternates on Senate Bills 1300 and 1301 - Senators Neal, Thomas, Gordon, Beard, Castor, Kirkpatrick, Peterson, Fox, Langley, Jenne, Hair, Grizzle, Stuart; Senator Neal from 9:00 a.m. until 12:00 noon and from 2:00 p.m. until 5:00 p.m. to tend to matters relating to the Appropriations conference committee; Senator Mann

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, May 28, 1985: CS for CS for CS for SB 1174, CS for SB 1099, CS for SB 92, HB 201, SB 464, CS for SB 1232, SB 1271, CS for SB 307, CS for CS for SB 204, CS for CS for SB 235, SB 940, CS for CS for SB 1081, CS for CS for SB 34, SB 1129, SB 144, HB 844, SB 1012, SB 86, SB 58, SB 28, SB 136, CS for SB 121, SB 267, CS for CS for SB 99, CS for SB 91, SB 239, SM 778, CS for SB 1055, CS for SB 618, CS for SB 585. CS for SB 1147, SB 968, CS for SB 897, CS for SB 865, SB 1083, SM 1197, SB 1250, SB 161, CS for SB 287, CS for SB 573, SB 727, CS for SB 206, CS for SB 1005, CS for SB 1061, SB 1189, SB 1201, SB 711, CS for SB 1136, CS for SB 1089, CS for SB 952, CS for SB 109, CS for SB 140

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Consent Calendar for Tuesday, May 28, 1985: CS for SB 1100, CS for SB 148, SB 640, SB 632, CS for CS for SB's 668, 1054 and 1106, SB 13, SB 1131, CS for SB 1137, CS for SB 1062, SB 332, CS for SB 701, SB 401, CS for SB 608, SB 599, CS for SB 355, CS for SB 858, SB 371, CS for SB 331, CS for SB 1127, CS for SB 927, CS for SB 202, CS for SB 766, SB 1276, SB 1126, CS for SB 381, SB 967, SB 391, CS for SB 1094, SB 972, CS for SB 492, CS for CS for SB 956, CS for SB 433, SB 716, CS for SB 1225

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Tuesday, May 28, 1985: SB 605, HB 454, HB 455, HB 456, HB 459, HB 482, HB 505, HB 506

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: HB 1425

The Committee on Judiciary-Criminal recommends the following pass: SB 1198

The Committee on Rules and Calendar recommends the following pass: CS for SB 1320 with 7 amendments

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

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: CS for SB 1191

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

The Committee on Judiciary-Criminal recommends committee substitutes for the following: SB 658, SB 1046

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

REQUESTS FOR EXTENSION OF TIME

May 28, 1985

The Committee on Commerce requests an extension of 15 days for consideration of the following: Senate Bills 6, 52, 103, 104, 128, 159, 275, 305, 311, 320, 330, 351, 412, 481, 485, 580, 710, 731, 738, 773, 799, 814, 889, 996, 1024, 1272, 1280, 1281, 1286, 1288, 1295; House Bills 555, 650, 1197

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senator D. Childers—

SB 1324—A bill to be entitled An act relating to the Collins Slough Water Control District in Hendry County, Florida; defining its boundaries; prescribing its powers, privileges, duties, liability, and officials; making applicable to the district the provisions of ch. 298, F.S.; providing for the appointment of the first Board of Supervisors and the election of future supervisors; defining their term of office and prescribing their duties, powers, and qualifications and fixing their compensation; providing for the levies of assessments and taxes and for the collection and enforcement thereof; providing that taxes shall be a lien on lands; providing for the same discounts and penalties as county taxes and providing for the compensation of the county taxing officials; providing for the levy

of a uniform acreage tax on lands in the district to be used for paying expenses in organizing the district; authorizing the district to borrow money and issue negotiable or nonnegotiable notes, bonds, and other evidences of indebtedness; declaring that waters in the district are a common enemy; authorizing the drainage, reclamation, and irrigation of the lands in the district by units; providing severability; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

SR 1325 was introduced and adopted May 16.

SR 1326 was introduced and adopted May 16.

SB 1327 was introduced and passed May 23.

By Senator Mann—

SB 1328—A bill to be entitled An act relating to Lee County; providing definitions; providing legislative findings; authorizing Lee County to acquire and operate a solid waste disposal and resource recovery system; providing powers and duties relating to the acquisition and operation of such system; authorizing the county to compel persons and entities to use such system; creating a technical management committee; providing membership, powers, and duties of the committee; authorizing the governing body of Lee County to charge certain fees for the use of the solid waste disposal and resource recovery system; requiring an annual audit of such system; providing for collection of certain delinquent charges and attorneys' fees; authorizing the county to contract with certain persons and governmental entities in certain circumstances; authorizing the creation of transfer stations in certain circumstances; authorizing the emergency disposal of solid wastes by a political subdivision in certain circumstances; subordinating laws in conflict with this act; requiring a solid waste disposal and resource recovery system to conform to certain standards; providing severability; providing for the conversion of this act to a local ordinance upon the adoption of a county charter; requiring public hearings; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 1329 was introduced and adopted May 28.

By Senator Kirkpatrick—

SB 1330—A bill to be entitled An act relating to the City of Alachua, Alachua County; extending the corporate limits of the City of Alachua; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 1331 was introduced and adopted May 23.

SR 1332 was introduced and adopted May 28.

By Senator Grant—

SR 1333—A resolution honoring retired Sheriff John H. Whitehead of Union County, former dean of the Florida Sheriff's Association, for 36 years of outstanding service as a lawman.

—was referred to the Committee on Rules and Calendar.

SCR 1334 was introduced and adopted May 24.

SCR 1335 was introduced and adopted May 24.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Judiciary-Criminal—

CS for SB 658—A bill to be entitled An act relating to the Florida Contraband Forfeiture Act; amending s. 932.703, F.S.; providing that contraband seizure is discretionary with the law enforcement agency; authorizing actions for recovery if forfeiture proceedings are not instituted within a specified period; providing a prohibition against forfeiture for an innocent spouse when property is titled jointly; amending s. 932.704, F.S.; providing that the sheriff or chief of police certify in writing requests for trust fund proceeds; providing for a standardized form, promulgated by the Department of Law Enforcement, documenting deposits and expenditures; providing the distribution of proceeds from property seized by the Florida Highway Patrol; providing an effective date.

By the Committee on Judiciary-Criminal and Senator Grizzle—

CS for SB 1046—A bill to be entitled An act relating to arrests; amending s. 901.15, F.S., providing that a law enforcement officer may arrest a person without a warrant under described circumstances; providing for repeal; providing an effective date.

By the Committees on Finance, Taxation and Claims; and Transportation and Senator Stuart—

CS for CS for SB 1191—A bill to be entitled An act relating to transportation; creating part VI of chapter 163, F.S.; creating the "Metropolitan Transportation Authority Act"; providing intent and purposes; providing definitions; authorizing the creation of metropolitan transportation authorities; providing for membership thereon; providing for an executive director; providing for the preparation and ratification of regional ground transportation plans; providing for a referendum; providing for ballot language; providing purposes for metropolitan transportation authorities; providing powers and duties for metropolitan transportation authorities; authorizing the levy of up to 1 mill of ad valorem taxes for use by metropolitan transportation authorities; providing for bonds; providing remedies for bondholders; providing that the Department of Transportation may be appointed agent for the authority for construction purposes; providing for the acquisition of lands and property; providing for lease-purchase agreements; providing for refinancing; providing for cooperation with other units of government by the authority; providing for the covenant of the state; providing that bonds of the authority are eligible investments and security for certain purposes; providing a tax exemption; providing for resolution of conflicts with local transportation agencies; providing that this part supersedes statutes relating to the authority of local governments within the jurisdiction of an authority; amending s. 163.340, F.S.; providing that metropolitan transportation authorities are excluded from the definition of public body or taxing authority for the purposes of the Community Redevelopment Act of 1969; creating s. 336.026, F.S.; authorizing imposition of a local option tax on motor and special fuel to be used by metropolitan transportation authorities for certain purposes; providing for distribution of revenues; providing for notification of the Department of Revenue; providing for collection and for application of administrative and penalty provisions of chapter 206; specifying that certain refund provisions shall not apply to the tax; declaring a need for a metropolitan transportation authority to function in the municipal planning organization consisting of Orange, Osceola and Seminole counties pursuant to the Metropolitan Transportation Authority Act; providing for funding of the authority; providing for severability; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Neal, the rules were waived and by two-thirds vote Senate Bills 166, 193, 455, 912, 1208, CS for SB 670, CS for SB 726, CS for SB 768, CS for SB 1076, CS for SB 1146, CS for SB 1221 were withdrawn from the Committee on Appropriations.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 308 and CS for SB 110 which he had approved May 28.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 616, CS for SB 734, CS for SB 1258, Senate Bills 362, 427, 447, 520, 822.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed HB 1269 and HB 116, as amended.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has appointed Representatives Upchurch, Meffert and Messersmith as Conferees on the part of the House on CS for HB 387.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has appointed Representatives Upchurch, Meffert and Messersmith as Conferees on the part of the House on CS for HJR 386.

Allen Morris, Clerk

First Reading

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 166, CS for HB's 213 and 321, CS for HB 306, CS for HB 398, CS for HB 413, CS for HB 447, CS for HB 537, CS for HB 581, CS for HB 586, CS for HB 696, CS for HB 722, CS for HB 727, CS for HB 786, CS for HB 822, CS for HB 939, CS for HB 1036, CS for HB 1168, House Bills 48, 139, 151, 154, 351, 381, 399, 543, 617, 653, 738, 757, 915, 999, 1030, 1050, 1106, 1194, 1195, 1211, 1220, 1274, 1276, 1290, 1307, 1312, 1318; and has passed as amended CS for HB's 50 and 326, CS for HB 62, CS for HB 552, CS for HB 627, CS for HB 671, CS for HB's 713 and 313, CS for HB 755, CS for HB 864, CS for HB 889, CS for CS for HB 949, CS for HB 1031, House Bills 106, 298, 525, 735, 761, 820, 832, 967, 1054, 1152, 1193, 1196, 1221, 1230, 1259, 1268, 1288, 1331; and has adopted HM 53, HM 192, HCR 1337, and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Judiciary and Representative Dudley—

CS for HB 166—A bill to be entitled An act relating to guardianship; amending s. 744.521, F.S.; providing that where a guardian has been unable to locate the ward through diligent search the guardian may be discharged; creating s. 744.534, F.S.; providing for the disposition of unclaimed funds held by the guardian; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Transportation and Representative Silver and others—

CS for HB's 213 and 321—A bill to be entitled An act relating to disposition of traffic infractions; amending s. 318.18, F.S.; providing for the imposition of additional fees with respect to certain noncriminal traffic infractions to be used for school crossing guard programs; amending ss. 34.191 and 316.660, F.S., providing for payment of penalties collected to the local governmental entity administering a crossing guard program; providing an effective date.

—was referred to the Committees on Transportation, Education and Appropriations.

By the Committee on Criminal Justice and Representative Gordon—

CS for HB 306—A bill to be entitled An act relating to criminal history records; amending s. 943.058, F.S., authorizing access to certain sealed records by specified persons; requiring certain notification of petitions for the expunction or sealing of such records; adding a circumstance under which a person whose records have been sealed or expunged may not lawfully deny the events in the record; expanding the statement which the petitioner for a record sealing or expunction must complete; requiring the Department of Law Enforcement to notify the state attorney of certain unlawful orders of expunction or sealing and providing for corrective action; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Appropriations and Representatives Bell and Gonzalez-Quevedo—

CS for HB 398—A bill to be entitled An act relating to fine arts; creating the Fine Arts Endowment Program of 1985; providing legislative intent; providing definitions; creating the Fine Arts Endowment Trust Fund; providing for administration by the Department of State; providing for rules; providing for confidentiality of donors; providing for allocation of funds and interest; providing fine arts regions; providing for administration of the program; providing qualifying criteria; providing for matching funds; providing restrictions and requiring an annual report; providing for reversion of matching funds under certain circumstances; providing investment constraints; amending s. 119.07, F.S., providing an exemption from the public records law; providing for annual audits; providing an effective date.

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

By the Committee on Community Affairs and Representative Wallace—

CS for HB 413—A bill to be entitled An act relating to checks, drafts, or payments of money; amending s. 215.34, F.S.; increasing the service fee for returned checks, drafts, or other orders for payment of money to the state; repealing s. 125.0105, F.S., relating to service fees for dishonored checks paid to counties; repealing s. 166.251, F.S., relating to service fees for dishonored checks paid to municipalities; providing an effective date.

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

By the Committee on Governmental Operations and Representative Lehtinen—

CS for HB 447—A bill to be entitled An act relating to public records and meetings; amending s. 119.07, F.S.; revising provisions relating to confidentiality of law enforcement personnel records; amending ss. 119.10 and 286.011, F.S.; revising penalties for violation of public records and public meetings provisions; providing an effective date.

—was referred to the Committees on Governmental Operations; Judiciary-Criminal; and Rules and Calendar.

By the Committee on Governmental Operations and Representative Upchurch—

CS for HB 537—A bill to be entitled An act relating to the district school system; prohibiting the use of certain personal information during expulsion hearings; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Corrections, Probation and Parole and Representative Dantzler—

CS for HB 581—A bill to be entitled An act relating to gain-time; amending s. 944.275, F.S.; prohibiting a prisoner from accruing gain-time in certain circumstances; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By the Committee on Education, K-12 and Representatives Tobiassen and Jennings—

CS for HB 586—A bill to be entitled An act relating to school personnel; amending s. 231.40, F.S.; altering the method of accrual of sick leave for certain employees of the district school system; providing an effective date.

—was referred to the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Education, K-12 and Representative Friedman—

CS for HB 696—A bill to be entitled An act relating to education; amending s. 233.057, F.S., relating to responsibilities of reading resource specialists; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Natural Resources and Representative T. C. Brown—

CS for HB 722—A bill to be entitled An act relating to environmental control; amending s. 403.707, F.S., prohibiting the disposal of waste collected from a noncontiguous property without a permit; ratifying certain administrative rules with respect to the restoration of seawalls or riprap; amending s. 403.817, F.S., authorizing the Department of Environmental Regulation to conform certain rules to legislative changes; amending s. 403.918, F.S., relating to criteria for granting or denying permits under the "Warren S. Henderson Wetlands Protection Act of 1984"; providing an effective date.

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

By the Committee on Community Affairs and Representative M. E. Hawkins—

CS for HB 727—A bill to be entitled An act relating to vessel registration; amending s. 327.22, F.S., providing for agreements between cer-

tain counties and municipalities for the distribution and use of certain vessel registration fees; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By the Committee on Health Care and Insurance and Representatives Hodges and Kelly—

CS for HB 786—A bill to be entitled An act relating to the district school system; amending s. 230.23, F.S.; authorizing school boards to enter into risk management programs managed by district school boards, school-related associations, or insurance companies, in order to provide protection against loss; providing for accountability and an annual audit; providing an effective date.

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

By the Committee on Commerce and Representative Bankhead—

CS for HB 822—A bill to be entitled An act relating to the Florida Home Equity Conversion Act; amending s. 697.204, F.S., relating to home equity conversion mortgage insurance to revise criteria for eligibility; amending s. 697.205, F.S., providing for recovery from the Home Equity Conversion Mortgage Guaranty Fund; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Governmental Operations and Representative Bronson—

CS for HB 939—A bill to be entitled An act relating to water resources; amending s. 373.0693, F.S., relating to appointments to water management district basin boards; amending s. 373.073, F.S., relating to appointments to water management district governing boards; amending s. 373.079, F.S., relating to the officers of such governing boards; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Governmental Operations.

By the Committee on Criminal Justice and Representative Figg and others—

CS for HB 1036—A bill to be entitled An act relating to domestic violence; amending s. 741.30, F.S., clarifying and conforming language with respect to action by a spouse for injunction for protection against domestic violence; providing for priority of proceedings under chapter 61, F.S.; providing duties of the clerk of the court; providing for immediate injunctive restraint from commission of acts of domestic violence; providing for injunctive award of exclusive use and possession of a dwelling; providing a limitation on evidence which may be used to obtain an ex parte temporary injunction, under certain circumstances; changing the duration of such temporary injunction; modifying the time period for service of an injunction; providing for motion to modify or dissolve an injunction; amending s. 901.15, F.S., restricting warrantless arrests for acts of domestic violence; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committees on Governmental Operations and Natural Resources and Representative Mackenzie—

CS for HB 1168—A bill to be entitled An act relating to communications; providing legislative intent; creating the Florida Growth Management Data Communications Network; providing duties of the Department of General Services; creating the Florida Growth Management Data Network Coordinating Council; providing for membership and duties; providing that the Executive Office of the Governor may withhold appropriations for noncompliance; providing appropriations; establishing a pilot project; providing for future repeal and review of the council; providing an effective date.

—was referred to the Committees on Governmental Operations; Natural Resources and Conservation; and Appropriations.

By Representatives Martin and Sample—

HB 48—A bill to be entitled An act relating to retirement; amending s. 112.0801, F.S., authorizing certain public employers to pay the cost of

insurance coverage for the dependents of retired former officers and employees; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representatives Armstrong and Morse—

HB 139—A bill to be entitled An act relating to physically disabled persons; amending s. 316.008, F.S., authorizing counties or municipalities which adopt ordinances providing for additional fines with respect to certain offenses of the State Uniform Traffic Control Law concerning disabled persons to deposit and utilize such fines in a specified manner; providing an effective date.

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

By Representatives Bell and Press—

HB 151—A bill to be entitled An act relating to developmentally disabled and mentally ill persons; creating s. 402.175, F.S.; providing legislative intent; requiring the Department of Health and Rehabilitative Services to establish an umbrella trust fund for the benefit of developmentally disabled and mentally ill persons in Florida; providing for funding; providing criteria for participation in the umbrella trust fund; providing for income to the developmentally disabled or mentally ill person; directing the department to make certain rules; directing the department to contract for the administration of the fund; providing for the duties of trustees; prohibiting certain payments; providing an effective date.

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

By Representatives Canady and Renke—

HB 154—A bill to be entitled An act relating to nursing homes; amending s. 400.023, F.S., to provide that a cause of action may be brought by the personal representative of the estate of a deceased resident of a nursing home under certain circumstances; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Representatives Gardner and Jennings—

HB 351—A bill to be entitled An act relating to education; creating a Teacher Aide Task Force; providing duties; providing for a recommendation to the Legislature; providing for expiration of the task force; providing an effective date.

—was referred to the Committee on Education.

By Representative Deutsch and others—

HB 381—A bill to be entitled An act relating to veterans; creating s. 295.017, F.S., providing educational opportunity at state expense for dependent children of the servicemen who died or suffered 100-percent disability in the Lebanon and Grenada military arenas; amending s. 295.02, F.S., providing use of funds; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Agriculture—

HB 399—A bill to be entitled An act relating to animal industry; amending s. 585.08, F.S., providing for certificate of veterinary inspection of domestic animals moved into the state; amending s. 585.35, F.S., authorizing the Department of Agriculture and Consumer Services to examine certain records and documents relating to animals; creating s. 585.415, F.S., providing a general penalty for violations of provisions relating to animal industry; amending s. 585.61, F.S., expanding the jurisdiction of diagnostic laboratory services; amending ss. 585.62, 585.621, and 585.64, F.S., expanding the jurisdiction of certain poultry diagnostic disease laboratories and abolishing certain laboratories; removing laboratory construction responsibilities from the department; providing an effective date.

—was referred to the Committees on Agriculture and Appropriations.

By Representative Clements—

HB 543—A bill to be entitled An act relating to motor vehicles; amending s. 319.36, F.S.; revising requirements relating to export thereof; providing for application to motor vehicles and other self-propelled equipment; revising provisions relating to requirements for obtaining a certificate of right of possession, the fee therefor, and subsequent use thereof; providing that placement at a dock is evidence of intent to export a vehicle; providing for seizure of vehicles and assessment of storage charges; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Crady—

HB 617—A bill to be entitled An act relating to payment of medical examiners' fees by state agencies; amending s. 406.08, F.S.; requiring certain state agencies to pay fees and transportation costs for the services of medical examiners with respect to the bodies of decedents who die in the custody of such agencies; providing an effective date.

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

By Representative Simon—

HB 653—A bill to be entitled An act relating to ad valorem taxation; amending s. 200.065, F.S.; revising requirements relating to time of commencement of certain budget hearings; providing an effective date.

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

By Representative Sansom—

HB 738—A bill to be entitled An act relating to the Indian River Lagoon; providing a policy statement, a definition, a report on recommended legislative and administrative action, and a program of research and public awareness; providing responsibility of the Marine Resources Council of East Central Florida and for use of certain moneys thereby; providing an effective date.

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

By Representative Bronson—

HB 757—A bill to be entitled An act relating to environmental permitting; amending ss. 253.03 and 403.0876, F.S.; revising provisions relating to applications for the use of state-owned submerged lands; providing requirements relating to processing of permit applications and related information under chapters 253 and 403, F.S.; providing an effective date.

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

By Representative Lewis—

HB 915—A bill to be entitled An act relating to toll facilities; creating s. 316.1001, F.S.; requiring payment of tolls; providing penalties; amending s. 322.27, F.S.; providing that failure to pay a toll will not accumulate points relating to license suspension; amending s. 338.155, F.S.; providing that failure to pay a toll constitutes a noncriminal traffic infraction; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Representative Canady—

HB 999—A bill to be entitled An act relating to the Rural Manpower Services Act; repealing ss. 446.40-446.44, F.S.; abolishing the Rural Manpower Services Program; providing an effective date.

—was referred to the Committees on Agriculture; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representatives Young and Hazouri—

HB 1030—A bill to be entitled An act relating to the state retirement system; amending s. 121.091, F.S.; permitting certain retired teachers to be reemployed by district school boards; establishing limitations on such reemployment; providing for repayment of retirement benefits received in excess of such limitations; providing an effective date.

—was referred to the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Mitchell—

HB 1050—A bill to be entitled An act relating to bridge designation; designating and naming the bridge over the Choctawhatchee River on Highway #2 in Holmes County as the James Riley "Jim" Paul Bridge; providing for appropriate markers to be erected by the Department of Transportation; providing an effective date.

—was referred to the Committee on Transportation.

By Representative Bell—

HB 1106—A bill to be entitled An act relating to specialized state educational institutions; creating s. 242.335, F.S., authorizing the Board of Trustees for the Florida School for the Deaf and the Blind to purchase retirement annuities for certain school personnel; providing for investment of funds; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Governmental Operations and Representative Kutun—

HB 1194—A bill to be entitled An act relating to corporations; repealing s. 607.359, F.S., relating to the annual submission of a corporate audit to the Auditor General; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By the Committee on Governmental Operations and Representative Kutun—

HB 1195—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 402.17, F.S., providing that the department shall deposit client funds in any bank, credit union, or savings and loan association authorized to do business in this state, under certain circumstances; providing authorized investments in which the department may participate as trustee for any client; amending s. 402.18, F.S., providing that the department may deposit all sales taxes collected by the department into the district trust fund to facilitate consolidated sales tax returns and remittals; directing the department to maintain separate revenue and expense accounts with respect to welfare trust funds; authorizing the department to deposit certain welfare funds in certain banks, credit unions, or savings and loan associations; providing for investment of such funds; directing the department to keep certain accounts in the welfare trust fund; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Finance, Taxation and Claims; and Appropriations.

By the Committee on Governmental Operations and Representative Kutun—

HB 1211—A bill to be entitled An act relating to government bonds; amending s. 215.84, F.S., which specifies the maximum rate of interest; providing scope of coverage; providing for the interest rate on bonds bearing a variable or floating rate; providing an effective date.

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

By the Committee on Regulatory Reform and Representative Kelly—

HB 1220—A bill to be entitled An act relating to professional regulation; creating s. 455.2286, Florida Statutes, providing criminal penalties for knowingly giving false information in the course of applying for or obtaining a license to practice as a described health care practitioner; amending ss. 458.327 and 459.013, F.S., providing criminal penalties for knowingly giving false information on certain license or other application; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Judiciary and Representative Dunbar and others—

HB 1274—A bill to be entitled An act relating to condominiums and cooperatives; amending s. 718.111, F.S., relating to assessments by condominium associations; amending s. 718.112, F.S., relating to the vote required to amend condominium bylaws and relating to transfer fees; amending s. 718.608, F.S., relating to notice of intended conversion;

amending s. 719.103, F.S., providing definitions; creating s. 719.1035, F.S., providing for the creation of cooperatives; amending s. 719.104, F.S., providing for cooperative records; providing for assessments; providing for purchase of leases; amending s. 719.105, F.S., relating to appurtenances to cooperative parcels; amending s. 719.106, F.S., relating to bylaws and cooperative ownership; amending s. 719.107, F.S., relating to common expenses and assessments; amending s. 719.108, F.S., providing for rents and assessments, liability, liens, interest and collections; amending s. 719.109, F.S., providing for the right of owners to peaceably assemble; amending s. 719.110, F.S., relating to limitations on actions by the cooperative association; amending s. 719.111, F.S., relating to attorney's fees; amending s. 719.112, F.S., relating to the unconscionability of certain leases and rebuttable presumptions; creating s. 719.1255, F.S., providing for the voluntary arbitration of certain disputes; amending s. 719.202, F.S., providing for sales or reservation deposits prior to closing; amending s. 719.203, F.S., relating to warranties; amending s. 719.301, F.S., relating to transfer of association control; amending s. 719.302, F.S., relating to agreements entered into by the association; amending s. 719.303, F.S., relating to obligations of cooperative owners; amending s. 719.304, F.S., relating to the association's right to amend cooperative documents; amending s. 719.401, F.S., providing an exemption to certain leasehold provisions; providing criteria for the application of current leasehold provisions with respect to certain cooperatives; amending s. 719.403, F.S., providing criteria for phase cooperatives; amending s. 719.501, F.S., relating to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation; amending s. 719.502, F.S., relating to filing prior to sale or lease; amending s. 719.503, F.S., relating to disclosure prior to sale; amending s. 719.504, F.S., relating to required elements in the prospectus or offering circular; amending s. 719.506, F.S., relating to the publication of false and misleading information; amending s. 719.606, F.S., providing for the termination of certain rental agreements with respect to the conversion of existing improvements to cooperatives; amending s. 719.608, F.S., relating to notice of intended conversion; amending s. 719.61, F.S., relating to notices; amending s. 719.612, F.S., relating to the right of first refusal; amending s. 719.616, F.S., relating to the disclosure of certain information concerning cooperative improvements; amending s. 719.618, F.S., relating to warranties; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Regulatory Reform and Representative Kelly—

HB 1276—A bill to be entitled An act relating to professional regulation; amending s. 455.213, F.S., authorizing licensure application under oath; requiring notification of licensees and license applicants' address changes; amending s. 455.227, F.S., providing ground for discipline; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Governmental Operations and Representative Kutun—

HB 1290—A bill to be entitled An act relating to state agency publications; amending s. 283.30, F.S., providing that provisions relating to such publications shall not include items issued for an internal purpose; amending s. 283.315, F.S., expanding the scope of preparation costs to be considered in determining the cost of publication; amending s. 286.001, F.S., providing that all reports shall be abstracted unless specifically exempted; providing that the Executive Office of the Governor shall promulgate as a rule the notice of abstract procedures and the fee schedule for obtaining reports; repealing s. 27.251(2), F.S., to eliminate a report prepared by state attorneys relative to municipal police officers and sheriff's deputies; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Corrections, Probation and Parole and Representative Meffert—

HB 1307—A bill to be entitled An act relating to criminal sentencing; amending s. 921.16, F.S.; providing for concurrent sentences in certain situations; providing for application of gain-time to consecutive sentences; providing for the completion of minimum mandatory portions of concurrent and consecutive sentences; authorizing the court to order that a sentence running concurrently with a sentence imposed by a federal

court or the court of another state be deemed completed upon release from such other sentence; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By the Committee on Tourism and Economic Development and Representative Carlton—

HB 1312—A bill to be entitled An act relating to hotels and restaurants; amending s. 509.241, F.S.; expanding an exception from real estate licensure provisions provided to operators of hotels and motels; repealing s. 509.211(1), F.S.; removing the requirement that registered architect's or engineer's plans be submitted to the Division of Hotels and Restaurants of the Department of Business Regulation before the erection or remodeling of a public lodging or food service establishment; providing an effective date.

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

By the Committee on Regulatory Reform and Representative Ward—

HB 1318—A bill to be entitled An act relating to building codes; creating the Statewide Building Code Study Committee; prescribing committee purpose and membership; providing for officers and for committee meetings; providing for expiration of the committee; requiring a report to the Governor and the Legislature; providing for reimbursement for travel expenses; assigning the committee for administrative purposes to the Board of Building Codes and Standards of the Department of Community Affairs; providing an appropriation; providing an effective date.

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

By the Committee on Education, K-12 and Representative Young and others—

CS for HB's 50 and 326—A bill to be entitled An act relating to education; amending s. 228.041, F.S.; providing a definition of home education program; amending s. 232.02, F.S.; adding attendance at a religious school as meeting the regular school attendance requirement; revising provisions relating to regular school attendance at home; setting forth criteria for a home education program; providing a probationary period and reevaluation of the child to continue in a home education program if educational progress is not demonstrated; providing for review and appeal; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Health and Rehabilitative Services and Representative Deutch and others—

CS for HB 62—A bill to be entitled An act relating to adult congregational living facilities; amending s. 400.411, F.S., and creating s. 400.413, F.S., requiring documentation of compliance with local zoning requirements; amending s. 400.452, F.S.; providing for mandatory staff educational programs; directing the Department of Health and Rehabilitative Services to establish a core educational requirement for administrators and other staff; providing a time period for compliance; providing an exception; providing a penalty; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Economic, Community and Consumer Affairs.

By the Committee on Community Affairs and Representatives Hodges and Locke—

CS for HB 552—A bill to be entitled An act relating to housing finance; amending s. 420.422, F.S.; changing legislative findings; amending s. 420.423, F.S.; expanding the policy and purpose of the Neighborhood Housing Services Act; amending s. 420.424, F.S.; revising definitions; amending s. 420.426, F.S., correcting a reference; amending s. 420.427, F.S.; changing project eligibility restrictions upon grants; amending s. 420.428, F.S., changing the authorized uses of grants; amending s. 420.504, F.S., relating to the qualifications of certain members of the "Florida Housing Finance Agency"; amending s. 420.401, F.S., providing findings and declaration of necessity; amending s. 420.402, F.S., providing legislative purpose; amending s. 420.403, F.S., providing definitions; amending s. 420.404, F.S., providing for the deposit of funds into the Farmworker Housing Assistance Trust Fund; amending s. 420.405, F.S., providing for loans and expanding eligible activities under the act;

amending s. 420.406, F.S., relating to application procedures; amending s. 420.407, F.S., relating to rules and annual reports; amending s. 420.413, F.S., providing for the expiration of the granting and lending authority under the Farmworker Housing Assistance Act; creating s. 420.414, F.S., providing for default by sponsors and the power of the secretary of the Department of Community Affairs; creating s. 420.415, F.S., providing for recourse with respect to the failure or inability of an eligible sponsor to cause housing to be developed on land purchased; creating s. 420.416, F.S., providing for the disposition of certain property accruing to the state; creating s. 420.417, F.S., providing that certain lands shall be subject to taxation; providing a restriction upon use of certain funds appropriated by the Legislature; repealing part III of chapter 420, F.S., consisting of ss. 420.20-420.211, F.S., eliminating the "Florida Housing Land Acquisition and Site Development Act of 1979"; providing an effective date.

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

By the Committee on Health and Rehabilitative Services and Representatives Press and Jennings—

CS for HB 627—A bill to be entitled An act relating to hospitals; creating s. 395.0147, F.S., requiring licensed hospitals to notify within a certain time period emergency medical technicians, paramedics, or their employers, and other persons who have come in direct contact with patients who subsequently receive a confirmed diagnosis of an infectious disease; providing for patient confidentiality; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By the Committee on Commerce and Representative Jamerson—

CS for HB 671—A bill to be entitled An act relating to child labor law; amending s. 450.081, F.S., modifying restrictions relating to hours worked per day and per week; providing that certain restrictions shall not apply to children during school vacations or those exempt from compulsory school attendance or to children 16 or 17 years of age upon graduation or withdrawal from school; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Veterans Affairs and Representative Shackelford and others—

CS for HB's 713 and 313—A bill to be entitled An act relating to handicapped parking; amending s. 320.0848, F.S., providing that handicapped parking permits shall be a metal taglet renewable annually in conjunction with motor vehicle registration renewal or birth date of applicant; providing the form and content of the metal taglet; increasing permit fees and providing disposition thereof; authorizing increased fines for unlawful use of permits; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By the Committee on Judiciary and Representative Burke—

CS for HB 755—A bill to be entitled An act relating to dwelling units; amending s. 83.49, F.S.; requiring an objection in writing to the imposition of a landlord's claim against deposit money or advance rent; amending s. 83.52, F.S.; requiring a tenant to conduct himself in a manner that does not constitute a criminal offense; amending s. 83.56, F.S.; providing that a landlord may terminate a rental agreement if the rental property is used to facilitate the commission of a felony; creating s. 83.67, F.S.; providing for prohibited practices; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Appropriations and Representatives Gordon and Davis—

CS for HB 864—A bill to be entitled An act relating to crimes against children; amending s. 415.51, F.S.; giving the Florida Department of Law Enforcement access to child abuse registry records for the purpose of assisting the Department of Health and Rehabilitative Services and local law enforcement agencies in identifying and investigating crimes against children; amending s. 382.35, F.S.; placing a surcharge on birth certificates to fund services related to crimes against children; amending s.

943.26, F.S.; establishing a Crimes Against Children Criminal Profiling Trust Fund; providing an effective date.

—was referred to the Committees on Judiciary-Criminal; Health and Rehabilitative Services; and Appropriations.

By the Committee on Judiciary and Representative Drage—

CS for HB 889—A bill to be entitled An act relating to garnishment and judgment levy; creating s. 77.055, F.S., providing for certain notice by the plaintiff to the defendant and interested parties; requiring certain disclosures by the garnishee; amending s. 77.06, F.S., providing for an answer by the garnishee; amending s. 77.07, F.S., providing for default judgments upon failure of certain persons to move to dissolve a writ of garnishment; amending s. 77.28, F.S., providing for the collection of certain fees; creating s. 222.061, F.S., providing a procedure for exempting certain personal property from judgment levy; amending s. 222.11, F.S., exempting from garnishment identifiable wages deposited in a bank account; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committees on Appropriations and Commerce and Representatives Gibbons and Burnsed—

CS for CS for HB 949—A bill to be entitled An act relating to securities transactions; amending s. 517.011, F.S.; redesignating the Florida Investor Protection Act as the Florida Securities and Investor Protection Act; amending s. 517.021, F.S.; providing definitions; amending s. 517.051, F.S.; clarifying language with respect to exempt securities; amending s. 517.061, F.S.; clarifying language regarding exempt transactions; amending s. 517.07, F.S.; providing a termination date for certain exempt securities; amending s. 517.081, F.S.; providing for application fees for registration; creating s. 517.082, F.S.; providing for registration by notification; amending s. 517.111, F.S.; clarifying language with respect to revocation or suspension; amending s. 517.12, F.S.; increasing certain fees; creating s. 517.121, F.S.; providing books and records requirements; amending ss. 517.161 and 517.191, F.S.; deleting reference to salesman and substituting reference to associated person; amending s. 517.201, F.S.; providing for examinations and additional subpoena powers of the Department of Banking and Finance; providing an appropriation; providing for review and repeal; prohibiting the State of Florida from engaging the services of certain persons; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Health Care and Insurance and Representatives Lewis and others—

CS for HB 1031—A bill to be entitled An act relating to health insurance; creating ss. 627.6415 and 627.6578, F.S., requiring certain individual and group, blanket, or franchise health insurance policies and health care services plan contracts to offer optional coverage for child health supervision services; providing a definition; providing exceptions; amending s. 627.651, F.S., requiring compliance by multiple-employer welfare arrangements; amending s. 627.6515, F.S., conforming provisions relating to out-of-state group policies; creating ss. 627.6415 and 627.6578, F.S., requiring policies which provide family coverage to cover adopted children from the moment of placement in the residence of the insured or certificateholder; providing for review and repeal; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representatives Smith and Stewart—

HB 106—A bill to be entitled An act relating to water management; amending s. 373.0693, F.S.; providing for basin board meetings with the Southwest Florida Water Management District; dividing the district into watershed basins; providing for transfer of assets and liabilities; amending s. 373.503, F.S., for the Southwest Florida Water Management District millage allocation; an act relating to the Sumter County Recreation and Water Conservation and Control Authority; providing an effective date.

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

By Representatives Messersmith and Morse—

HB 298—A bill to be entitled An act relating to the Legislature; amending s. 11.148, F.S., requiring the Joint Legislative Management

Committee to provide members of the Legislature electronic access to the legislative information system, upon request; providing member responsibility for equipment; providing an effective date.

—was referred to the Committees on Rules and Calendar; and Appropriations.

By Representative C. Brown—

HB 525—A bill to be entitled An act relating to funeral directors and embalmers; amending s. 470.015, F.S., authorizing the Board of Funeral Directors and Embalmers to prescribe continuing education requirements as a condition for license renewal; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Representative Wetherell—

HB 735—A bill to be entitled An act relating to education; amending ss. 229.557, 240.247, and 240.335, F.S.; deleting educational reporting requirements; amending s. 240.1201, F.S., providing for the qualification of certain members of the Armed Forces as residents for tuition purposes; amending s. 240.331, F.S.; correcting a cross reference; repealing ss. 240.118, 240.359(5), 240.402(7), 240.424(5), (6), and (7), and 240.60(4), F.S., to delete educational reporting requirements; requiring the State Board of Education to review existing and proposed reports; providing for the elimination of certain reports; providing an effective date.

—was referred to the Committee on Education.

By Representative Liberti—

HB 761—A bill to be entitled An act relating to pari-mutuel wagering; creating s. 550.2405, F.S., prohibiting the use of controlled substances by jockeys or jai-alai players during performances; amending s. 550.10, F.S., increasing license fees; directing the Division of Pari-mutuel Wagering to adopt certain procedures; providing penalties; providing an appropriation; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representative Metcalf and others—

HB 820—A bill to be entitled An act relating to alcoholic beverages; amending ss. 567.01, 567.06, 567.07, and 567.13, F.S., eliminating, with respect to local option elections for the sale of alcoholic beverages, reference to quantities of less than one-half pint; amending s. 565.02, F.S.; allowing the extension of club licenses to permit the service of alcoholic beverages to nonmembers for a specified period of time; amending s. 561.20, F.S., providing an exemption from the limitation on the number of alcoholic beverage licenses issued for certain lodging establishments; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representatives Figg and Gordon—

HB 832—A bill to be entitled An act relating to sexual battery; amending s. 794.022, F.S.; prohibiting the giving of certain jury instructions; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Representatives McEwan and Kutun—

HB 967—A bill to be entitled An act relating to criminal penalties; amending s. 775.089, F.S., authorizing the court to order restitution to any third party indemnifying a victim of crime or his dependents or his estate or next of kin and the Crimes Compensation Trust Fund; providing that restitution to the Crimes Compensation Trust Fund shall be primary; changing the types of losses for which restitution may be ordered; providing an effective date.

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

By Representatives Hargrett and Martinez—

HB 1054—A bill to be entitled An act relating to child pornography; amending s. 827.071, F.S.; deleting provisions regarding intent; providing penalties for possession of certain items; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Governmental Operations and Representative Kutun—

HB 1152—A bill to be entitled An act relating to contractual services; amending s. 287.012, F.S., redefining the term “contractual services”; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Governmental Operations and Representative Kutun—

HB 1193—A bill to be entitled An act relating to deferred-payment commodity contracts; amending s. 287.063, F.S.; providing for Comptroller approval of economically prudent and cost-effective deferred-payment purchases; establishing criteria for approval; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Governmental Operations and Representative Kutun—

HB 1196—A bill to be entitled An act relating to state expenditures; amending ss. 25.382, 27.34 and 27.54, F.S.; providing for the disposition of certain funds appropriated to the state courts system, the state attorneys and the public defenders, respectively; providing an effective date.

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

By the Committee on Veterans Affairs and Representative L. R. Hawkins—

HB 1221—A bill to be entitled An act relating to leaves of absence of officials and employees; amending s. 115.07, F.S., relating to leaves of absence for reserve or guard training; providing legislative intent; providing for computation of leave of absence with respect to officers or employees whose working day consist of certain shifts; providing that where an employee’s assigned employment duty conflicts with active or inactive duty training it shall be the responsibility of the employing agency to provide for the assumption of such employment duties while the employee is on assignment; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Judiciary and Representative Dunbar and others—

HB 1230—A bill to be entitled An act relating to the Joint Legislative Management Committee; amending s. 11.12, F.S., relating to the rate of subsistence to be paid to legislators’ assistants and secretaries when the Legislature is in session; amending s. 11.147, F.S., relating to the appointment and review of the executive director and division directors under the joint committee; amending s. 11.242, F.S., relating to the powers, duties, and functions of the joint committee in the operation and maintenance of the statutory revision program; providing an effective date.

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

By the Committee on Veterans Affairs and Representative L. R. Hawkins and others—

HB 1259—A bill to be entitled An act relating to veterans; directing the Secretary of Administration to apply to the Veterans Administration for federal funds for domiciliary homes; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Judiciary and Representatives Burke and Drage—

HB 1268—A bill to be entitled An act relating to traffic infractions; creating s. 316.1001, F.S.; requiring payment of tolls; providing penalties; amending s. 322.27, F.S.; providing that failure to pay a toll will not accumulate points relating to license suspension; amending s. 338.155, F.S.; providing that failure to pay a toll constitutes a noncriminal traffic infraction; amending s. 318.19, F.S., deleting the requirement of a mandatory hearing when the infraction results in property damage in excess of \$2,000; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By the Committee on Governmental Operations and Representative Kutun and others—

HB 1288—A bill to be entitled An act relating to employee rights; providing for the protection of employees and persons retaliated against by agencies; providing a short title; providing legislative intent; providing definitions; providing prohibited actions; providing for the nature of information to be disclosed under the act; providing for remedies, relief, and defenses; providing an effective date.

—was referred to the Committees on Governmental Operations; and Personnel, Retirement and Collective Bargaining.

By the Committee on Transportation and Representative Wallace and others—

HB 1331—A bill to be entitled An act relating to transportation; amending s. 337.241, F.S., relating to the preparation of maps of reservation by the Department of Transportation and local governmental entities; amending s. 335.14, F.S.; removing the requirement that speed limit signs show the speed limit both in miles per hour and in kilometers per hour; amending s. 288.063, F.S.; cross referencing the definition of transportation facility to a definition in chapter 334, F.S.; amending s. 332.006, F.S., relating to the duties of the Department of Transportation; amending s. 332.004, F.S.; amending the definition of an eligible agency; amending s. 332.007, F.S., relating to the financing of certain airport expansion; amending s. 334.03, F.S.; redefining the term "bridge"; amending s. 334.14, F.S.; providing that the requirement for engineering registration does not apply to the incumbents of certain positions; amending s. 335.065, F.S.; providing that special emphasis shall be given to bicycle and pedestrian way projects within a certain distance from an urban area; amending s. 335.09, F.S.; providing for the uniform erection and maintenance of traffic control devices; amending s. 335.14, F.S.; exempting certain computerized traffic systems and control devices from certain statutory requirements; amending s. 336.045, F.S.; providing for minimum guidelines and requirements for curb ramps constructed after January 1, 1985; creating s. 336.046, F.S.; requiring bus bench and transit shelter set back; amending s. 337.02, F.S.; providing that the Department of Transportation may purchase parts and repairs for certain equipment below a specified cost without competitive bids; amending s. 337.185, F.S.; providing that certain disputes which cannot be resolved shall be arbitrated after acceptance of the project or phase of the project which is subject to dispute; amending s. 337.407, F.S.; requiring suppliers seeking to advertise on bus benches or transit shelters to obtain authorization from a local governmental entity; amending s. 339.0805, F.S.; providing that socially and economically disadvantaged individuals or subcontractors may form joint ventures to submit competitive bids; amending s. 339.125, F.S.; providing that the department may advance available funds to pay for the cost of preparing preliminary engineering plans and cost estimates; amending s. 339.135, F.S.; providing that unexpended funds for certain programs remaining at the end of the fiscal year for which contracts have been executed and bids awarded may be certified forward as fixed capital outlay; creating s. 337.408, F.S.; requiring bus bench and transit shelter set back; repealing s. 335.02(3), (4), F.S., relating to purchase of rights-of-way; requiring the department to increase the Pinellas Bayway toll upon completion of Phase I of the Bayway improvements currently under construction; requiring the department to operate and maintain the facility; providing for disbursement of tolls collected; providing for an annual pass; exempting certain public safety vehicles from payment of the toll; providing effective dates.

—was referred to the Committees on Transportation and Appropriations.

By Representatives Martin and Mills—

HM 53—A memorial to the Congress of the United States, urging Congress to take appropriate action to terminate daylight saving time in early September of each year.

—was referred to the Committee on Rules and Calendar.

By Representative Press—

HM 192—A memorial to the Congress of the United States urging Congress to adopt legislation relating to the Social Security Act.

—was referred to the Committee on Rules and Calendar.

By Representative Hargrett and others—

HCR 1337—A concurrent resolution honoring George M. Steinbrenner, III.

—was referred to the Committee on Rules and Calendar.

The Honorable Harry A. Johnston, II, President

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

SB 83—A bill to be entitled An act relating to fighting or baiting animals; amending s. 828.122, F.S.; increasing penalties for using any animal for the purpose of fighting or baiting any other animal, for owning, managing, or operating any facility used for such purpose, for promoting, staging, advertising, or charging an admission fee for such purpose, and for betting on or attending the fighting or baiting of animals; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

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

Section 1. Paragraph (a) of subsection (2) and subsections (1), (3), and (4) of section 828.122, Florida Statutes, are amended to read:

828.122 Fighting or baiting animals; penalties.—

(1) This act ~~shall be known and~~ may be cited as "The Animal Fighting Act of 1976."

(2) As used in this section:

(a) "Animal" means any bull, bear, or dog.

(3) Any person who commits any of the following acts is guilty of a ~~felony misdemeanor~~ of the ~~third~~ ~~first~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~or by a fine of not less than \$1,000 and not more than \$5,000, or both:~~

(a) Baiting, or using any animal for the purpose of fighting or baiting any other animal.

(b) Knowingly owning, managing, or operating any facility kept or used for the purpose of fighting or baiting any animal.

(c) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals.

(4) Any person who willfully commits any of the following acts is guilty of a misdemeanor of the ~~first~~ ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~or by a fine of not more than \$5,000, or both:~~

(a) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or

(b) Attending the fighting or baiting of animals.

Section 2. This act shall take effect October 1, 1985.

Amendment 2—In the title, page 1, strike the title and insert:

A bill to be entitled An act relating to fighting or baiting animals; amending s. 828.122, F.S.; increasing penalties for using any animal for the purpose of fighting or baiting any other animal, for owning, managing, or operating any facility used for such purpose, for promoting, staging, advertising, or charging an admission fee for such purpose, and for betting on or attending the fighting or baiting of animals; providing an effective date.

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

SB 83 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Scott
Carlucci	Grant	Langley	Stuart
Castor	Grizzle	Malchon	Thurman
Childers, D.	Hair	Margolis	Vogt
Childers, W. D.	Hill	McPherson	Weinstein
Crawford	Jenne	Meek	
Deratany	Jennings	Myers	
Dunn	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Fox, Gersten, Girardeau, Peterson, Thomas

The Honorable Harry A. Johnston, II, President

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

SB 417—A bill to be entitled An act relating to bicycles and other vehicles; amending s. 163.3177, F.S., requiring inclusion of bicycle and pedestrian ways in local comprehensive plans; amending s. 316.157, F.S., authorizing an alternative hand and arm signal for bicyclists; amending s. 316.172, F.S., expanding the application of provisions requiring traffic to stop for school buses; amending s. 316.1935, F.S., expanding the application of provisions prohibiting persons from fleeing or attempting to elude a police officer; amending s. 316.2065, F.S., prescribing brake requirements for bicycles; requiring permanent identifying numbers on bicycles; amending s. 318.18, F.S., deleting the civil penalty for bicycle regulation infractions; amending s. 322.27, F.S., exempting operators of certain nonmotorized vehicles from provisions relating to driver's license suspensions; repealing s. 316.207, F.S., removing the penalties for violations of bicycle regulations; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 17, after “s. 316.130” insert: , and violations of chapter 316 by a bicyclist 14 years of age and under

Amendment 2—On page 1 in the title, lines 16, 17, and 18, strike “deleting the civil penalty for bicycle regulation infractions” and insert: retaining civil penalty for infractions by bicyclists 14 years of age and under

Amendment 3—On page 6, line 29, insert:

Section 9. Subsections (22) and (23) of section 316.003, Florida Statutes, 1984 Supplement, are amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(22) **MOTORCYCLE**.—Any motor vehicle powered by a motor with a displacement of more than 50 cubic centimeters, with a motor rated in excess of 1 1/2 brake horsepower having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

(23) **MOTOR-DRIVEN CYCLES**.—Any motorcycle, including any motor scooter having a motor with 150 cubic centimeters displacement or less, and any bicycle or moped with a motor having a displacement of more than 50 cubic centimeters or which is capable of propelling the vehicle at a speed in excess of 30 miles per hour on level ground. Every motorcycle and every motor scooter with a motor which produces not to exceed 5 brake horsepower, including every bicycle propelled by a helper motor rated in excess of 1 1/2 brake horsepower.

Section 10. Subsection (16) of section 320.01, Florida Statutes, 1984 Supplement, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(16) “Motor-driven cycle” means any motorcycle, including any motor scooter, with a motor which produces no more than 5 brake horsepower and any bicycle propelled by a helper motor with a displacement in excess of 50 cubic centimeters rated in excess of 1 1/2 brake horsepower.

Section 11. Subsection (1) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles and mobile homes, as defined in s. 320.01, and mopeds, as defined in s. 316.003(2), which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) **MOTORCYCLES, MOTOR-DRIVEN CYCLES, MOPEDS.**—

(a) Any motorcycle: \$10 flat.

(b) Any motor-driven cycle which is certified by the manufacturer not to exceed 150 cubic centimeters displacement 5-brake-horsepower: \$10 flat.

(c) Any moped as defined in s. 316.003(2): \$5 flat; however, annual renewal is not required.

Section 12. Subsection (2) of section 322.16, Florida Statutes, is amended to read:

322.16 Restricted licenses.—

(2) The department may issue a nonrenewable restricted operator's license, provided that:

(a) In no instance shall a restricted license be issued to a minor under 15 years of age;

(b) Any person holding a restricted operator's license when operating a motor vehicle, other than a motorcycle when such licensee is 16 years of age or older, or a motor-driven cycle, or moped, shall be accompanied at all times by a licensed operator or chauffeur who is not less than 18 years of age and who is actually occupying the front seat beside such restricted operator;

(c) Any restricted operator under the age of 15 years and 10 months may operate a motor vehicle during daytime hours only. During the last 60 days before the licensee's 16th birthday, the restricted operator may, subject to the above conditions, operate a motor vehicle after dark; and

(d) A restricted operator under 16 years of age shall not be permitted to operate a motorcycle having a motor with more than 150 cubic centimeter displacement.

(e)(d) A restricted operator under 16 years of age shall not be permitted to rent a motorcycle, or motor-driven cycle, moped, or other motor-driven vehicle the operation of which does not require that such restricted operator be accompanied by a licensed operator or chauffeur under this section.

(Renumber subsequent section.)

Amendment 4—On page 1 in the title, line 23, after the semicolon (;) insert: amending s. 316.003, F.S.; redefining motor-driven cycle and motorcycle; amending s. 320.01, F.S.; deleting the brake horsepower requirements from the definition of motor-driven cycle to conform; amending s. 320.08, F.S., relating to registration and renewal of registration fees for motor-driven cycles to conform; amending s. 322.16, F.S., to prohibit persons under 16 years of age possessing a restricted operator's license from operating a motorcycle;

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

SB 417 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Gersten, Peterson, Thomas

The Honorable Harry A. Johnston, II, President

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

CS for SB 55—A bill to be entitled An act relating to the Department of Corrections; amending s. 944.09, 944.17, F.S.; requiring adoption of rules; providing duties of department; providing for recordkeeping; providing for cooperative agreements; providing for commitments, classifications and transfers; 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; 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 ss. 946.002, 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 under certain circumstances; exempting certain inmates; 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.; specifying entities to which prison inspection reports are to be made; 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; amending s. 958.09, F.S.; requiring the Department of Corrections to adopt rules; providing for extending limits of confinement; 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; authorizing the assignment of certain inmates to youthful offender facilities; 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 nonyouthful 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; 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, F.S., relating to the state correctional system, the Department of Corrections, inmate labor, and youthful offenders; providing effective dates.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 22, line 3, insert:

Section 17. Subsections (2), (3), (4), and (5) of section 951.23, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, and a new subsection (2) is added to said section, to read:

951.23 *County and municipal detention facilities; definitions.*—

(2) *In conjunction with the administrators of county detention facilities, the Department of Corrections shall develop an instrument for the collection of information from the administrator of each county detention facility. The information shall be provided on a monthly basis and shall include, but not be limited to the following:*

- (a) *The average number of sentenced felons housed per day to cumulative sentences of incarceration of 364 days or less.*
- (b) *The average number of sentenced felons housed per day to cumulative sentences of incarceration of 365 days or more.*
- (c) *The average number of sentenced misdemeanants housed per day.*

(d) *The average number of persons housed per day who are awaiting trial on at least one felony charge.*

(e) *The average number of persons housed per day who are awaiting trial on misdemeanor charges only.*

(f) *The average number of convicted felons and misdemeanants housed per day who are awaiting sentencing.*

(g) *The average number of undocumented aliens housed per day.*

(h) *The average number of persons housed per day pursuant to part I of chapter 394, "The Florida Mental Health Act."*

(i) *The average number of persons housed per day pursuant to chapter 396, the "Comprehensive Alcoholism Prevention, Control, and Treatment Act."*

(j) *The average number of juveniles housed per day.*

(k) *The average number of state parole violators housed per day.*

(l) *The average number of state inmates housed per day who were transferred from a state correctional facility, as defined in s. 944.02, to the county detention facility.*

(m) *The average cost per day for housing a person in the county detention facility.*

(3) *The information shall be analyzed and evaluated by the Department of Corrections for comparisons of various categories between counties and for the provision of technical assistance to those counties which appear to have an exceedingly high average in any one category. Such assistance may include, but not be limited to, enhancement of existing pretrial intervention programs and state reimbursement for operation, renovation or construction costs for county detention facilities.*

(Renumber subsequent sections.)

Amendment 2—In the title, page 2, line 23, insert: amending s. 951.23, F.S.; providing for collection of data on local detention facilities;

Amendment 3—On page 10, line 25, after "subsection," insert: as determined by the Career Service Commission

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

CS for SB 55 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kirkpatrick	Peterson
Barron	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	McPherson	Vogt
Childers, W. D.	Hill	Meek	Weinstein
Crawford	Jenne	Myers	
Dunn	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Fox, Gersten, Thomas

The Honorable Harry A. Johnston, II, President

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

CS for SB 806—A bill to be entitled An act relating to the State Fire Marshal; amending s. 633.111, F.S.; providing an advance fee for certain reports released by the State Fire Marshal; providing exemptions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 9, insert:

Section 1. Subsection (5) of section 526.141, Florida Statutes, is amended to read:

526.141 Self-service gasoline stations; attendants; regulations.—

(5) Every full-service gasoline station offering self-service at a lesser cost shall require an attendant employed by the station to dispense gasoline from the self-service portion of the station to any motor vehicle properly displaying an "exemption entitlement parking permit" as described in s. 320.0848 when the person to whom such permit has been issued is the operator of the vehicle and such service is requested. *Such stations shall prominently display a decal no larger than eight square inches on the self-service pumps clearly stating the requirements of this subsection and the penalties applicable to violations of this subsection.*

(Renumber subsequent sections.)

Amendment 2—In the title, on page 1, line 2 after the semicolon (;) insert: requiring certain gasoline stations to display a decal;

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

CS for SB 806 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Peterson, Thomas

The Honorable Harry A. Johnston, II, President

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

SB 173—A bill to be entitled An act relating to telephone companies; amending s. 364.335, F.S.; providing that the Public Service Commission may grant a certificate of necessity to a proposed or existing telephone company which will be providing competitive or duplicative pay telephone service; defining pay telephone service; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, strike all of lines 2-10 and insert: *only, without determining that existing facilities are inadequate to meet the reasonable needs of the public and without amending the certificate of another telephone company to remove the basis for competition or duplication of services.*

Section 2. Section 501.059, Florida Statutes, is created to read:

501.059 Residential telephone solicitation.—

(1) As used in this section:

(a) "Consumer telephone call" means a call made by a telephone solicitor for the purpose of soliciting a sale of any consumer goods or services to the person called, or for the purpose of soliciting an extension of credit for consumer goods or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services to the person called or an extension of credit for such purposes.

(b) "Consumer goods or services" means any tangible personal property which is normally used for personal, family, or household purposes, including, without limitation, any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed, as well as cemetery lots and time-share estates, and any services related to such property.

(c) "Unsolicited consumer telephone call" means a consumer telephone call other than a call made:

1. In response to an express request of the person called;

2. Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

3. To any person with whom the telephone solicitor has an existing business relationship.

(d) "Commission" means the Florida Public Service Commission.

(e) "Telephone solicitor" means any natural person, firm, organization, partnership, association, or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automated dialing or recorded message devices.

(f) "Division" means the Division of Consumer Services of the Department of Agriculture and Consumer Services.

(2) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall identify himself or herself and the business on whose behalf he or she is soliciting immediately upon making contact by telephone with the person who is the object of the telephone solicitation. No telephone solicitor shall call a residential telephone number to make an unsolicited consumer telephone call, except between the hours of 8 a.m. and 6 p.m.

(3) No telephone solicitor shall make or cause to be made any unsolicited consumer telephone call to any residential telephone number if the number for that telephone appears in the then-current directory published by the telephone company and such listing indicates that the subscriber does not wish to receive unsolicited consumer telephone calls.

(4) Any residential telephone subscriber desiring a directory listing indicating that the subscriber does not wish to receive unsolicited consumer telephone calls may notify the serving local exchange company and order an extra line listing effective with the next telephone directory issue. Such extra line listing shall appear directly beneath the primary listing and shall read "No Solicitation Calls." The charge for such extra line listings shall be the tariffed rates as approved by the commission for additional or extra line listings.

(5) The division shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the division finds that there has been a violation of this section, it may bring an action to impose a civil penalty and to seek such other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty shall not exceed \$5,000 per violation and shall be deposited in the General Revenue Fund, unallocated.

(6) Telephone companies shall not be responsible for the enforcement of the provisions of this section, and shall not be liable for any error or omission in the listings made pursuant hereto.

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 provisions or application, and to this end the provisions of this act are declared severable.

Section 4. This act shall take effect October 1, 1985.

Amendment 2—In title, on page 1, line 9 after the semicolon (;) insert: creating s. 501.059, F.S.; providing definitions; providing restrictions upon unsolicited commercial telephone calls to residences; prohibiting the making of unsolicited consumer telephone calls to certain subscribers; authorizing the Division of Consumer Services of the Department of Agriculture and Consumer Services to investigate complaints of violations and institute civil proceedings;

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

Amendment 1—On page 1, lines 5-26; on page 2, lines 1-30; on page 3, lines 1-31; and on page 4, lines 1-5, strike all of said lines and insert: *only without determining that existing facilities are inadequate to meet the reasonable needs of the public and without amending the certificate of another telephone company to remove the basis for competition or duplication of services. Pay telephone service shall include that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.*

Section 2. This act shall take effect upon becoming a law.

The vote was:

Yeas—17

Mr. President	Fox	Kirkpatrick	Scott
Beard	Girardeau	Malchon	Stuart
Castor	Grant	McPherson	
Crawford	Hair	Meek	
Dunn	Jenne	Plummer	

Nays—15

Barron	Deratany	Johnson	Myers
Carlucci	Frank	Kiser	Peterson
Childers, D.	Gordon	Langley	Weinstein
Childers, W. D.	Grizzle	Margolis	

On motion by Senator McPherson, the Senate concurred in House Amendment 1 as amended and the House was requested to concur in the Senate Amendment.

On motion by Senator McPherson, the Senate refused to concur in House Amendment 2.

SB 173 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Jenne	Meek
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnson	Peterson
Castor	Girardeau	Kirkpatrick	Plummer
Childers, D.	Gordon	Kiser	Scott
Childers, W. D.	Grant	Langley	Stuart
Crawford	Grizzle	Malchon	Weinstein
Deratany	Hair	Margolis	
Dunn	Hill	McPherson	

Nays—1

Carlucci

Vote after roll call:

Yea—Neal, Thomas, Vogt

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to CS for HJR 386 and requests the Senate to recede, and in the event the Senate refuses to recede, requests a Conference Committee.

Allen Morris, Clerk

CS for HJR 386—A joint resolution proposing an amendment to Section 1, Article IV and to Section 17, Article V of the State Constitution, relating to prosecutorial jurisdiction.

On motions by Senator Crawford, the Senate refused to recede from Senate amendments to CS for HJR 386 and acceded to the request for a conference committee.

The President appointed Senators Crawford, Gersten and Kiser as conferees, and Senator Weinstein as alternate. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to CS for HB 387 and requests the Senate to recede, and in the event the Senate refuses to recede, requests a Conference Committee.

Allen Morris, Clerk

CS for HB 387—A bill to be entitled An act relating to criminal investigations and prosecutions; amending ss. 27.14, 27.37, 905.33, 905.34, 905.36, 110.205, F.S.; creating s. 14.27, F.S.; creating an Office of State-wide Prosecution in the Executive Office of the Governor; providing for appointment of a statewide prosecutor in charge of such office; specifying powers and duties of such office; providing for appointment of a state

attorney to discharge the duties of the statewide prosecutor in specified circumstances; specifying membership of the Council on Organized Crime; providing that the statewide prosecutor is the legal adviser of the statewide grand jury; specifying jurisdiction of the statewide grand jury; specifying duties of the legal adviser of the statewide grand jury; specifying exemptions from career service; providing a contingent effective date.

On motions by Senator Crawford, the Senate refused to recede from Senate amendments to CS for HB 387 and acceded to the request for a conference committee.

The President appointed Senators Crawford, Gersten and Kiser as conferees, and Senator Weinstein as alternate. The action of the Senate was certified to the House.

SPECIAL ORDER

On motions by Senator Crawford, the rules were waived and by two-thirds vote HB 1364 was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Crawford—

HB 1364—A bill to be entitled An act relating to tax on citrus nursery stock; creating s. 581.192, F.S.; imposing excise taxes on citrus nursery stock; creating a trust fund and providing for deposit of certain proceeds therein; providing for use of tax proceeds; providing for repeal; providing appropriations to the Department of Agriculture and Consumer Services for eradication of citrus canker and for financial assistance to persons suffering losses because of citrus canker; providing an effective date.

—a companion measure, was substituted for CS for CS for CS for SB 1174 and read the second time by title.

Senator Crawford moved the following amendment:

Amendment 1—On page 1, line 16, strike everything after the enacting clause and insert:

Section 1. Subsection (6) of section 581.011, Florida Statutes, 1984 Supplement, is amended, subsections (21) and (22) are renumbered as subsections (22) and (23), respectively, and a new subsection (21) is added to said section, to read:

581.011 Definitions.—As used in this chapter:

(6) "Department" means the Department of Agriculture and Consumer Services of the state or its authorized representative.

(21) "Quarantine" means an official order issued by the department that regulates the movement of articles, plants, or plant products to prevent the spread of disease or pests.

Section 2. Subsections (7) and (15) of section 581.031, Florida Statutes, 1984 Supplement, are amended to read:

581.031 Department; powers and duties.—The department has the following powers and duties:

(7) To declare a quarantine against any area, place, nursery, grove, orchard, county, or counties within this state, or against other states, territories, or foreign countries, or any portion thereof, in reference to plant pests or noxious weeds and prohibit the movement within this state from other states, territories, or foreign countries of all plants, plant products, or other things from such quarantined places or areas which are likely to carry such plant pests or noxious weeds if such quarantine is determined, after due investigation, to be necessary in order to protect the agricultural and horticultural interests of this state. In such cases, the quarantine may be made absolute or rules may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, or sold or otherwise disposed of, in this state.

(15) To inspect, or cause to be inspected by duly authorized representatives, plants, plant products, or other things and substances that may, in its opinion, be capable of disseminating or carrying plant pests or noxious weeds, and for this purpose shall have power to enter into or upon any place and to open any bundle, package, or other container containing, or thought to contain, plants or plant products or other things capable of disseminating or carrying plant pests or noxious weeds and to obtain and examine any records, or to obtain a subpoena duces tecum for such records, pertaining thereto, to facilitate determination of the origin of plant pests or noxious weeds for the purpose of plant pest control programs.

Section 3. Section 581.131, Florida Statutes, is amended to read:

581.131 Certificate of registration.—~~Before any nurseryman, stock dealer, agent, or plant broker shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, he shall make application to the director of the division, on forms supplied by the division, to obtain a certificate of registration. Before any stock dealer, agent, or plant broker shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, he shall make application to the director of the division, on forms supplied by the division, to obtain a certificate of registration for each outlet. Each application for a certificate of registration shall be accompanied by a certificate fee in such amount as shall be determined by the department; and upon the issuance of such certificate, it shall be renewed annually thereafter on its anniversary date upon satisfactory showing to the director of the division that the provisions of this law and the rules of the department have been complied with and upon the payment of an annual renewal fee in such amount as shall be determined by the department. However, neither the certificate of registration fee nor the annual renewal fee shall exceed \$400 \$200. Further, the department may exempt from the payment of a certificate fee those governmental agency nurseries nurserymen whose nursery stock is used exclusively for planting on their own property. All applications for annual renewal of certificates of registration required by this section shall be made not later than the anniversary date of the certificate being renewed, and any such application received after such date shall be accompanied by a penalty or late filing fee not to exceed \$10.~~

Section 4. Paragraph (a) of subsection (2) of section 581.141, Florida Statutes, 1984 Supplement, is amended to read:

581.141 Certificate of registration or of inspection; revocation and suspension; fines.—

(2) FINES.—

(a) The department may, after notice and hearing, impose a fine not exceeding \$5,000 for the violation of any of the provisions of this chapter or the rules adopted hereunder upon any person, nurseryman, stock dealer, agent, or plant broker, which fine, when paid, shall be deposited in the Plant Industry Trust Fund. The imposition of a fine pursuant to this subsection may be in addition to or in lieu of the suspension or revocation of a certificate of registration or certificate of inspection.

Section 5. Section 581.161, Florida Statutes, is amended to read:

581.161 Fumigation or treatment of plants and plant products.—The division is authorized to supervise or cause the fumigation or treatment of plants and plant products infested or infected by plant pests or so exposed to infestation or infection that it is reasonably believed that infestation or infection could exist. Fumigation or treatment may be performed by employees of the division or other persons supervised by an authorized representative of the division. ~~Persons engaged in fumigation or treatment of plants and plant products shall not be required to be licensed by any other board or agency notwithstanding the provisions of any other law.~~

Section 6. Section 581.192, Florida Statutes, is created to read:

581.192 Excise tax on citrus nursery stock.—

(1) There is hereby levied and imposed an excise tax of \$1 per plant on the commercial sale or distribution of citrus nursery stock by any nurseryman, stock dealer, agent or plant broker to whom a certificate of registration has been issued by the Division of Plant Industry, with the exception of citrus plants sold or distributed to any commercial citrus producer or for resale to a producer. The excise tax shall be paid by the person to whom the certificate of registration is issued. Persons seeking an exemption from payment of the tax shall provide the nurseryman, stock dealer, agent, or plant broker to whom a certificate of registration has been issued by the Division of Plant Industry with an affidavit signed by both buyer and seller, recording the buyer's address, a description and the quantity of the plants sold, and a statement that the plants will be used by a commercial citrus producer or for resale to a producer. Each affidavit shall be retained by the nurseryman, stock dealer, agent, or plant broker and made available for inspection as a part of state audits.

(2) All excise taxes levied under this section shall be collected by the Department of Agriculture and Consumer Services and deposited in the State Treasury into a special fund known as the Florida Citrus Canker Trust Fund, which is hereby created. Such moneys shall be appropriated to the department to be expended in the conduct of programs for the eradication of citrus canker.

Section 7. Section 603.131, Florida Statutes, is created to read:

603.131 Excise tax on limes and lemons.—

(1) There is hereby levied and imposed an excise tax of 1 cent per 55-pound equivalent box of limes grown in this state and sold or delivered into the primary channel of trade. All excise taxes levied under this subsection shall be collected by the Division of Fruit and Vegetable Inspection and deposited in the State Treasury to the credit of the Florida Citrus Canker Trust Fund. Moneys in the trust fund shall be appropriated to the Department of Agriculture and Consumer Services to be expended in the conduct of programs for the eradication of citrus canker.

(2) There is hereby levied and imposed an excise tax of 1 cent per 90-pound equivalent box of lemons grown in this state and sold or delivered into the primary channel of trade. All excise taxes levied under this subsection shall be collected and used in the same manner as the tax levied under subsection (1).

Section 8. Section 581.193, Florida Statutes, is created to read:

581.193 Excise tax on citrus nursery stock.—

(1) There is hereby levied and imposed an excise tax of 10 cents per plant on the sale, excluding inter-company sales between members of an affiliated group as defined in Section 1504 of the Internal Revenue Code, of citrus nursery stock, including lemon and lime nursery stock, to any commercial citrus producer or for resale to a producer, by any nurseryman, stock dealer, agent or plant broker to whom a certificate of registration has been issued by the Division of Plant Industry. The excise tax shall be paid by the person to whom the certificate of registration is issued.

(2) All excise taxes levied under subsection (1) shall be collected by the Department of Agriculture and Consumer Services. Collections made prior to July 1, 1986, shall be deposited in the General Revenue Fund. After said date, collections shall be deposited in the Florida Citrus Canker Trust Fund.

Section 9. The sum of \$1,500,000 appropriated pursuant to the General Appropriations Act from the Citrus Advertising Trust Fund for transfer to the Florida Citrus Canker Trust Fund and the sum of \$3,300,000 appropriated pursuant to the General Appropriations Act from the General Revenue Fund to the Department of Agriculture and Consumer Services shall be used in the eradication of citrus canker. Moneys appropriated from the Citrus Advertising Trust Fund shall be for actual expenses incurred by the department and shall be paid in a manner as mutually agreed between the Department of Citrus and the Department of Agriculture and Consumer Services, provided, to the extent there are moneys in the Florida Citrus Canker Trust Fund, actual expenses of the department shall be paid from such moneys before moneys are paid from the Citrus Advertising Trust Fund for such expenses. Moneys collected under s. 581.192 or s. 581.193, Florida Statutes, shall be expended or obligated before funds are requested and transferred from the Citrus Advertising Trust Fund. Any funds transferred to the Florida Citrus Canker Trust Fund from the Citrus Advertising Trust Fund shall be repaid from receipts collected under s. 581.192 or s. 581.193, Florida Statutes, as soon as such receipts are no longer required for program operations.

Section 10. The sum of \$250,000 from the Plant Industry Inspection Trust Fund, the sum of \$100,000 from the Citrus Advertising Trust Fund, and the sum of \$500,000 from the General Revenue Fund, appropriated pursuant to the General Appropriations Act to the Department of Agriculture and Consumer Services for fiscal year 1985-1986, shall be used to cover total existing need established from November 17, 1984, to June 30, 1986, for financial assistance as provided in chapter 84-547, Laws of Florida. The sum of \$361,000 appropriated pursuant to the General Appropriations Act from the General Revenue Fund to the Department of Agriculture and Consumer Services for the fiscal year 1985-86 shall be used to supplement financial assistance paid for needs established prior to June 30, 1985. Such payments shall be paid on a pro-rata basis to all eligible claimants. Needs established after June 30, 1985, shall be paid supplemental financial assistance at rates equivalent to pro-rata payments made to needs established prior to June 30, 1985.

Section 11. Section 6 of this act is repealed on July 1, 1990. Sections 7 and 8 of this act are repealed on July 1, 1987.

Section 12. This act shall take effect July 1, 1985.

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

Amendment 1A—On page 5, lines 25-31, and on page 6, lines 1-12, strike all of said lines and renumber subsequent sections.

Amendment 1 as amended was adopted.

Senator Crawford moved the following amendment:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to agriculture; amending s. 581.011, F.S.; clarifying the definition of "department" and defining "quarantine"; amending s. 581.031, F.S.; providing powers of the Department of Agriculture and Consumer Services with respect to records of the movement of nursery stock; amending s. 581.131, F.S.; increasing the maximum registration and renewal fee for such persons; removing an exemption for certain nurserymen; amending s. 581.141, F.S.; expanding to any person the applicability of departmental fines for violations under ch. 581, F.S.; amending s. 581.161, F.S.; authorizing fumigation or treatment of plants exposed to infestation or infection; creating s. 581.192, F.S.; imposing an excise tax on citrus nursery stock; creating s. 603.131, F.S.; imposing an excise tax on limes and lemons; creating a trust fund and providing for deposit of the proceeds therein; providing for use of such funds; creating s. 581.193, F.S.; imposing an excise tax on citrus nursery stock; providing for repeal; providing appropriations to the Department of Agriculture and Consumer Services for eradication of citrus canker; creating the Florida Citrus Canker Trust Fund; specifying application; providing an effective date.

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

Amendment 2A—In title, on page 1, line 31, and on page 2, line 1, strike "creating s. 603.131, F.S.; imposing an excise tax on limes and lemons;"

Amendment 2 as amended was adopted.

On motion by Senator Crawford, by two-thirds vote HB 1364 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Fox	Johnson	Plummer
Beard	Frank	Kiser	Stuart
Carlucci	Gersten	Langley	Thurman
Childers, D.	Girardeau	Malchon	Vogt
Childers, W. D.	Grant	Margolis	Weinstein
Crawford	Hair	Meek	
Deratany	Hill	Myers	
Dunn	Jennings	Peterson	

Nays—1

Gordon

Vote after roll call:

Yea—Castor, Jenne, Kirkpatrick, Neal, Thomas

CS for CS for CS for SB 1174 was laid on the table.

On motion by Senator Hair, the rules were waived by unanimous consent and the Senate reverted to introduction for the purpose of introducing the following resolution out of order:

INTRODUCTION AND REFERENCE OF BILLS

By Senators Hair, Girardeau and Carlucci—

SCR 1337—A concurrent resolution commending Mike Reynolds, Florida and Duval County Teacher of the Year, as Florida's nominee as National Teacher of the Year and as one of Florida's nominees for the NASA Teacher in Space Project.

WHEREAS, Mike Reynolds is an astronomy and physics teacher at Duncan U. Fletcher Senior High School in Duval County, and

WHEREAS, Mr. Reynolds was selected as Duval County Teacher of the Year for 1985, and

WHEREAS, Mr. Reynolds has been selected as the Florida Teacher of the Year for 1986 and is Florida's nominee for National Teacher of the Year for 1986, and

WHEREAS, the Florida section of the American Chemical Society has designated Mr. Reynolds as the Florida Chemistry Teacher of the Year for 1985, and

WHEREAS, from a field of 400 applicants Mr. Reynolds was selected as one of two Florida teachers to participate in the NASA Teacher in Space Project, and

WHEREAS, Mr. Reynolds represents the very finest qualities in teaching which the State of Florida seeks to nurture and develop for the future of the state's school children, and

WHEREAS, Mike Reynolds has consistently demonstrated an ability to generate an ongoing enthusiasm in his students for the study of astronomy and physics, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the Legislature of the State of Florida hereby commends Mike Reynolds for his selection as Florida and Duval County Teacher of the Year and for his nomination as National Teacher of the Year and as one of Florida's nominees for the NASA Teacher in Space Project.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Mike Reynolds as a tangible token of the sentiments expressed herein.

—which was read the first time in full. On motion by Senator Hair, SCR 1337 was read the second time by title, unanimously adopted and certified to the House.

SPECIAL ORDER, continued

On motion by Senator Jenne, by two-thirds vote CS for SB 1099 was scheduled for consideration at 2:00 p.m. this day.

CS for SB 92—A bill to be entitled An act creating the Florida Container Deposit, Litter Control, and Recycling Study Committee; providing for membership, duties, and funding; providing an effective date.

—was read the second time by title.

Senator Carlucci moved the following amendment which failed:

Amendment 1—On pages 1 and 2, strike everything after the enacting clause and insert:

Section 1. Legislative findings.—The Legislature finds that improperly discarded beverage containers represent a significant waste of important state and national energy and material resources; create a hazard to vehicular traffic; cause injuries to pedestrians, animals, and machinery; and contribute to the unsightly accumulation of litter which must be removed at public expense. Beverage containers which are disposed of create an unnecessary addition to local government solid waste disposal problems and constitute a waste of energy. The Legislature finds that requiring a deposit on all beverage containers provides an incentive for collection and reuse or recycling of such containers, thereby creating additional opportunities for employment within this state.

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

(1) "Beverage" means beer, ale, or other malt drink, mineral waters, soda water, and soft drinks, whether or not carbonated, in liquid form and intended for human consumption.

(2) "Biodegradable material" means any material which is capable of being broken down by bacteria or light into its constituent parts within 120 days after being discarded.

(3) "Container" means the individual, separate, and sealed glass, metal, or plastic bottle, can, or jar containing a beverage which container has been sealed by the manufacturer and which, at the time of sale, contains 1 gallon or less of a beverage.

(4) "Consumer" means any person who purchases a beverage in a beverage container for consumption with no intent to resell such beverage.

(5) "Dealer" means any person in this state who engages in the sale of beverages in containers to a consumer including, but not limited to, an operator of a vending machine containing beverage containers.

(6) "Distributor" means any person who engages in the sale of beverages in containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "Manufacturer" means any person bottling, canning, or otherwise filling containers for sale to distributors or dealers.

(8) "Nonrefillable beverage container" means a container which, after being used by a consumer, is not to be reused as a beverage container by a manufacturer.

(9) "Refillable beverage container" means a container which, after being used by a consumer, is to be reused as a beverage container at least five times by a manufacturer.

(10) "Redemption center/service" means a business other than a dealer or distributor which offers to redeem for the amount of deposit any empty beverage container.

Section 3. Refund value required.—

(1) Every beverage container sold or offered for sale in this state shall have a refund value established by the distributor of not less than 5 cents.

(2) Each beverage container shall have the refund value, and the word "Florida" or the letters "Fla.", clearly indicated by embossing, by a stamp, or by a label or other device securely fixed to any portion of the container other than the bottom. A dealer, redemption center/service, or distributor may refuse to accept from a person any empty beverage container which does not state such information on the container. This section does not apply to containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

(3) Nothing in this section shall apply to refillable beverage containers having a brand name permanently marked thereon which, on the effective date of this act, has a refund value of not less than 5 cents.

Section 4. Consumers, dealers, distributors and vending machine operators; required practices.—

(1) Each consumer shall deposit with the dealer the refund value of each container purchased from that dealer. However, no deposit shall be required if the container is sold for consumption on the premise.

(2) Except as provided in subsection (4), a dealer shall accept from any consumer or other person not a dealer any empty, unbroken, and reasonably clean beverage container of the type, size, and brand sold by the dealer within the past 60 days and shall pay in cash the refund value of the returned beverage container.

(3) A dealer shall inform consumers that beverages are sold in returnable beverage containers by placing a sign, or a shelf label, or both, in close proximity to any sales display of beverage containers. Such a sign or label shall indicate the amount of deposit required for each container and that such containers are returnable. If a dealer participates in a redemption center/service, the location of that redemption center/service shall be posted.

(4) A dealer may limit the total number of containers which he will accept from any one consumer in any 1 business day to 96 containers. Such dealer may refuse to accept containers for a period of not more than 3 hours during any business day, provided, such hours during which containers will not be accepted are conspicuously posted.

(5) Each operator of a vending machine which sells beverages in containers shall post a conspicuous notice on each vending machine indicating that a refund is available on each container purchased and indicating where and from whom that refund may be obtained. The provisions of this subsection shall not be construed to require vending machine operators to provide refunds at the premises wherein such vending machines are located.

(6) A distributor shall accept from a dealer any empty, unbroken, and reasonably clean beverage container of the type, size, and brand sold by the distributor within the past 60 days and shall pay the dealer or his

agent, within 10 working days, the refund value of the container plus a handling fee of at least 30 percent of the refund value of each container.

(7) A distributor may refuse to accept from any person who is not a dealer a quantity less than 599 containers of the type, size, and brand sold by the distributor.

(8) A distributor shall not be required to pay a manufacturer a deposit on a nonrefillable beverage container.

(9) Any person may establish a redemption center/service and shall have the right to determine what type, size, and brand of container shall be accepted. Such redemption center/service may contract with a dealer or a distributor to collect and provide for the recycling of empty beverage containers. The distributor shall accept any empty, unbroken, and reasonably clean beverage container of the type, size, and brand sold by the distributor within the past 60 days and shall pay such redemption center/service, within 10 working days, the refund value of such beverage container, plus a handling fee not less than 30 percent of such refund values.

Section 5. Certain metal containers prohibited.—No person shall sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container.

Section 6. Certain holding devices for containers prohibited.—No dealer shall sell or offer for sale in this state containers connected to each other by a separate holding device constructed of plastic rings or any other device or material which is not biodegradable.

Section 7. Department of Business Regulation; powers and duties.—The Department of Business Regulation, after consultation with the Department of Environmental Regulation, shall adopt rules necessary to administer this act, including the regulation of redemption centers/services. Such rules shall provide that state informational material, including but not limited to, travel pamphlets and road maps, printed after December 31, 1985 shall contain information related to this act. Such informational material shall contain a statement relating to the deposit law, urging travelers to avoid littering.

Section 8. The Department of Education shall incorporate information concerning this act into educational materials distributed to primary and secondary schools within the state, urging an end to littering.

Section 9. Penalty.—Any person who violates any of the provisions of this act is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 10. Effect on local government authority.—Notwithstanding the provisions of s. 403.708(2), Florida Statutes, nothing in this act shall be construed to limit the authority of any municipality or county, otherwise empowered by law, to enact and enforce ordinances relating to containers or litter control.

Section 11. This act shall take effect October 1, 1985.

Senator Malchon moved the following amendment which was adopted:

Amendment 2—On page 2, strike all of lines 15-29 and insert:

Section 3. The committee shall use existing staff of the Senate and House Natural Resources Committees.

Section 4. This act shall be repealed on July 1, 1986.

Section 5. This act shall take effect upon becoming a law.

On motion by Senator Malchon, by two-thirds vote CS for SB 92 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Girardeau	Kiser	Plummer
Beard	Gordon	Langley	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Hill	McPherson	Thurman
Dunn	Jenne	Meek	Vogt
Frank	Jennings	Myers	Weinstein
Gersten	Johnson	Peterson	

Nays—2

Carlucci Grizzle

Vote after roll call:

Yea—Castor, Kirkpatrick, Neal

On motions by Senator W. D. Childers, the rules were waived by unanimous consent and the Senate reverted to introduction for the purpose of introducing the following resolutions out of order:

INTRODUCTION AND REFERENCE OF BILLS

By Senator W. D. Childers—

SR 1329—A resolution honoring Phyllis M. Hardaway for her accomplishments as a teacher, author, and citizen of Pensacola, Florida.

WHEREAS, Phyllis M. Hardaway, an Assistant Professor at Pensacola Junior College has for 9 years taught in the Adult Basic Education Department at that institution, and

WHEREAS, Mrs. Hardaway has also been affiliated with numerous civic organizations, including the Florida Adult Education Association, the American Association for Adult and Continuing Education, the American Cancer Society, and the National Association for the Advancement of Colored People, and

WHEREAS, she was the first woman to serve on the Escambia County Utilities Authority, and

WHEREAS, in addition to her achievements as a teacher and a civic leader, Mrs. Hardaway has written instructional materials and guides, notably a practical treatise on "How to Relieve Test Anxiety," NOW, THEREFORE,

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

That the Florida Senate recognizes Phyllis M. Hardaway for her achievements as a professor of Adult Basic Education at Pensacola Junior College, for the good citizenship she exhibits as an active participant in educational, civic, and church organizations, and for her authorship of curriculum guides and other aids to students.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Florida Senate affixed, be transmitted to Phyllis M. Hardaway as a tangible token of the sentiments of the Florida Senate.

—which was read the first time by title. On motion by Senator W. D. Childers, SR 1329 was read the second time in full and unanimously adopted.

By Senator W. D. Childers—

SR 1332—A resolution recognizing the legislative career and civic accomplishments of J. B. Hopkins of Pensacola, Florida.

WHEREAS, J. B. Hopkins, a life-long resident of Escambia County, Florida, attended Pensacola High School and in 1951 received a law degree from the University of Florida, and

WHEREAS, J. B. Hopkins was elected to the Florida House of Representatives from Escambia County in 1954 and 1956, and in both sessions received one of ten Outstanding Legislator Awards from the St. Petersburg Times, and

WHEREAS, J. B. Hopkins, who worked tirelessly in promoting a 4-year state university in Escambia County, introduced in 1957 legislation authorizing such an institution, and after leaving the Legislature served as chairman of the Chamber of Commerce Four-Year College Committee and the Kiwanis Club College Committee, and

WHEREAS, due to the pioneering work of J. B. Hopkins, the University of West Florida became a reality and opened its doors in 1967 for the benefit of all Floridians, and

WHEREAS, as an active civic leader in Escambia County, J. B. Hopkins is a founding member and Honorary Life President of the Scenic Hills Country Club, participated in the establishment of the Hadji Shrine Temple and served as First Potentate over 12 Northwest Florida Counties, and is a member of numerous other civic organizations, NOW, THEREFORE,

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

That J. B. Hopkins be commended by the Senate of the State of Florida on behalf of all the citizens of the state and in particular, on behalf of his friends and family members in Escambia County, Florida.

BE IT FURTHER RESOLVED that a copy of this resolution, signed by the President of the Senate, be presented to J. B. Hopkins as a tangible token of the sentiments expressed herein.

—which was read the first time by title. On motion by Senator W. D. Childers, SR 1332 was read the second time in full and unanimously adopted.

By Senator Johnson—

SR 1336—A resolution honoring the Sarasota Centennial Celebration and proclaiming November 16, 1985, through April 30, 1986, as the Sarasota Centennial Celebration.

WHEREAS, Scottish colonists under the leadership of John Hamilton Gillespie established a permanent settlement in Sarasota in 1885, and

WHEREAS, the Sarasota area is rich in historical background and heritage and continues to exhibit the pioneer spirit of its earliest days, and

WHEREAS, the era of John Ringling brought to Sarasota an international flavor and commitment to arts and culture, and

WHEREAS, Sarasota is blessed with outstanding educational opportunities and programs, assuring its citizens of quality education at every age and at every educational level, and

WHEREAS, the community is blessed with many outstanding cultural activities and organizations and internationally known artists and authors, and

WHEREAS, Sarasota is blessed with many natural and environmental attributes, including Myakka State Park, beautiful beaches and bays, and the Gulf of Mexico, and

WHEREAS, many diverse cultures continue to enrich the Sarasota community by bringing a quality of life rich in heritage, preserving the best of the past and yet looking to the future as being filled with great opportunity, and

WHEREAS, the people of Sarasota wish to demonstrate the rich heritage, culture, and diverse opportunity with appropriate ceremonies to mark its first 100 years, NOW, THEREFORE,

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

That Sarasota is recognized on its Centennial Celebration and the period November 16, 1985, through April 30, 1986, is proclaimed to be the Sarasota Centennial Celebration in the State of Florida.

BE IT FURTHER RESOLVED that a copy of this resolution with the seal of the Senate affixed be presented to the citizens of Sarasota as a tangible token of the sentiments of the Florida Senate.

—which was read the first time by title. On motion by Senator Johnson, SR 1336 was read the second time in full and unanimously adopted.

SPECIAL ORDER, continued

HB 201—A bill to be entitled An act relating to state contracts; requiring certain bids and proposals to be evaluated by present value methodology; providing for rules; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 1, line 14, strike "20.03" and insert: 287.012(1)

Senators Vogt and Stuart offered the following amendment which was moved by Senator Vogt and adopted:

Amendment 2—On page 1, strike line 23 and insert: adopt rules to implement the provisions of section 1.

Section 3. No executive branch public officer or employee shall enter into any contract on behalf of the state, which contract binds the state or its executive agencies for the purchase of services or tangible personal property for a period in excess of 1 fiscal year, unless the following statement is included in the contract: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

(Renumber subsequent section.)

Senator Stuart moved the following amendment which was adopted:

Amendment 3—In title, on page 1, strike line 5 and insert: requiring certain contracts entered into on behalf of the state to include a statement reflecting that the state's performance thereunder is contingent upon annual appropriations; providing an effective date.

WHEREAS, Section 1(c) of Article VII of the State Constitution provides that no money shall be drawn from the treasury except in pursuance of appropriation made by law, and

WHEREAS, that provision has been a part of the State Constitution since 1838, and

WHEREAS, such provision is and has been incorporated by reference into every contract entered into by the territory or State of Florida since 1838, NOW, THEREFORE,

On motion by Senator Stuart, by two-thirds vote HB 201 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Frank	Jenne	Meek
Beard	Gersten	Jennings	Myers
Carlucci	Girardeau	Johnson	Peterson
Childers, D.	Gordon	Kiser	Plummer
Childers, W. D.	Grant	Langley	Stuart
Crawford	Grizzle	Malchon	Thurman
Deratany	Hair	Margolis	Vogt
Dunn	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Kirkpatrick, Neal, Thomas

SB 464—A bill to be entitled An act relating to the code of ethics for public officers and employees; amending s. 112.313, F.S.; defining "regulatory employee"; requiring state agencies to identify regulatory employee positions; requiring each regulatory employee to sign a statement developed by the Commission on Ethics as a condition of employment and annually thereafter; providing penalties; providing an exemption to chapter 120, F.S., with respect to development of the plan; requiring the Commission on Ethics to develop an information program to advise agency heads; providing an effective date.

—was read the second time by title.

Senators Carlucci and Vogt offered the following amendments which were moved by Senator Vogt and adopted:

Amendment 1—On page 1, line 18, strike everything after the enacting clause and insert:

Section 1. Section 110.1122, Florida Statutes, is created to read:

110.1122 Employee relationships with regulated entities.—

(1) The Governor and Cabinet, sitting as the Administration Commission, may adopt rules providing standards of conduct in the relationships between Career Service employees, or Senior Management employees, and individuals, partnerships, corporations, and other entities subject to regulation by, or doing business with, an employee's agency.

(2) As used in this section:

(a) "Agency head" means the department head, as defined in chapter 20, or a designee of the department head who has been designated the authority, in writing, for administration of one or more provisions of this section.

(b) "Employee" means any Career Service employee of an agency or any employee holding a position in the Senior Management Service as defined in s. 110.402.

(c) "Entity" means any individual, partnership, association, corporation for profit or corporation not for profit, utility, or other organization, whether public or private, doing business with or subject to regulation by an employee's agency.

(d) "Financial interest" means any arrangement whereby an employee acquires an ownership or equity interest, in excess of 5 percent of the total assets of such entity or the right to acquire such an ownership or equity interest, in an entity.

(e) "Gift" means real property or tangible or intangible personal property, or a beneficial interest in real property or tangible or intangible personal property, of material value to the recipient.

(f) "Regulatory responsibility" means duties or responsibilities assigned to an employee by management in an agency which involve:

1. Making decisions on the issuance, denial, revocation, renewal, suspension, annulment, withdrawal, status, or amendment of a license, including any franchise, permit, certification, registration, charter, or similar form of authorization required by law, but not including any license required primarily for revenue purposes when issuance of the license is merely a ministerial act, regardless of whether or not such license was first issued or approved by the state, including any of its political subdivisions, or the Federal Government;

2. The power to make any purchase of \$1,000 or more for his agency, including a business manager, purchasing agent, accounting director, or person occupying a similar position by whatever title;

3. The managerial administration of a personnel system or of a grant, from whatever source; or

4. The administration of contractual services, as defined in s. 287.012, including:

a. Participation in the procurement of contractual services through decision, approval, disapproval, recommendation, preparation of a purchase request, or influencing the content of a specification or procurement standard;

b. Determinations, through inspection, review, or other procedures, of whether contracted work is in compliance with the terms of such contract during the term of the contract or during any audit thereof; or

c. Negotiation, recommendation, or approval of the settlement of disagreements between the agency and the contractor concerning any deficiencies in the work or services rendered by the contractor.

(3) The standards of conduct authorized in subsection (1) shall provide that:

(a) Except as permitted by chapter 112, Part III, no employee shall have or hold an employment or contractual relationship with an entity.

(b) Any employee who receives a gift from an entity the value of which is \$25 or more shall report such gift in writing to the agency head within 5 working days of receipt of the gift; provided, however, that no employee shall accept any gift based upon an understanding that the official acts or judgment of the employee will be influenced thereby.

(c) Any employee exercising regulatory responsibility who has or who obtains a financial interest in an entity shall report such fact to the agency head within 5 working days of the acquisition of such interest.

(4) The incumbent of each Career Service position, or Senior Management position, determined by the agency head to have regulatory responsibility shall be furnished and required to sign a prepared statement which clearly indicates that the employee has been made aware of the regulatory responsibilities of his position, the provisions of the Florida Administrative Code concerning employee relationships with regulated entities, and any statutory provisions applicable to the standards of conduct for such employee. Each regulatory employee shall annually sign the statement required by this subsection on the anniversary date of his employment or on a uniform date established by the agency. An agency need not retain the statements required by this subsection beyond the year to which they apply. This shall not, however, be construed to be a limitation or waiver of the requirements of the provisions of this part or of any other provision of law.

Section 2. This act shall take effect upon becoming a law.

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 employees; creating s. 110.1122, F.S.; authorizing the Administration Commission to adopt rules providing for standards of conduct in the relationships between a Career Service employee, or a Senior Manage-

ment employee, and entities regulated by such employee's agency; providing definitions; prescribing the content of such rules; prohibiting certain employees from maintaining certain relationships; requiring employees to report certain gifts and financial interests; requiring that certain employees shall sign a statement acknowledging the employee's understanding of the obligations imposed under this section; providing that reports required under this section be promptly provided to the agency head and be kept for a prescribed period of time; providing an effective date.

On motion by Senator Vogt, further consideration of SB 464 as amended was deferred.

On motions by Senator Hair, the rules were waived and by two-thirds vote HB 1352 was withdrawn from the Committees on Commerce, Judiciary-Civil and Health and Rehabilitative Services.

On motion by Senator Hair—

HB 1352—A bill to be entitled An act relating to professional malpractice; amending s. 395.011, F.S.; providing certain restrictions on an applicant's suit regarding staff privileges; amending s. 395.0115, F.S.; requiring licensed facilities to discipline staff members for certain conduct; requiring investigation by the governing board of licensed facilities of certain conduct by staff members; providing for attorney's fees and costs in certain actions by staff members and requiring staff members to post security in such actions; amending s. 458.331, F.S.; providing definitions; requiring the Department of Professional Regulation to investigate certain physicians; amending s. 459.015, F.S.; providing definitions; requiring the department to investigate certain osteopaths; creating s. 627.4147, F.S.; requiring medical malpractice insurance or self-insurance policies to include certain provisions regarding cooperation of the insured and rights of the insurer to settle without the insured's consent; requiring notice prior to cancellation or nonrenewal; allowing certain requirements; amending s. 627.912, F.S.; requiring insurers and self-insurers to report additional information regarding professional liability claims; requiring the Department of Insurance to report certain information to specified agencies; amending s. 768.40, F.S.; expanding the immunity granted to medical review committees and extending immunity to insurer and self-insurer review committees; providing for review of negligence by hospitals and ambulatory surgical centers; requiring health care providers to submit to such review as a condition of licensure; providing for attorney's fees and costs in certain actions by health care providers and requiring health care providers to post security in such actions; amending s. 768.41, F.S.; requiring certain medical facilities to submit annual risk management reports to the Department of Health and Rehabilitative Services; providing for rules; amending s. 768.45, F.S.; providing for the standard of care in medical malpractice actions; expanding guidelines for qualifying as an expert witness; amending s. 768.48, F.S.; reclassifying certain damages for itemized verdicts; creating s. 768.495, F.S.; requiring attorneys filing medical negligence actions to investigate the circumstances and certify that a good faith belief that grounds exist for such actions; providing additional requirements for punitive damage claims; providing for awards of attorney's fees and costs under certain circumstances; amending s. 768.51, F.S.; providing for periodic payments of damages in certain medical malpractice actions; creating s. 768.57, F.S.; requiring notice to prospective defendants and a waiting period before filing suit in medical malpractice actions; requiring a review by insurers and self-insurers during such waiting period; providing for settlement offers of admission of liability and for arbitration; tolling the statute of limitations during such waiting periods; providing arbitration procedures; requiring separate notice filings in multiple-defendant cases; creating s. 768.65, F.S.; providing for offers of judgment and demands for settlement; providing penalty for rejection; creating s. 768.575, F.S.; limiting attorney's fees in medical malpractice actions; amending s. 768.49, F.S.; providing for remittitur and additur in medical malpractice actions; creating s. 768.58, F.S.; requiring settlement conferences in medical malpractice actions; creating s. 768.59, F.S.; establishing apportionment of damages and fault; providing for contribution based on fault in medical malpractice cases; providing for reallocation; amending s. 768.46, F.S.; providing that a valid medical consent in writing raises a rebuttable presumption of validity; amending s. 626.973, F.S.; excluding medical malpractice coverage from fictitious group statute; creating s. 768.60, F.S.; providing that health care facilities are liable for failure to review competence of medical staff; providing health care facilities are liable for failure to maintain risk management program; providing methods of insurance for hospitals; providing certain waiver of sovereign immunity; amending s. 627.351, F.S.; establishing a premium cap for a special risk category and

requirement for this category; increasing the association's insurance limits; requiring a risk management program for association insureds; providing for recovery of the special risk category deficit; imposing a premium surcharge for medical malpractice insurance; providing for recovery of a deficit arising from the standard risk category; creating s. 395.0165, F.S.; making alteration of medical records a criminal offense; providing penalties; creating s. 768.61, F.S.; prohibiting excessive diagnostic testing; providing penalties; creating s. 458.320, F.S.; requiring physicians to show financial responsibility or to purchase insurance; providing for reporting of failure to comply; creating s. 459.0085, F.S.; requiring osteopaths to show financial responsibility or purchase insurance; providing for reporting of failure to comply; creating s. 455.244, F.S.; providing for evaluation and certification of foreign medical schools; providing for language equivalency examinations; amending s. 458.311, F.S.; limiting the time a medical applicant may take the FLEX examination; amending s. 455.213, F.S.; providing that certain health care practice boards shall require continuing education as a condition of relicensure; creating s. 455.2287, F.S.; prohibiting and penalizing misrepresentation in health care license providers; amending s. 458.327, F.S.; prohibiting and penalizing misrepresentation in health care licensing and practicing medicine; amending s. 459.013, F.S.; prohibiting and penalizing misrepresentation regarding osteopaths; creating s. 205.194, F.S.; prohibiting local occupational license without state license; amending s. 463.011, F.S., deleting obsolete language; repealing ss. 205.195, 205.197, 205.198, 205.199, and 480.051, F.S., repealing obsolete sections; amending s. 458.307, F.S.; increasing the number and lay membership of the Board of Medical Examiners; creating s. 768.64, F.S.; providing form and requirements for arbitration agreements in certain group health insurance contracts; providing selection of arbitrators; tolling the statute of limitations; creating part IX of chapter 626, F.S.; creating a health care risk manager advisory council and providing its duties; providing powers and duties of the Department of Insurance relating to the regulation of health care risk managers; providing for certification; prohibiting specified acts and providing penalties; providing for disciplinary actions and grounds therefor; amending s. 624.501, F.S.; providing a certification fee for risk managers; amending s. 458.337, F.S.; requiring notice and reason of physician discipline to be given to the department; providing the department subpoena power over certain records; amending s. 455.241, F.S.; extending department's access to patient records for disciplinary purposes; amending s. 395.017, F.S.; providing that the department may obtain certain disciplinary records; limiting public access; repealing s. 768.56, F.S., relating to attorney's fees in medical malpractice cases; creating s. 768.66, F.S.; requiring department to study risk management; amending ss. 395.502, 395.509, and 395.5094, F.S., allowing hospitals to increase revenues by the amount of the premium surcharge imposed under s. 627.351(4); creating s. 641.391, F.S., requiring health maintenance organizations to establish internal risk management programs; providing for rules; requiring certain reports; providing for review and repeal; providing severability; providing for prospective application; providing an effective date.

—a companion measure, was substituted for CS for SB 1232 and read the second time by title.

Senator Hair moved the following amendment:

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

Section 1. Purpose.—The Legislature recognizes the need to ensure that applicants for professional licensure as health care practitioners who are graduates of foreign educational institutions have received substantially the same education as have graduates of accredited institutions. The purpose of sections 1-3 is to require evaluation of foreign educational institutions and to provide for certification of those institutions which provide a substantially equivalent education as accredited educational institutions.

Section 2. Definitions.—As used in sections 1-3:

(1) "Graduate of a foreign educational institution" means any person who has successfully completed a program of professional study and has been awarded a professional or occupational degree or certificate from an educational institution located outside the United States or Canada, and who thereafter has been a resident of the state for 1 year or more.

(2) "Foreign educational institution" means an institution located outside the United States or Canada, which offers a course of instruction leading to a professional or occupational degree or certificate.

(3) "Department" means the Department of Professional Regulation.

(4) "Board" means a board or commission within the Department of Professional Regulation.

(5) "Health care practitioner" means an individual licensed pursuant to chapters 458, 459, 460, 461, 462, 463, 464, 465, 466, 474, 486, or 490, Florida Statutes.

(6) "United States" means the 50 states and the District of Columbia, excluding territories, possessions, and the Commonwealth of Puerto Rico.

Section 3. (1) A board shall not accept or process an application for licensure as a health care practitioner from a graduate of any foreign educational institution which is not certified by the department. Such certification shall be based upon a finding that the foreign educational institution substantially meets the same standards and qualifications of similar institutions accredited in the United States or Canada. The foreign educational institution's curriculum, faculty qualifications, admissions policies, plant and facilities, and any other areas shall be reviewed and evaluated, using the same standards as those used to grant full accreditation to educational institutions in the United States and Canada. The board shall identify, by rule, the respective standards and review procedures and methodology to be used. The results of these evaluations shall be reviewed by the board and a final decision regarding certification shall be made by the board. The board shall not certify a foreign educational institution that is seriously deficient in one or more areas encompassed by the evaluation. The secretary may override a decision of the board if he finds the board acted improvidently or unlawfully. Periodic reviews of all such certified institutions shall be made to ensure continued compliance with sections 1-3. In the event that a certified institution fails to maintain compliance with the applicable standards, the department shall give the institution a reasonable period of time in which to comply and then shall withdraw such certificate until such time as compliance is demonstrated. An institution shall pay a registration fee established by rule of the department, not to exceed \$1,000, at the time of application for certification and shall pay, in advance, all costs and expenses the department expects to incur in contracting for or conducting the certification review, which may include any on-site inspection or periodic review of such institution.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of certificates. The department shall renew a certificate upon receipt of a renewal application and a fee not to exceed \$500. Any certificate which is not renewed at the end of the biennium period prescribed by the department shall expire.

(3) The department may contract with outside consultants or a national professional organization to review and evaluate foreign educational institutions if it is the finding of the board that the same standards will be used as those required by subsection (1). Such organization shall make a report to the board regarding the extent to which these standards are met.

(4) The department shall develop means based on all available data to certify, to the extent practicable, medical schools located in countries without diplomatic relationships, provided that any such school shall meet the standards adopted by rule pursuant to subsection (1) in order to be certified.

(5) A graduate of a foreign educational institution that is properly certified by the department shall be deemed qualified and eligible to take an equivalency examination to demonstrate proficiency in English which, if successfully completed, will qualify that foreign graduate to sit for the appropriate state licensure examination. National equivalency examinations may be used, or if there is no recognized national equivalency examination, the department may develop its own equivalency examination.

(6) Specific provisions contained in sections 1-3 shall be supplemental to and in addition to any practice act providing for the regulation of health care practitioners as listed in subsection (5) of section 2.

(7) A person who, prior to July 1, 1986, has successfully completed the curriculum in a foreign educational institution, including completing or making application for any required internship or clinical experiences and, having otherwise met all other application requirements for licensure, prior to the enactment of sections 1-3, shall have access to licensure in accordance with the law in existence at the time of such application. An applicant for renewal shall have access to licensure in accordance with the law in existence at the time of application for renewal.

Section 4. Subsection (6) is added to section 458.319, Florida Statutes, to read:

458.319 Renewal of license.—

(6) *As a condition of renewal of license, the board may require licensees to demonstrate their professional competency by completing up to 30 hours of continuing education biennially. Criteria and content of continuing education courses shall be approved by the board. The board shall adopt rules to implement this subsection.*

Section 5. Section 205.194, Florida Statutes, is created to read:

205.194 Prohibition of local occupational licensure without exhibition of state license or registration.—If a state license or certificate of registration is required to practice a health-related profession or occupation in this state, no local occupational license shall be issued to any person to practice that profession unless that person exhibits a valid state certificate of registration or a current state license or other proof of such registration.

Section 6. Section 455.2287, Florida Statutes, is created to read:

455.2287 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license to practice as a health care practitioner pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 474, or chapter 490, with intent to mislead a public servant in the performance of his official duties, or the act of attempting to obtain or obtaining a license to practice a health care profession defined in such chapters by misleading statements or knowing misrepresentations is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Section 458.327, Florida Statutes, is amended to read:

458.327 Penalty for violations.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) The practice of medicine or an attempt to practice medicine without an active license.

(b) Use or attempted use of a license to practice medicine which is suspended or revoked.

(c) *Attempting to obtain or obtaining a license to practice medicine by knowing misrepresentation.*

(d) *Attempting to obtain or obtaining a position as a medical practitioner or medical resident in a clinic or hospital through knowing misrepresentation of education, training or experience.*

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Using the name or title "Doctor of Medicine," "Medical Doctor," or any other name or title which would lead the public to believe that the person using the name or title is licensed to practice medicine, unless such person holds a valid license.

(b) Knowingly concealing information relating to violations of this chapter.

~~(c) Attempting to obtain or obtaining a license to practice medicine by fraudulent misrepresentation.~~

(c)(4) Making any willfully false oath or affirmation whenever an oath or affirmation is required by this chapter.

Section 8. Section 459.013, Florida Statutes, is amended to read:

459.013 Penalty for violations.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) The practice of osteopathic medicine, or an attempt to practice osteopathic medicine, without an active license.

(b) Use or attempted use of a license to practice osteopathic medicine which is suspended or revoked.

(c) Attempting to obtain or obtaining a license to practice osteopathic medicine by knowing misrepresentation.

(d) Attempting to obtain or obtaining a position as an osteopathic medical practitioner or osteopathic medical resident in a clinic or hospital through knowing misrepresentation of education, training or experience.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Using the name or title "doctor of osteopathy," "osteopathic physician," or any other name or title which would lead the public to believe that the person using the name or title is licensed to practice osteopathic medicine, unless such person holds a valid license.

(b) Knowingly concealing information relating to violations of this chapter.

~~(c) Attempting to obtain or obtaining a license to practice osteopathic medicine by fraudulent misrepresentation.~~

(c)(d) The making of any willfully false oath or affirmation whenever an oath or affirmation is required by this chapter.

Section 9. Section 768.46, Florida Statutes, is amended to read:

768.46 Florida Medical Consent Law.—

(1) This section shall be known and cited as the "Florida Medical Consent Law."

(2) In any medical treatment activity not covered by s. 768.13, entitled the "Good Samaritan Act," this act shall govern.

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, osteopath licensed under chapter 459, chiropractor licensed under chapter 460, podiatrist licensed under chapter 461, or dentist licensed under chapter 466 in an action brought for treating, examining, or operating on a patient without his informed consent when:

(a)1. The action of the physician, osteopath, chiropractor, podiatrist, or dentist in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and

2. A reasonable individual, from the information provided by the physician, osteopath, chiropractor, podiatrist, or dentist, under the circumstances, would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other physicians, osteopaths, chiropractors, podiatrists, or dentists in the same or similar community who perform similar treatments or procedures; or

(b) The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure had he been advised by the physician, osteopath, chiropractor, podiatrist, or dentist in accordance with the provisions of paragraph (a).

(4)(a) A consent which is evidenced in writing and meets the requirements of subsection (3) shall, if validly signed by the patient or another authorized person, raise a rebuttable presumption of be conclusively presumed to be a valid consent. ~~This presumption may be rebutted if there was a fraudulent misrepresentation of a material fact in obtaining the signature.~~

(b) A valid signature is one which is given by a person who under all the surrounding circumstances is mentally and physically competent to give consent.

Section 10. Section 768.49, Florida Statutes, is amended to read:

768.49 Remittitur and additur.—

(1) In any action for the recovery of damages based on personal injury or wrongful death arising out of medical malpractice, whether in tort or in contract, wherein the trier of fact determines that liability exists on the part of the defendant and a verdict is rendered which awards money damages to the plaintiff, it shall be the responsibility of the court, upon

proper motion, to review the amount of such award to determine if such amount is clearly excessive or inadequate in light of the facts and circumstances which were presented to the trier of fact. If the court finds that the amount awarded is clearly excessive or inadequate, it shall order a remittitur or additur as the case may be. If the party adversely affected by such remittitur or additur does not agree, the court shall order a new trial in the cause on the issue of damages only.

(2) In determining whether an award is clearly excessive or inadequate in light of the facts and circumstances presented to the trier of fact and in determining the amount, if any, that such award exceeds a reasonable range of damages or is inadequate, the court shall consider the following criteria:

(a) Whether the amount awarded is indicative of prejudice, passion, or corruption on the part of the trier of fact;

(b) Whether it clearly appears that the trier of fact ignored the evidence in reaching a verdict or misconceived the merits of the case relating to the amounts of damages recoverable;

(c) Whether the trier of fact took improper elements of damages into account or arrived at the amount of damages by speculation and conjecture;

(d) Whether the amount awarded bears a reasonable relation to the amount of damages proved and the injury suffered; and

(e) Whether the amount awarded is supported by the evidence and is such that it could be adduced in a logical manner by reasonable persons.

(3) It is the intent of the Legislature to vest the trial courts of this state with the discretionary authority to review the amounts of damages awarded by a trier of fact in light of a standard of excessiveness or inadequacy. The Legislature recognizes that the reasonable actions of a jury are a fundamental precept of American jurisprudence and that such actions should be disturbed or modified with caution and discretion. However, it is further recognized that a review by the courts in accordance with the standards set forth in this section provides an additional element of soundness and logic to our judicial system and is in the best interests of the citizens of Florida.

Section 11. Notice required prior to filing medical malpractice action; submission to nonbinding arbitration.—

(1) An action for recovery of damages based on the death or personal injury of any person in which it is alleged that such death or injury resulted from the negligence of a health care provider as defined in s. 768.50(2), Florida Statutes, may not be filed until 90 days after the plaintiff gives written notice to the health care provider of his intention to file such action. Such notice shall contain, at a minimum, all statements that would be required to be contained in the complaint. It is the intent of the Legislature that this 90-day period be used for settlement negotiations between the parties. The written notice shall be given within the time limits prescribed in s. 95.11, Florida Statutes. However, during the 90-day period, the statute of limitations is tolled. Any such action must be filed within 60 days after the 90-day period or within the time remaining under s. 95.11, whichever is longer.

(2) If a settlement is not reached during the 90-day period provided for in subsection (1) and the action is filed, the court shall require that the matter be submitted to arbitration. Within 10 days after the answer to the complaint is filed, the court shall submit to the attorneys for each party the appropriate list of arbitrators prepared pursuant to subsection (3) and shall notify the attorneys of the date by which their selection of an arbitrator must be received by the court.

(3)(a) The chief judge of the judicial circuit shall prepare three lists of prospective arbitrators. A claimant's list shall consist of attorneys with experience in handling negligence actions who principally represent plaintiffs and who are eligible and qualified to serve as arbitrators. A defendant's list shall consist of health care practitioners, and attorneys who principally handle the defense of negligence actions, who are eligible and qualified to serve as arbitrators. A third list shall consist of attorneys who are experienced in trial matters but who do not devote a majority of their practice either to the defense or to the representation of plaintiffs in medical negligence matters. The chief judge shall appoint an advisory committee made up of equal numbers of at least three members of the defense bar and three members of the plaintiff's bar, which shall approve the qualifications of the persons on the claimant's list and the persons on the defendant's list. The advisory committee shall assist the chief judge

in screening applicants and aiding in the formulation and application of standards for selection of arbitrators. Each committee shall meet at least once a year.

(b) A person may be certified to serve as an attorney arbitrator if he has been a member of The Florida Bar for at least 5 years and the chief judge determines that he is competent to serve as an arbitrator. A person may be certified as a health care practitioner arbitrator if he has been licensed to practice his profession in this state for at least 5 years and the chief judge determines that he is competent to serve as an arbitrator. Current lists of all persons certified as arbitrators shall be maintained in the office of the clerk of the circuit court and shall be open to public inspection. An attorney may not be disqualified from appearing and acting as counsel in a case pending before the court because he is serving as an arbitrator in another case.

(c) The plaintiff or plaintiffs shall select one arbitrator from the claimant's list and the defendant or defendants shall select one arbitrator from the defendant's list, and each shall notify the chief judge of such selection. If a party does not select his arbitrator within 20 days, the party's right to select an arbitrator is waived and the chief judge shall proceed with the selection of an arbitrator from the appropriate list. The two arbitrators selected shall, within 10 days after their selection, select a third arbitrator from the third list. If the arbitrators have not selected the third arbitrator with such 10-day period, the chief judge shall submit three names from the third list to the two arbitrators. Each arbitrator shall strike one name from the list, and the person whose name remains shall be the third arbitrator. No person may serve as an arbitrator in any arbitration in which he has a financial or personal interest. The third arbitrator shall disclose any circumstances likely to create a presumption of bias which might disqualify him as an impartial arbitrator. Either party may advise the chief judge why an arbitrator should be disqualified from serving. If the third arbitrator resigns, is disqualified, or is unable to perform his duties, the chief judge shall appoint a replacement. If an arbitrator selected by one of the parties is unable to serve, that party shall select a replacement arbitrator, unless he has waived such right, in which case the replacement shall be selected by the chief judge. The chief judge shall designate one panel member as chairman.

(d) Immediately upon the selection of the arbitrators, the clerk of the circuit court shall communicate with the parties and the arbitrators in an effort to ascertain a mutually convenient date for a hearing, and shall then schedule and give notice of the date and time of the arbitration hearing. The hearing shall be scheduled within 60 days after the date of the selection and designation of the arbitrators, provided that there has been at least 20 days notice to the parties. Thereafter, the chief judge may for good cause shown grant a continuance of the hearing, provided that the hearing is rescheduled within 90 days after the date of the selection and designation of the arbitrators.

(e) The panel shall consider all relevant evidence and decide the issues of liability, amount of damages, and apportionment of responsibility among the parties. Punitive damages may not be awarded by the arbitration panel.

(f) The arbitration hearing may proceed in the absence of a party who, after due notice, fails to be present, but an award of damages shall not be based solely on the absence of a party.

(g) At least 10 days prior to the date of the arbitration hearing each party shall furnish every other party with a list of witnesses, if any, and copies or photographs of all exhibits to be offered at the hearing. The arbitrators may refuse to hear any witness or to consider any exhibit which has not been disclosed.

(h) The hearing shall be conducted informally. The Florida Rules of Evidence shall be a guide, but shall not be binding. It is contemplated that the presentation of testimony shall be kept to a minimum and that cases shall be presented to the arbitrators primarily through the statements and arguments of counsel.

(i) The arbitrators may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the arbitrators deem it is entitled to after consideration of any objections made to its admission.

(j) Any party may have a recording and transcript of the arbitration hearing made at his own expense.

(k) The members of the arbitration panel shall be paid \$100 each for each day or portion of a day of service on the arbitration panel. The court shall assess each party equally for such payments.

(l) No member of the arbitration panel shall be liable in damages for any action taken or recommendation made by such member in the performance of his duties as a member of the arbitration panel.

(m) The decision of the arbitrators shall be rendered promptly and not later than 30 days after the date of the close of the hearings. The award of the arbitrators shall be filed in writing with the clerk of the circuit court who shall give immediate notice to the parties. The award shall state the result reached by arbitrators without necessity of factual findings or legal conclusions. A majority determination shall control the award.

(4) The decision of the arbitration panel shall not be binding. If all parties accept the decision of the arbitration panel, that decision shall be deemed a settlement of the case and it shall be dismissed with prejudice. Within 20 days after the arbitration award is filed with the clerk of the circuit court, any party may demand a trial de novo in the circuit court. Written notification of such demand shall be filed with the clerk of the circuit court and a copy shall be served by the moving party upon all parties. At the trial de novo, the court shall not admit evidence that there has been an arbitration proceeding, the nature or the amount of the award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at an arbitration hearing may be used for the purposes otherwise permitted by the Florida Rules of Evidence or the Florida Rules of Civil Procedure. The trial on the merits shall be conducted without any reference to insurance, insurance coverage, or joinder of the insurer as codefendant in the suit. Panel members may not be called to testify as to the merits of the case.

(5) If a party who demands a trial de novo fails to obtain a judgment in the circuit court which is more favorable to him than the arbitration award, exclusive of interest and costs, that party shall be assessed the arbitration fees, reasonable costs, and attorney's fees of the opposing party or parties.

(6) In any action covered by this section the clerk of the circuit court shall charge an additional filing fee of \$25 which shall be remitted by the clerk to the State Treasurer for deposit into the General Revenue Fund.

(7) The Supreme Court may adopt rules to supplement the provisions of this section.

(8) This section shall apply only to actions filed at least 90 days after the effective date of this section.

Section 12. Section 626.973, Florida Statutes, is amended to read:

626.973 Fictitious groups.—

(1) No insurer or any person on behalf of any insurer shall make, offer to make, or permit any preference or distinction in property, marine, casualty, or surety insurance as to form of policy, certificate, premium, rate, benefits, or conditions of insurance, based upon membership, non-membership, employment, or of any person or persons by or in any particular group, association, corporation, or organization, and shall not make the foregoing preference or distinction available in any event based upon any "fictitious grouping" of persons as defined in this code, such "fictitious grouping" being hereby defined and declared to be any grouping by way of membership, nonmembership, license, franchise, employment, contract, agreement, or any other method or means.

(2) The restrictions and limitations of this section do not extend to life insurance, and health insurance, or medical malpractice insurance.

Section 13. Section 627.4147, Florida Statutes, is created to read:

627.4147 Medical malpractice insurance contracts.—

(1) In addition to any other requirements imposed by law, each self-insurance policy as authorized under s. 627.357 and each insurance policy providing coverage for claims arising out of the rendering of, or the failure to render, medical care or services, including those of the Florida Medical Malpractice Joint Underwriting Association, shall include:

(a) A clause authorizing the insurer or self-insurer to determine, to make, and to conclude, without the permission of the insured, any offer of admission of liability, settlement offer, or offer of judgment, if the offer is within the policy limits. It is against public policy for any insurance or self-insurance policy to contain a clause giving the insured the exclusive right to veto any offer for admission of liability, settlement offer, or offer of judgment, when such offer is within the policy limits. However, any offer of admission of liability, settlement offer, or offer of judgment made by an insurer or self-insurer shall be made in good faith and in the best interests of the insured.

(b) A clause requiring the insurer or self-insurer to notify the insured no less than 60 days prior to the effective date of cancellation of the policy or contract and, in the event of a determination by the insurer or self-insurer not to renew the policy or contract, to notify the insurer no less than 60 days prior to the end of the policy or contract period.

(2) Each insurer, covered by this section, may require the insured to be a member, not subject to expulsion or suspension, of a duly recognized state or local professional society of health care providers, which maintains a medical review committee.

(3) This section applies to all policies issued or renewed on or after October 1, 1985.

Section 14. In any action by a patient against a health care provider, as defined in s. 768.50(2)(b), Florida Statutes, in a tort or contract claim for malpractice, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for the recovery of punitive damages. The claimant may move to amend his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

Section 15. Subsection (7) is added to section 395.011, Florida Statutes, to read:

395.011 Staff membership and professional clinical privileges.—

(7) *A health care facility, including hospitals and ambulatory surgical centers, as defined in this chapter, shall require its medical staff as condition of staff privileges and other personnel as a condition for clinical privileges to demonstrate to the satisfaction of the facility governing board, financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or failure to render medical care or services, provided that nothing in this section shall apply to practitioners licensed pursuant to chapter 466.*

Section 16. Section 768.33, Florida Statutes, is created to read:

768.33 Alternative method of payment of damage awards.—

(1) In any action by a patient against a health care provider, as defined in s. 768.50(2)(b), in a tort or contract claim for malpractice, the court upon motion of any party, shall enter a judgment requiring that the portion of the damages awarded in excess of \$250,000 be provided in the form of an annuity plan, provided that the excess amount is greater than \$250,000 notwithstanding any amount payable as attorney's fee and costs. The court shall require the judgment debtor to post security adequate to assure payment of such damages. The security may include, but not be limited to, an annuity or a bond. Any such bond or annuity is not adequate unless it is written by a third party company authorized to do business in this state and is rated A+; XIII by Best's. If the judgment debtor fails or is unable to post the required security, the court shall order that all damages be paid to claimant in a lump sum. No bond may be cancelled nor be subject to cancellation unless at least 60 days' advanced written notice is filed with the court and the judgment creditor.

(2) If the judgment debtor exhibits a continuing pattern of failing to timely make the required periodic payments, the court shall hold the judgment debtor in contempt and require that all remaining payments be made in a lump sum and may order the judgment debtor to pay the claimant all damages caused by such failure, including court costs and attorney's fees for each supplemental proceeding. If it appears that the judgment debtor may be insolvent or that there is a substantial risk that the judgment debtor may not have the financial responsibility to pay all amounts due and owing the judgment creditor, the court may order additional security or that the balance of payments due be placed in trust for the benefit of the claimant, or that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order, or order such other protection as may be necessary to assure the payment of the remaining balance of the judgment.

(3) The court may order that a portion of the payments be in a lump sum, be equal or vary in amount, depending upon the immediate and future needs of the claimant. The judgment ordering the payment of damages by periodic payments shall specify the recipient of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments are to be made.

(4) Claimant's attorney's fee shall be payable from the judgment, based upon the total judgment. The attorney's fee may be paid in lump sum or by periodic payment.

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

Section 17. 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 18. Sections 768.47, 768.48, 768.51, and 768.56, Florida Statutes, are hereby repealed.

Section 19. This act shall take effect July 1, 1985 or upon becoming a law, whichever occurs later.

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

Amendment 1A—On page 18, line 28, insert: new section 16

Section 16. Section 768.481, Florida Statutes, is created to read:

768.481 Limitation on Noneconomic Damages.—

In all cases involving claims of medical malpractice noneconomic or general damages shall be limited to \$500,000 provided however, that where the health care provider acts with reckless disregard for the welfare of the claimant or acts maliciously or intentionally then the cap specified herein shall not apply.

(Renumber subsequent sections.)

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

Amendment 1B—On page 19, line 28, after the period (.) insert: This provision shall apply only to future damages.

Amendment 1 as amended was adopted.

Senator Hair moved the following amendment:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to medical malpractice; providing for certification of foreign health care educational institutions; providing definitions; authorizing the Department of Professional Regulation to adopt standards; providing for registration and inspection fees; providing for renewal of certification; providing that this act shall be supplemental to certain other health care practice acts; amending s. 458.319, F.S.; providing for the Board of Medical Examiners to authorize continuing education requirements; creating s. 205.194, F.S.; prohibiting issuance of a local occupational license without proof of state registration; creating s. 455.2287, F.S.; providing penalties for giving false information in connection with licensure as a health care practitioner; amending s. 458.327, F.S.; providing penalties for specified fraudulent acts relating to medical practice; amending s. 459.013, F.S.; providing penalties for specified fraudulent acts relating to osteopathic practice; amending s. 768.46, F.S.; providing that a signed medical consent is rebuttably presumed valid; amending s. 768.49, F.S.; expanding authority to order remittitur and additur; prohibiting the filing of medical malpractice actions for a specified period of time; tolling the statute of limitations with respect to such actions; requiring prior notice to a health care provider of intention to file such action; requiring judges to submit actions that are filed to nonbinding arbitration; specifying composition, duties, and compensation of arbitration panels; requiring lists of attorneys and health care practitioners to serve on such panels; limiting liability of members of such panels; providing for dismissal of actions under certain circumstances; providing for award of costs and attorneys' fees under specified circumstances; increasing the filing fee with respect to such actions; authorizing the Supreme Court to adopt rules; providing applicability of said provisions; amending s. 626.973, F.S.; exempting medical malpractice insurance from restrictions relating to fictitious groups; creating s. 627.4147, F.S.; requiring medical malpractice insurance contracts to contain certain provisions; authorizing an insurer to require an insured to be a member of a local professional society; prohibiting claims for punitive damages in certain circumstances; amending s. 395.011, F.S.; providing that health care facilities require medical staff as a condition of staff privileges demonstrate financial responsibility; creating s. 768.33,

F.S.; providing for alternative method of payment of medical malpractice awards; repealing s. 768.47, F.S., relating to Medical Liability Mediation Panels and to admissibility of certain evidence in court proceedings; repealing s. 768.48, F.S., relating to itemized verdicts in medical malpractice actions; repealing s. 768.51, F.S., relating to damage awards; repealing s. 768.56, F.S., relating to court-awarded attorney's fees in medical malpractice actions; providing an effective date.

Senators Gersten and Fox offered the following amendments to Amendment 2 which were moved by Senator Gersten and adopted:

Amendment 2A—In title, on page 1, line 18, after the semicolon (;) insert: providing exemptions;

Amendment 2B—In title, on page 1, strike all of lines 15-22

Amendment 2 as amended was adopted.

On motion by Senator Hair, the Senate reconsidered the vote by which Amendment 1 as amended was adopted.

Senator Stuart presiding

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

Amendment 1C—On page 4, line 16, strike "July 1, 1986" and insert: October 1, 1988

Senators Gersten and Fox offered the following amendment to Amendment 1 which was moved by Senator Fox and adopted:

Amendment 1D—On page 4, strike all of lines 3-11 and renumber subsequent subsections.

The vote was:

Yeas—17

Childers, D.	Hill	Malchon	Scott
Dunn	Jennings	Margolis	Stuart
Fox	Johnson	McPherson	
Gersten	Kiser	Meek	
Gordon	Langley	Plummer	

Nays—14

Beard	Deratany	Hair	Thomas
Carlucci	Girardeau	Kirkpatrick	Weinstein
Childers, W. D.	Grant	Myers	
Crawford	Grizzle	Peterson	

Senators Gersten and Fox offered the following amendment to Amendment 1 which was moved by Senator Gersten and adopted:

Amendment 1E—On page 3, line 28, after the period (.) insert: Institutions which have been surveyed before the effective date of this act by the Commission to Evaluate Foreign Medical Schools or the Commission on Foreign Medical Education of the Federation of State Medical Boards of the United States, Inc., and whose survey demonstrates that they provide an educational program, including curriculum, comparable to that of similar accredited institutions in the United States shall be exempt from the provisions of this act.

The vote was:

Yeas—19

Beard	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Dunn	Hill	Margolis	Thomas
Fox	Jennings	Meek	Vogt
Gersten	Kirkpatrick	Plummer	

Nays—13

Carlucci	Deratany	Hair	Thurman
Childers, D.	Frank	Malchon	
Childers, W. D.	Grant	McPherson	
Crawford	Grizzle	Myers	

Senator Thomas moved that the rules be waived and time of adjournment be extended until final consideration of HB 1352. The motion failed.

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until final consideration of HB 1352.

Senator D. Childers moved that the rules be waived and the Senate reconsider the vote by which Amendment 1D was adopted. The motion failed.

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

Amendment 1F—On page 1, line 12, through page 7, line 29, strike all of said lines and renumber subsequent sections.

The vote was:

Yeas—19

Carlucci	Fox	Grizzle	Myers
Castor	Frank	Jennings	Peterson
Childers, W. D.	Gersten	Malchon	Plummer
Crawford	Girardeau	Margolis	Thurman
Dunn	Gordon	Meek	

Nays—11

Beard	Grant	Johnson	Stuart
Childers, D.	Hair	Kirkpatrick	Vogt
Deratany	Jenne	Kiser	

Amendment 1 as amended was adopted.

Senator Frank moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 14, through page 2, line 4, strike all of said lines and insert: amending s. 768.46, F.S.;

On motion by Senator Hair, by two-thirds vote HB 1352 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Frank	Johnson	Peterson
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Kiser	Stuart
Childers, D.	Grizzle	Langley	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Vogt
Deratany	Jenne	McPherson	
Dunn	Jennings	Myers	

Nays—5

Gersten	Meek	Weinstein
Gordon	Plummer	

Vote after roll call:

Nay—Fox

CS for SB 1232 was laid on the table.

The President presiding

On motions by Senator Jenne, the rules were waived and CS for CS for SB 617 and CS for SB 797 were scheduled for consideration following the consent calendar and CS for SB 1099.

On motion by Senator Jenne, the Senate recessed at 12:14 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—39:

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

On motion by Senator Dunn, the House was requested to return HB 1348.

SPECIAL ORDER, continued

On motions by Senator Jenne, the rules were waived and by two-thirds vote HB 1174 was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motion by Senator Jenne—

HB 1174—A bill to be entitled An act relating to foster and group homes; providing legislative intent; providing definitions; providing that foster homes and group homes meeting specified criteria shall be considered a residential use of property and shall be treated as a permitted use in specified zones; providing for siting of homes for people with special living needs; providing for assistance to local governments; nullifying certain restrictions, conditions, and covenants; providing for applicability; providing an effective date.

—a companion measure, was substituted for CS for SB 1099 and read the second time by title.

Senator Langley presiding

Senator Vogt moved the following amendment:

Amendment 1—On pages 2-6, strike everything after the enacting clause and insert:

Section 1. It is the intent of the Legislature that elderly persons, physically disabled persons, developmentally disabled persons, non-dangerous mentally ill persons, and dependent children be entitled to the benefits of living in normal residential communities and that such persons be able to receive treatment, care, rehabilitation, or education in the most appropriate settings possible. In furtherance of these interests, the Legislature intends that foster and group homes be established throughout the state in residential communities according to the provisions of this act.

Section 2. Zoning restrictions prohibited.—

(1) **DEFINITIONS.**—For the purposes of this section, unless the context otherwise requires:

(a) “Resident” means a person who is provided with room, board, and personal care in a foster home or group home, and who is an elderly person, a physically disabled person, a person with a developmental disability as defined in s. 393.001(1), Florida Statutes, a nondangerous person who is mentally ill as defined in s. 394.455(3), Florida Statutes, and dependent children as defined in s. 39.01(9), Florida Statutes. The term “resident” shall not include any person determined to meet the criteria for involuntary examination or placement set forth in s. 394.463(1) or s. 394.467(1), Florida Statutes; any person who has been convicted of or entered a plea of guilty or nolo contendere to, or has been found not guilty by reason of insanity of, a forcible felony under s. 776.08, Florida Statutes, any felony violation of chapter 893, Florida Statutes, or any of the sex offenses set forth under s. 917.012(1), Florida Statutes, without regard to whether adjudication of guilt or imposition of sentence was suspended, deferred, or withheld; or any person who has been adjudicated delinquent for an offense which, if committed by an adult would be such a felony or sex offense.

(b) “Foster home” means a natural family providing a family living environment, including supervision and personal care necessary to meet the physical, emotional, and social needs of foster residents.

(c) “Group home” means a residence which provides a family living environment for the residents thereof, including such supervision and personal care as may be necessary to meet the physical, emotional, and social needs of such residents. Adult congregate living facilities are included in this definition.

(d) “On-site staff member” means a person supervising the education, training, or personal care of the residents of a foster or group home, whenever such supervision is needed for the residents or for the operation of the home. On-site staff members include, but are not limited to, live-in house parents, live-in staff members, staff members who work in shifts to provide such supervision, or any combination thereof. However, nothing herein shall be construed to require on-site staff members to remain on the premises of a foster or group home when all of the residents of the home are involved in planned and approved activities outside the home.

(e) “Permitted use” means a use specifically allowed in a specific zoning classification.

(f) “Personal care” includes such services provided by an on-site staff member as: Individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, and ambulating; supervision of self-administered medication; and other similar services which the Department of Health and Rehabilitative Services may define by rule.

(g) “People with special living needs” includes all persons who have been determined by the Department of Health and Rehabilitative Services to be in need of, and appropriate for placement in, community living facilities, but who are excluded from the term “resident” as specifically defined herein.

(2) **FOSTER HOMES.**—Foster homes, if licensed or financially supported by the Department of Health and Rehabilitative Services, shall be considered a residential use of property for the purpose of zoning and shall not be considered a business or boarding home. The establishment of any such foster home with a maximum capacity of no more than five foster residents shall be a permitted use in all residential zoning classifications.

(3) **GROUP HOMES.**—A group home which is licensed or financially supported by the Department of Health and Rehabilitative Services, regardless of size, shall be considered a residential use of property for the purpose of zoning and shall not be considered a business or boarding home. The establishment of any such group home with a maximum capacity of no more than 16 residents and three on-site staff members shall be a permitted use in all residential zoning classifications other than single-family, provided that no other group home is located within 800 feet of, and no more than one other group home is located within 2,400 feet of, such group home, as measured by the radial distance from the exterior boundaries of the group home premises.

(4) **HOMES FOR PEOPLE WITH SPECIAL LIVING NEEDS.**—Local governing bodies shall provide for siting of homes for people with special living needs consistent with the local government comprehensive plan adopted thereby pursuant to s. 163.3177(6)(f)4., Florida Statutes. However, any local government which is presently complying with this requirement is excepted from this provision.

(5) **ASSISTANCE TO LOCAL GOVERNMENTS.**—The Department of Health and Rehabilitative Services shall, on or before July 1 of each year, provide to each city commission and each board of county commissioners in those cities and counties where new foster or group homes which are licensed or financially supported by the Department of Health and Rehabilitative Services are located a list, arranged by district, providing the names and telephone numbers of district personnel of the department who are knowledgeable as to zoning ordinances and practices and who are able to assist local governments in conducting community education programs and in otherwise planning for foster and group homes. The district administrator of the department shall designate an employee of the department to serve as liaison with units of local government regarding the implementation of this act, including problems that may arise regarding program supervision by the department of foster homes, group houses and homes for people with special living needs permitted under this act.

(6) **RESTRICTIONS VOID AS AGAINST PUBLIC POLICY.**—Any governmental restriction which would permit residential use of property, but would prohibit the use of such property for foster or group homes as permitted herein, is void as against public policy and shall be given no legal or equitable force or effect.

(7) Except as otherwise specifically provided herein, any person who owns or operates a foster home, group home, or other type of home for people with special living needs shall comply with all applicable local codes and ordinances.

(8) **APPLICABILITY.**—With respect to foster homes, group homes, homes for persons with special living needs, and like facilities in existence, or approved for siting, on October 1, 1985, nothing in this act shall be construed to affect the zoning status or siting of any such facilities, including facilities not lawfully zoned on the effective date of this act which meet the permitted use standards established herein. Further, nothing in this act shall be construed to encourage or require local governments having in effect zoning regulations or ordinances which are more permissive as to the siting of such homes than the permitted use standards set forth herein to modify such zoning regulations or ordinances in order to conform to said standards.

Section 3. This act shall take effect October 1, 1985.

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

Amendment 1A—On page 2, line 9, before "without" insert: or child abuse offenses set forth under ss. 827.03, 827.04, or 827.071, Florida Statutes,

Senator Carlucci moved the following amendments to Amendment 1 which failed:

Amendment 1B—On page 4, lines 5 and 6, strike "other group home is located within 800 feet of, and no more than one"

Amendment 1C—On page 5, line 16, strike "1985" and insert: 1986

Senators Scott and Margolis offered the following amendment to Amendment 1 which was moved by Senator Scott and adopted:

Amendment 1D—On page 4, line 8, after the period (.) insert: For the purposes of this subsection, the single-family exemption shall include legally declared condominiums.

The vote was:

Yeas—15

Barron	Frank	Kiser	Thurman
Beard	Girardeau	Margolis	Vogt
Carlucci	Jennings	Peterson	Weinstein
Childers, W. D.	Johnson	Scott	

Nays—14

Mr. President	Fox	Kirkpatrick	Plummer
Castor	Gordon	Malchon	Stuart
Crawford	Hill	McPherson	
Dunn	Jenne	Meek	

Vote after roll call:

Yea—Gersten

Nay to Yea—Crawford, Hill

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

Amendment 1E—On page 4, line 4, after "single family," insert: or mobile home park,

Amendment 1 as amended was adopted. The vote was:

Yeas—20

Barron	Crawford	Johnson	Myers
Beard	Deratany	Kirkpatrick	Peterson
Carlucci	Grizzle	Kiser	Scott
Childers, D.	Hair	Langley	Thurman
Childers, W. D.	Jennings	Margolis	Vogt

Nays—16

Mr. President	Frank	Grant	Meek
Castor	Gersten	Jenne	Plummer
Dunn	Girardeau	Malchon	Stuart
Fox	Gordon	McPherson	Weinstein

The President presiding

On motion by Senator Jenne, by two-thirds vote HB 1174 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Gordon, Neal, Thomas

CS for SB 1099 was laid on the table.

Senator W. D. Childers presiding

CONSENT CALENDAR

Consideration of CS for SB 1100 was deferred.

CS for SB 148—A bill to be entitled An act relating to teacher recruitment; establishing a center for teacher referral and recruitment; establishing duties for the center; providing expanded duties for the Center for Career Development Services in the Department of Education; providing an effective date.

—was read the second time by title. On motion by Senator Castor, by two-thirds vote CS for SB 148 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Fox, Jenne

SB 640—A bill to be entitled An act relating to hospitals; creating s. 395.0147, F.S., requiring licensed hospitals to notify within a certain time period emergency medical technicians, paramedics, and other persons who have come in direct contact with patients who are subsequently diagnosed as having an infectious disease; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 640 to conform the bill to CS for HB 627.

On motion by Senator D. Childers, by two-thirds vote CS for HB 627 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator D. Childers—

CS for HB 627—A bill to be entitled An act relating to hospitals; creating s. 395.0147, F.S., requiring licensed hospitals to notify within a certain time period emergency medical technicians, paramedics, or their employers, and other persons who have come in direct contact with patients who subsequently receive a confirmed diagnosis of an infectious disease; providing for patient confidentiality; providing an effective date.

—a companion measure, was substituted for SB 640 and by two-thirds vote read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

Amendment 1—On page 1, between lines 29 and 30, insert:

Section 2. Subsection (11) of Section 395.509, Florida Statutes, 1984 Supplement, is amended to read:

395.509 Review of hospital budgets.—

(11) The review and approval of hospital budgets pursuant to this act shall begin for hospitals with fiscal years which begin on or after February 1, 1985. The base-year projected budget and actual experience for each hospital shall be the 1984 audited actual experience for that hospital, as required by s. 395.507(7), and shall be inflated for 1985 by the maximum allowable rate of increase. However, if the 1984 audited actual

experience of a hospital for net revenues per adjusted admission exceeds its 1984 projected budget for such revenues filed with the board by greater than 10 percent, then the projected budget of that hospital for such revenues for fiscal year 1986 shall be reduced by the amount of such excess which is over 10 percent, *except that the base year reduction shall not apply to hospitals opened since May 18, 1982. However, the board may reduce the amount of such excess if the hospital can verify an increase of more than 10 percent in patient length of stay, or a substantial change or expansion in the types of programs and services provided. Such reduction shall be in an amount in direct proportion to the amount attributable to the increase in revenue resulting from said increase in length of stay, or changes or expansion in the types of programs and services provided.*

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 9, after "confidentiality;" insert: amending s. 395.509, F.S., 1984 Supplement, providing for budget reductions for hospitals during the 1986 fiscal year in certain circumstances;

On motion by Senator D. Childers, by two-thirds vote CS for HB 627 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Barron	Fox	Jenne	Meek
Beard	Frank	Jennings	Myers
Carlucci	Gersten	Johnson	Peterson
Castor	Girardeau	Kirkpatrick	Plummer
Childers, D.	Gordon	Kiser	Scott
Childers, W. D.	Grant	Langley	Stuart
Crawford	Grizzle	Malchon	Thomas
Deratany	Hair	Margolis	Thurman
Dunn	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Neal

SB 640 was laid on the table.

SB 632—A bill to be entitled An act relating to tangible personal property purchased by the state; allowing the Department of Health and Rehabilitative Services to grant the legal title to certain property to a client; exempting such property from the requirements of ch. 273, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Myers and adopted:

Amendment 1—On page 1, line 12, strike "tangible" and insert: prescriptive medical

On motion by Senator Myers, by two-thirds vote SB 632 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Carlucci	Frank	Jenne	Meek
Castor	Gersten	Jennings	Myers
Childers, D.	Girardeau	Johnson	Peterson
Childers, W. D.	Gordon	Kirkpatrick	Plummer
Crawford	Grant	Kiser	Scott
Deratany	Grizzle	Langley	Stuart
Dunn	Hair	Malchon	Thurman
Fox	Hill	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Neal

CS for CS for SB's 668, 1054 and 1106—A bill to be entitled An act relating to the Florida Emergency Telephone Act of 1974; amending s. 365.171, F.S.; providing for a county "911" local option fee to pay for

nonrecurring service and/or equipment charges; providing for referendum approval or majority vote of the board of county commissioners; providing for an administrative fee; authorizing indemnification of telephone companies; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Crawford, by two-thirds vote CS for CS for SB's 668, 1054 and 1106 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Fox	Jenne	Plummer
Beard	Frank	Johnson	Scott
Carlucci	Gersten	Kirkpatrick	Stuart
Castor	Girardeau	Kiser	Thomas
Childers, D.	Gordon	Langley	Thurman
Childers, W. D.	Grant	Margolis	Weinstein
Crawford	Grizzle	Meek	
Deratany	Hair	Myers	
Dunn	Hill	Peterson	

Nays—None

Vote after roll call:

Yea—Neal

On motions by Senator Dunn, by two-thirds vote HB 151 was withdrawn from the Committees on Health and Rehabilitative Services, and Appropriations.

On motions by Senator Dunn—

HB 151—A bill to be entitled An act relating to developmentally disabled and mentally ill persons; creating s. 402.175, F.S.; providing legislative intent; requiring the Department of Health and Rehabilitative Services to establish an umbrella trust fund for the benefit of developmentally disabled and mentally ill persons in Florida; providing for funding; providing criteria for participation in the umbrella trust fund; providing for income to the developmentally disabled or mentally ill person; directing the department to make certain rules; directing the department to contract for the administration of the fund; providing for the duties of trustees; prohibiting certain payments; providing an effective date.

—a companion measure, was substituted for SB 13 and by two-thirds vote read the second time by title. On motion by Senator Dunn, by two-thirds vote HB 151 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Barron	Dunn	Jenne	Peterson
Beard	Frank	Jennings	Plummer
Carlucci	Gersten	Johnson	Scott
Castor	Girardeau	Kirkpatrick	Stuart
Childers, D.	Gordon	Kiser	Thurman
Childers, W. D.	Grant	Langley	Vogt
Crawford	Grizzle	McPherson	Weinstein
Deratany	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Neal, Thomas

SB 13 was laid on the table.

On motion by Senator Fox, by two-thirds vote HB 543 was withdrawn from the Committee on Commerce.

On motions by Senator Fox—

HB 543—A bill to be entitled An act relating to motor vehicles; amending s. 319.36, F.S.; revising requirements relating to export thereof; providing for application to motor vehicles and other self-propelled equipment; revising provisions relating to requirements for obtaining a certificate of right of possession, the fee therefor, and subsequent use thereof; providing that placement at a dock is evidence of intent to export a vehicle; providing for seizure of vehicles and assessment of storage charges; providing an effective date.

—a companion measure, was substituted for SB 1131 and by two-thirds vote read the second time by title. On motion by Senator Fox, by two-thirds vote HB 543 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Hill	Margolis
Beard	Frank	Jenne	McPherson
Carlucci	Gersten	Jennings	Meek
Castor	Girardeau	Johnson	Scott
Childers, D.	Gordon	Kirkpatrick	Stuart
Childers, W. D.	Grant	Kiser	Thomas
Crawford	Grizzle	Langley	Thurman
Deratany	Hair	Malchon	Weinstein

Nays—None

Vote after roll call:

Yea—Dunn, Neal

SB 1131 was laid on the table.

CS for SB 1137—A bill to be entitled An act relating to communication; amending s. 229.8361, F.S., directing the Florida Council for the Hearing Impaired to oversee service affecting communications and to administer the provisions of part II of chapter 364, F.S.; creating part II of chapter 364, F.S., creating the "Telephone Communication Services for the Deaf Act of 1985"; providing legislative findings and purpose; providing definitions; providing additional duties of the Florida Council for the Hearing Impaired; creating a trust fund; providing for administration of the fund; providing for investments and expenditures; providing for the purchase of equipment, bid specification and requirement and sublease; providing that certain safety and health care providers are required to purchase and operate telecommunication devices; providing for a dual party system; providing for a study; providing for implementation; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 1137 to conform the bill to CS for HB 910.

On motions by Senator Frank, by two-thirds vote CS for HB 910 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Frank—

CS for HB 910—A bill to be entitled An act relating to communication; amending s. 229.8361, F.S., directing the Florida Council for the Hearing Impaired to oversee service affecting communications and to administer the provisions of part II of chapter 364, F.S.; creating part II of chapter 364, F.S., creating the "Telephone Communication Services for the Deaf Act of 1985"; providing legislative findings and purpose; providing definitions; providing additional duties of the Florida Council for the Hearing Impaired; creating a trust fund; providing for administration of the fund; providing for investments and expenditures; providing for the purchase of equipment, bid specification and requirement and sublease; providing that certain safety and health care providers are required to purchase and operate telecommunication devices; providing for a dual party system; providing for a study; providing for implementation; providing an effective date.

—a companion measure, was substituted for CS for SB 1137 and read the second time by title.

On motion by Senator Frank further consideration of CS for HB 910 was deferred.

On motions by Senator Gersten, by two-thirds vote CS for HB 889 was withdrawn from the Committee on Judiciary-Civil.

On motions by Senator Gersten—

CS for HB 889—A bill to be entitled An act relating to garnishment and judgment levy; creating s. 77.055, F.S., providing for certain notice by the plaintiff to the defendant and interested parties; requiring certain disclosures by the garnishee; amending s. 77.06, F.S., providing for an answer by the garnishee; amending s. 77.07, F.S., providing for default judgments upon failure of certain persons to move to dissolve a writ of garnishment; amending s. 77.28, F.S., providing for the collection of certain fees; creating s. 222.061, F.S., providing a procedure for exempting

certain personal property from judgment levy; amending s. 222.11, F.S., exempting from garnishment identifiable wages deposited in a bank account; providing an effective date.

—a companion measure, was substituted for CS for SB 1062 and by two-thirds vote read the second time by title. On motion by Senator Gersten, by two-thirds vote CS for HB 889 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Girardeau	Kirkpatrick	Scott
Carlucci	Gordon	Kiser	Stuart
Castor	Grant	Langley	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Frank	Jennings	Peterson	
Gersten	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Dunn, Fox, Neal

CS for SB 1062 was laid on the table.

CS for SB 701—A bill to be entitled An act relating to insurance; amending s. 627.351, F.S.; authorizing the Florida Medical Malpractice Joint Underwriting Association to use surplus to offset deficits; amending s. 629.401, F.S., relating to the insurance exchange; providing for the selection of governors; lowering capital and surplus requirements for pooled underwriting members who are parties to a reinsurance underwriting pooling agreement; establishing standards and providing for approval by the Department of Insurance for such agreements; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 701 to conform the bill to CS for HB 1095.

Pending further consideration of CS for SB 701 as amended, on motion by Senator Gordon, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 1095 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Health Care and Insurance and Representative Gustafson and others—

CS for HB 1095—A bill to be entitled An act relating to insurance; amending s. 627.351, F.S., relating to the offsetting of deficits of the Florida Medical Malpractice Joint Underwriting Association; amending s. 629.401, F.S., relating to the insurance exchange; providing for the selection of governors; lowering capital and surplus requirements for pooled underwriting members who are parties to a reinsurance underwriting pooling agreement; establishing standards and providing for approval by the Department of Insurance for such agreements; providing an effective date.

—was read the first time by title.

CONSENT CALENDAR, continued

On motions by Senator Gordon, by two-thirds vote CS for HB 1095, a companion measure, was substituted for CS for SB 701 and by two-thirds vote read the second time by title.

On motion by Senator Gordon, by two-thirds vote CS for HB 1095 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Kiser	Plummer
Beard	Gersten	Langley	Scott
Carlucci	Girardeau	Malchon	Stuart
Castor	Gordon	Margolis	Thomas
Childers, D.	Grant	McPherson	Thurman
Childers, W. D.	Hill	Meek	Vogt
Crawford	Jennings	Myers	Weinstein
Deratany	Johnson	Neal	
Fox	Kirkpatrick	Peterson	

Nays—None

Vote after roll call:

Yea—Dunn, Jenne

CS for SB 701 was laid on the table.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Neal, the rules were waived and by two-thirds vote CS for SB 933, CS for SB 187, SB 1178, HB 1273, CS for CS for SB 81 and SB 93 were withdrawn from the Committee on Appropriations.

CONSENT CALENDAR, continued

The Senate resumed consideration of—

CS for HB 910—A bill to be entitled An act relating to communication; amending s. 229.8361, F.S., directing the Florida Council for the Hearing Impaired to oversee service affecting communications and to administer the provisions of part II of chapter 364, F.S.; creating part II of chapter 364, F.S., creating the "Telephone Communication Services for the Deaf Act of 1985"; providing legislative findings and purpose; providing definitions; providing additional duties of the Florida Council for the Hearing Impaired; creating a trust fund; providing for administration of the fund; providing for investments and expenditures; providing for the purchase of equipment, bid specification and requirement and sublease; providing that certain safety and health care providers are required to purchase and operate telecommunication devices; providing for a dual party system; providing for a study; providing for implementation; providing an effective date.

On motion by Senator Frank, by two-thirds vote CS for HB 910 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Fox	Jennings	Neal	

Nays—None

Vote after roll call:

Yea—Castor, Dunn, Jenne, Peterson

CS for SB 1137 was laid on the table.

On motions by Senator Grant, the rules were waived and by two-thirds vote HB 617 was withdrawn from the Committees on Governmental Operations and Appropriations.

On motion by Senator Grant—

HB 617—A bill to be entitled An act relating to payment of medical examiners' fees by state agencies; amending s. 406.08, F.S.; requiring certain state agencies to pay fees and transportation costs for the services of medical examiners with respect to the bodies of decedents who die in the custody of such agencies; providing an effective date.

—a companion measure, was substituted for SB 401 and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote HB 617 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Kirkpatrick	Plummer
Beard	Gersten	Kiser	Scott
Carlucci	Girardeau	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

SB 401 was laid on the table.

CS for SB 608—A bill to be entitled An act relating to the Department of Transportation; requiring the department to increase the Pinellas Bayway toll upon completion of Phase I of the Bayway improvements currently under construction; requiring the department to operate and maintain the facility; providing for disbursement of tolls collected; providing for an annual pass; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Grizzle and adopted:

Amendment 1—On page 2, between lines 13 and 14, insert:

Section 4. Notwithstanding any other provision of law, public safety vehicles which are being used for official business are exempt from paying the toll for use of the Pinellas Bayway.

(Re-number subsequent section.)

Amendment 2—In title, on page 1, line 10, after the semicolon (;) insert: exempting certain public safety vehicles from payment of the toll;

On motion by Senator Grizzle, by two-thirds vote CS for SB 608 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Barron	Gersten	Kiser	Scott
Beard	Girardeau	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jennings	Myers	
Dunn	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

SB 599—A bill to be entitled An act relating to education; creating s. 231.142, F.S.; creating the Teacher Aide Task Force within the Department of Education; providing for the appointment of members by the commissioner; providing purpose of the task force; providing for a report of the task force's findings; requiring the State Board of Education to recommend funding for a program of teacher aide training and certification; authorizing reimbursement for expenses for members; requiring monthly meetings; providing for future repeal; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote SB 599 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Frank	Kirkpatrick	Scott
Beard	Gersten	Langley	Stuart
Carlucci	Girardeau	Malchon	Thomas
Childers, D.	Gordon	Margolis	Thurman
Childers, W. D.	Grizzle	McPherson	Vogt
Crawford	Hair	Meek	Weinstein
Deratany	Hill	Myers	
Dunn	Jennings	Peterson	
Fox	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Grant, Jenne, Neal

RECONSIDERATION

On motion by Senator Hair, the Senate reconsidered the vote by which SB 599 passed.

On motion by Senator Hair, the rules were waived and by two-thirds vote HB 351 was withdrawn from the Committee on Education.

On motion by Senator Hair—

HB 351—A bill to be entitled An act relating to education; creating a Teacher Aide Task Force; providing duties; providing for a recommendation to the Legislature; providing for expiration of the task force; providing an effective date.

—a companion measure, was substituted for SB 599. On motions by Senator Hair, by two-thirds vote HB 351 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

Beard	Girardeau	Johnson	Myers
Carlucci	Gordon	Kirkpatrick	Neal
Castor	Grant	Kiser	Peterson
Crawford	Grizzle	Langley	Plummer
Deratany	Hair	Malchon	Scott
Fox	Hill	Margolis	Stuart
Frank	Jenne	McPherson	Thurman
Gersten	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Dunn, Thomas

SB 599 was laid on the table.

CS for SB 355—A bill to be entitled An act relating to group life insurance policies; amending s. 627.565, F.S.; requiring that an individual certificate issued under such a policy describe the person to whom the insurance benefits are payable by naming either the person insured or the policyholder; authorizing an individual certificate issued under an employee group life insurance policy to display, under certain conditions, the employer's name and the group contract number in lieu of including the name of the person insured and the person to whom benefits are payable; providing an effective date.

—was read the second time by title.

Senator Hill moved the following amendment which was adopted:

Amendment 1—On page 2, line 5, after "contract number)." insert: *The employee shall be given a copy of the group enrollment application.*

On motion by Senator Hill, by two-thirds vote CS for SB 355 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Barron	Childers, W. D.	Fox	Gordon
Beard	Crawford	Frank	Grant
Castor	Deratany	Gersten	Grizzle
Childers, D.	Dunn	Girardeau	Hill

Jenne	Langley	Peterson	Vogt
Jennings	Malchon	Plummer	Weinstein
Johnson	McPherson	Scott	
Kirkpatrick	Meek	Stuart	
Kiser	Myers	Thurman	

Nays—None

Vote after roll call:

Yea—Neal, Thomas

CS for SB 858—A bill to be entitled An act relating to governmental organization; amending ss. 20.21, 20.22, 20.24, 20.25, 20.28, F.S.; providing for Senate confirmation of the executive directors of the Departments of Revenue, General Services, Highway Safety and Motor Vehicles, and Natural Resources and the executive director of the State Board of Administration; amending s. 114.04, F.S.; requiring reappointment or replacement of secretaries, division directors, and certain executive directors at the commencement of each term of a Governor, subject to confirmation by the Senate; amending ss. 14.22, 14.23, 14.25, 14.26, 20.19, 23.133, 23.147, 27.36, 215.64, 266.112, 266.303, 348.753, 348.772, 348.942, 393.001, 400.304, 440.45, 448.06, 947.02, F.S.; providing that certain appointments to office are subject to confirmation by the Senate, including the appointment of the Executive Director of the Florida Governor's Council on Physical Fitness and Sports, the Director of the Office of State-Federal Relations for the State of Florida, the Florida State Commission on Hispanic Affairs, the head of the Citizen's Assistance Office, the Statewide Human Rights Advocacy Committee, the Director of the Office of Early Childhood Development, the Florida Research and Development Commission, the Executive Director of the Office of Prosecution Coordination, the Director of the Division of Bond Finance, the Historic Tallahassee Preservation Board of Trustees, the Historic Palm Beach County Preservation Board of Trustees, certain Orlando-Orange County Expressway Authority members, certain Palm Beach Expressway Authority members, the Florida Developmental Disabilities Planning Council, the State Nursing Home and Long-Term Care Facility Ombudsman Council, the Chief Commissioner of the Workers' Compensation Law, the mediator for the voluntary mediation and conciliation service, and the Parole and Probation Qualifications Committee; amending ss. 186.504, 313.01, 314.01, 373.0693, 483.053, 706.07, F.S.; deleting the requirement that certain appointments to office are subject to confirmation by the Senate, including the appointment of certain members of regional planning councils' governing boards, harbor masters, members of basin boards of the water management districts, the Clinical Laboratories Advisory Council, and the public custodians of lost timber and lumber; providing that appointments that by local law are presently subject to Senate confirmation are no longer subject to such confirmation; 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 24, line 8, after "office" insert: , except to a county civil service board,

Amendment 2—In title, on page 2, line 25, before "appointments" insert: certain

On motion by Senator Jenne, by two-thirds vote CS for SB 858 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Barron	Fox	Johnson	Plummer
Beard	Frank	Kirkpatrick	Scott
Carlucci	Gersten	Kiser	Stuart
Castor	Grant	Langley	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Peterson	

Nays—None

Vote after roll call:

Yea—Girardeau, Neal

SB 371—A bill to be entitled An act relating to retail installment contracts; amending s. 520.37, F.S.; increasing the amount which may be assessed as a delinquency charge on installments of more than \$100; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 371 to conform the bill to CS for HB 555.

On motions by Senator Jennings, the rules were waived and by two-thirds vote CS for HB 555 was withdrawn from the Committees on Commerce; and Economic, Community and Consumer Affairs.

On motion by Senator Jennings—

CS for HB 555—A bill to be entitled An act relating to retail installment sales; amending ss. 520.07 and 520.37, F.S., relating to the delinquency charge on installment payments which are in default; providing an effective date.

—a companion measure, was substituted for SB 371 and read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 555 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Childers, D.	Grant	Langley	Stuart
Childers, W. D.	Grizzle	Malchon	Thomas
Crawford	Hair	Margolis	Thurman
Deratany	Hill	McPherson	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Neal

SB 371 was laid on the table.

SB 332—A bill to be entitled An act relating to the official state transportation map; providing that the state produce and distribute such maps without charge; specifying duties of the Department of Transportation and the Department of Commerce with respect to such maps; providing for leasing of camera-ready plates of state road system maps; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote SB 332 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Grant	Kiser	Scott
Carlucci	Grizzle	Malchon	Stuart
Castor	Hair	Margolis	Thurman
Crawford	Hill	McPherson	Vogt
Deratany	Jenne	Meek	Weinstein
Frank	Jennings	Myers	
Gersten	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Dunn, Fox, Langley, Neal, Thomas

CS for SB 331—A bill to be entitled An act relating to the Myakka River; creating the Myakka River Wild and Scenic Designation and Preservation Act; providing legislative declarations and intent; providing definitions; designating a portion of the river as a wild and scenic river; providing for development of a management plan; providing for a coordinating council; providing for preservation of existing governmental authority; providing for rules; specifying regulatory and permitting authority; prohibiting the operation of air boats in certain areas; providing for enforcement; providing for injunctions; specifying violations and penalties; providing for severability; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 7, line 30, strike "Section 15" and insert:

Section 15. This act shall take effect January 1, 1986.

On motion by Senator Johnson, by two-thirds vote CS for SB 331 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

CS for SB 1127—A bill to be entitled An act relating to hazardous waste; creating s. 403.7265, F.S.; describing local hazardous waste collection centers; requiring the Department of Environmental Regulation to develop a plan for collecting small quantities of hazardous wastes; providing definitions; authorizing a grant program for local governments; specifying criteria for distributing grants; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 1127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Neal

CS for SB 927—A bill to be entitled An act relating to pest control; amending s. 482.226, F.S., relating to written reports of inspections for termites or other wood-destroying organisms; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 1, line 31, insert:

Section 2. Paragraph (c) is added to subsection (2) of section 482.132, Florida Statutes, to read:

482.132 Qualifications for examination and certification.—

(2) Each applicant for examination for pest control operator's certificate must possess one of the following basic qualifications:

(c) For purposes of qualifying to take the examination for certification in the lawn and ornamental pest control category, an applicant may be permitted to take the examination without meeting the other qualifications of this subsection if he demonstrates, to the satisfaction of the department, that he has performed lawn and ornamental spraying for a period of 19 years prior to June 1, 1985. Such application must be made within 30 days after the effective date of this act, at which time this paragraph is repealed.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert: providing for certain persons to take the pest control operators examination based on related experience;

On motion by Senator Kiser, by two-thirds vote CS for SB 927 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Barron	Frank	Kirkpatrick	Peterson
Beard	Gersten	Kiser	Plummer
Carlucci	Girardeau	Langley	Scott
Castor	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Jennings	Meek	Weinstein
Fox	Johnson	Myers	

Nays—None

Vote after roll call:

Yea—Dunn, Jenne, Neal

CS for SB 202—A bill to be entitled An act relating to corrections; amending s. 944.512, F.S., changing the disposition of the proceeds from literary or other account of crime by offenders the application of expanding to all offenders, as defined, rather than just convicted felons; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote CS for SB 202 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Kiser	Stuart
Castor	Grant	Langley	Thomas
Childers, D.	Grizzle	Malchon	Thurman
Childers, W. D.	Hair	Margolis	Vogt
Crawford	Hill	McPherson	Weinstein
Deratany	Jenne	Meek	
Fox	Jennings	Myers	

Nays—1

Gordon

Vote after roll call:

Yea—Dunn

CS for SB 766—A bill to be entitled An act relating to "The Big Cypress Conservation Act of 1973"; amending s. 380.055, F.S., including certain land within the "Big Cypress Area"; providing for the acquisition of the Big Cypress National Preserve Addition; providing an effective date.

—was read the second time by title. On motion by Senator McPherson, by two-thirds vote CS for SB 766 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Gersten	Kiser	Stuart
Carlucci	Girardeau	Langley	Thomas
Childers, D.	Grant	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Plummer	
Fox	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Castor, Frank, Kirkpatrick, Neal

SB 1276—A bill to be entitled An act relating to bonds; creating ss. 132.33-132.47, F.S., the Advance Refunding Law; providing definitions; authorizing issuance of general obligation refunding bonds by taxing units; providing requirements, procedures, and limitations; requiring a refunding bond resolution and providing for contents thereof; providing for levy of ad valorem tax; requiring a certification of debt service savings; providing for notice to holders of bonds to be redeemed and for covenant with bondholders; specifying duties of escrow agent; providing for investment of escrow funds; providing for pledge and use of proceeds of refunding bonds; specifying effect of invalidity of prior proceedings; providing for applicability to school districts; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Margolis and adopted:

Amendment 1—On page 8, lines 14 and 20, strike "60" and insert: 40

Amendment 2—On page 2, line 16, strike "(3) "Board" means the State Board of Administration."

Amendment 3—On page 2, line 24, insert:

(5) "Department" means the Department of Administration.

(Renumber all subsequent subsections.)

Amendment 4—On page 9, line 13, strike "s. 132.25." and insert: s. 132.35.

On motion by Senator Margolis, by two-thirds vote SB 1276 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 1126—A bill to be entitled An act relating to the Beverage Law; amending s. 564.01, F.S.; providing a definition; amending s. 564.06, F.S.; providing for an excise tax on wine coolers; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, strike all of lines 10-12 and insert: gallon. *As to wine coolers, there shall be paid by all manufacturers and distributors a tax at the rate of 96 cents per gallon, except for wine or wine coolers included in subsection (2).*

Senators Crawford and McPherson offered the following substitute amendment which was moved by Senator Crawford and adopted:

Amendment 2—On page 2, strike all of lines 10-14 and insert: gallon. *As to wine coolers, except for certain wine coolers taxed under another subsection of this section, there shall be paid by all manufacturers and distributors a tax at the rate of \$2.25 per gallon from July 1, 1985, through December 31, 1985. Beginning October 1, 1985, the Department of Business Regulation shall determine bi-annually the total of all shipments of wine coolers to distributors for sale in the State for the previous 12 month period by manufacturers. The rate of tax per gallon on wine coolers to be paid by manufacturers and distributors after December 31, 1985, shall be adjusted bi-annually beginning January 1, 1986, and shall be based upon the following table:*

Previous 12 Month Shipments	New Bi-annual Per Gallon Tax Rate
Not more than 2,000,000 gallons	\$2.25
More than 2,000,000, but not more than 2,500,000	\$1.80
More than 2,500,000, but not more than 3,000,000	\$1.50
More than 3,000,000, but not more than 3,500,000	\$1.29
More than 3,500,000, but not more than 4,000,000	\$1.13
More than 4,000,000	.96

days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse or neglect cases, a child protective investigation shall be commenced within 24 hours of receipt of the report. *If requested by a state attorney and/or local law enforcement agency, the department shall furnish all investigative reports to those agencies.*

Section 3. This act shall take effect July 1, 1985.

On motion by Senator McPherson, by two-thirds vote SB 1126 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Barron	Fox	Johnson	Plummer
Beard	Frank	Kiser	Scott
Carlucci	Girardeau	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Dunn, Gersten, Jenne, Kirkpatrick, Neal

CS for SB 381—A bill to be entitled An act relating to education; establishing a Learning Development and Evaluation Center for learning disabled students at Florida Agricultural and Mechanical University; providing criteria for program services and for program participants' qualifications; providing services for postsecondary and secondary students; providing for an advisory council; requiring reports on program effectiveness; providing for funding; providing for future repeal and legislative review; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote CS for SB 381 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Barron	Frank	Johnson	Neal
Beard	Gersten	Kirkpatrick	Peterson
Carlucci	Girardeau	Kiser	Scott
Castor	Grant	Langley	Stuart
Childers, W. D.	Grizzle	Malchon	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Fox	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Dunn, Thomas

SB 967—A bill to be entitled An act relating to child abuse or neglect; amending s. 415.505, F.S., requiring the Department of Health and Rehabilitative Services to make certain recommendations to the state attorney with respect to persons against whom charges of child abuse or neglect are repeatedly indicated; requiring the state attorney to report certain findings to the department; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendments which were adopted:

Amendment 1—On page 3, between lines 30 and 31, insert:

Section 2. Paragraph (a) of subsection (1) of section 415.505, Florida Statutes, 1984 Supplement, is amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)(a) The department shall be capable of receiving and investigating reports of known or suspected child abuse or neglect 24 hours a day, 7

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 415.505, F.S., directing the Department of Health and Rehabilitative Services to furnish copies of reports on child protective investigations;

On motion by Senator Myers, by two-thirds vote SB 967 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Kirkpatrick	Plummer
Beard	Gersten	Kiser	Scott
Carlucci	Girardeau	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SB 391—A bill to be entitled An act relating to education; amending s. 231.087, F.S., relating to the Management Training Act and the Florida Council on Educational Management; expanding purpose and duties; revising membership terms; revising funding of district management training programs; deleting provisions relating to salary incentives and certain reporting; saving s. 231.087, F.S., from Sunset and Sundown repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote SB 391 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Dunn	Jennings	Neal
Beard	Fox	Johnson	Peterson
Carlucci	Frank	Kiser	Scott
Castor	Girardeau	Langley	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	McPherson	Thurman
Crawford	Hair	Meek	Vogt
Deratany	Hill	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Kirkpatrick

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1283 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Tourism and Economic Development and Representative Carlton—

HB 1283—A bill to be entitled An act relating to Historic Preservation; amending s. 267.021, F.S.; providing definitions for historic property, historic preservation, and the National Register of Historic Places; amending s. 267.061, F.S.; providing clarification of state policy relative to historic properties; providing for the transfer of responsibility relative to historic properties from the Division of Archives, History and Records Management of the Department of State to state agencies of the executive branch; providing clarification of the historic preservation responsibilities of the Division of Archives, History and Records Management of the Department of State; revising the duties of the State Archaeologist; providing for a State Historic Preservation Officer; providing an effective date.

—was read the first time by title.

CONSENT CALENDAR, continued

On motions by Senator Plummer, by two-thirds vote HB 1283, a companion measure, was substituted for CS for SB 1094 and by two-thirds vote read the second time by title.

On motion by Senator Plummer, by two-thirds vote HB 1283 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Grant	Kiser	Stuart
Childers, D.	Grizzle	Langley	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Deratany	Hill	Margolis	Weinstein
Dunn	Jenne	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Girardeau, Neal, Vogt

CS for SB 1094 was laid on the table.

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until 6:30 p.m.

SB 972—A bill to be entitled An act relating to horseracing; creating s. 550.242, F.S., authorizing the Division of Pari-mutuel Wagering of the Department of Business Regulation to lease or build a racing laboratory at a horse racetrack permittee's facility; amending s. 550.41, F.S., increasing the hours permitted for summer thoroughbred horse racing; providing an effective date.

—was read the second time by title.

Senator McPherson moved the following amendment which was adopted:

Amendment 1—On page 1, line 11, after the enacting clause, insert new sections 1-5 as below:

Section 1. Subsection (8) of section 550.02, Florida Statutes, 1984 Supplement, is amended to read:

550.02 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation.—The Division of Pari-mutuel Wagering of the Department of Business Regulation shall carry out the provisions of this chapter and supervise and check the making of pari-mutuel pools and the distribution therefrom, and:

(8) Each licensed thoroughbred running track in the state shall be required to run an average of one race per racing day in which horses bred in Florida and duly registered with the Florida Thoroughbred Breeders' Association shall have preference as entries over non-Florida-breds, and to require all licensed thoroughbred racetracks to write the conditions for such races in which Florida-breds are preferred so as to assure that all Florida-bred horses available for racing at such tracks be given full opportunity to run in the class races for which they are qualified, such opportunity of running to be afforded to each class of horses in propor-

tion that the number of horses in this class bears to the total number of Florida-breds available; and provided that no track shall be required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at such track during its meeting. *Each licensed thoroughbred running track in the state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred running track electing to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America shall not be required to provide stables for the Arabian horses racing under this section.*

Section 2. Section 550.15, Florida Statutes, is amended to read:

550.15 Bond required of licensees to conduct race meeting.—Every person to whom a license may be granted under this chapter, at his own cost and expense, shall, before any such license is delivered, give a bond in the penal sum of \$50,000 payable to the Governor of the state and his successors in office, with a surety or sureties to be approved by the division and the State Treasurer, conditioned to faithfully make the payments to the State Treasurer in his capacity as treasurer of the division and to keep his books and records and make reports as provided, and to conduct his racing in conformity with this chapter: *The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.50.*

Section 3. Subsection (4) of section 550.262, Florida Statutes, 1984 Supplement, is amended to read:

550.262 Horseracing; minimum purse requirement, Florida breeders' and stallion awards, Florida owners' awards.—

(4) Each permitholder conducting a harness horse race under the provisions of this chapter shall pay a sum equal to the breaks on all pari-mutuel pools conducted during that race for the payment of breeders' awards, stallion awards, stallion stakes and for additional expenditures and stallion awards as authorized in this section. The Florida Standardbred Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Standardbred Breeders and Owners Association has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.263 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Standardbred Breeders and Owners Association by the fifth day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the Division of Pari-mutuel Wagering as prescribed by the division. With the exception of the 10-percent fee for administering the payments, and the use of the moneys authorized by paragraph (j), the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account; and such payments together with any interest earned shall be allocated first for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for Florida-bred standardbred horses. ~~used exclusively for the~~ Payment of breeders' awards and stallion awards in accordance with the following provisions:

(a) The breeder of each Florida-bred standardbred horse winning a harness horse race shall be entitled to an award of up to, but not to exceed, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred standardbred horse which wins a stakes race shall be entitled to a stallion award of up to, but not to exceed, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred standardbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Standardbred Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winner has been duly registered as a Florida-bred horse, as evidenced by the seal and proper serial number of the United States Trotting Association registry. The Florida Standardbred Breeders and Owners Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a standardbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Standardbred Breeders and Owners Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, shall render the owner or the owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return shall make the owner or owners of the stallion eligible for the stallion award, but only for those offspring sired subsequent to such return to this state. The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a harness horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Division of Pari-mutuel Wagering and the Florida Standardbred Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the starters and winners in all races conducted at harness horse race tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Standardbred Breeders and Owners Association shall annually establish a uniform rate and procedure for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for Florida-bred standardbred horses and stallion awards and shall make breeders' and stallion award payments and allocations in strict compliance with the established uniform rate and procedure. The plan may set a cap on winnings, and may limit, exclude, or defer payments to certain classes of races, such as the Florida Breeders' stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate allocated to payment of breeder and stallion awards to be less than 15 percent of the total purse payment. The uniform rate and procedure shall be approved by the Florida Pari-mutuel Commission before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards shall be 15 percent of the announced gross purse for each race. Such purse shall include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. In the event that the funds in the account for payment of breeders' and stallion awards is not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments shall have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Standardbred Breeders and Owners Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the Division of Pari-mutuel Wagering reflecting such receipts and disbursements and the sums withheld for administration. The Division of Pari-mutuel Wagering may audit the records and accounts of the Florida Standardbred Breeders and Owners Association to determine that payments have been made to eligible breeders, stallion owners, and owners of Florida standardbred horses, and stallion owners in accordance with the provisions of this section.

(i) In the event that the Florida Pari-mutuel Commission finds that the Florida Standardbred Breeders and Owners Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section and under s. 550.263. In the event that the commission enters such an order, the permitholder shall make the payments authorized in this section and s. 550.263 to the Division of Pari-mutuel Wagering for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Standardbred Breeders and Owners

Association account shall be immediately paid to the Division of Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering Trust Fund. The Florida Pari-mutuel Commission shall authorize payment from these funds to any breeder, stallion owner, or owner of a Florida-bred standardbred horse or stallion owner entitled to an award which had not been previously paid by the Florida Standardbred Breeders and Owners Association in accordance with the applicable rate.

(j) The board of directors of the Florida Standardbred Breeders and Owners Association may authorize the release of up to 25 percent of the funds available for breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for Florida-bred standardbred horses and stallion awards to be used for purses for, Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless, and to the extent that, such release would render the funds available for such awards insufficient to pay the breeders' and stallion awards earned pursuant to the annual plan of the association. Any such funds so released and used for purses shall not be considered to be an "announced gross purse" as that term is used in paragraphs (a) and (b), and no breeders' or stallion awards, stallion stakes, or owner awards shall be required to be paid for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released and the meets eligible to receive such funds for purses shall be approved by the board of directors of the Florida Standardbred Breeders and Owners Association.

Section 4. Paragraph (b) of subsection (2) of section 550.263, Florida Statutes, 1984 Supplement, is amended to read:

550.263 Horseracing; distribution of abandoned interest in or contributions to pari-mutuel pools.—

(2) All moneys or other property which has escheated to and become the property of the state as provided herein and which is held by a permitholder authorized to conduct pari-mutuel pools in this state shall be paid annually by the permitholder to the recipient designated in this subsection within 60 days after the close of the race meeting of the permitholder. Section 550.164 notwithstanding, such moneys shall be paid by the permitholder as follows:

(b) Funds from any harness horse races shall be paid to the Florida Standardbred Breeders and Owners Association and shall be used for the payment of breeders' awards, and stallion awards, stallion stakes, additional purses, and prizes for Florida-bred standardbred horses, as provided for in s. 550.262.

Section 5. Paragraph (b) of subsection (1) and subsection (3) of section 550.50, Florida Statutes, 1984 Supplement, are amended, and paragraph (c) is added to subsection (1) of said section, to read:

550.50 Nonwagering permits.—

(1)

(b) Subject to the requirements of this section, the division is authorized to issue permits for the conduct of horseracing meets without pari-mutuel wagering or any other form of wagering being conducted in conjunction therewith. Such permits shall be known as nonwagering permits and may be issued only for horseracing meets other than thoroughbred meets. The holder of a nonwagering permit is prohibited from conducting pari-mutuel wagering or any other form of wagering in conjunction with racing conducted under the permit. Nothing in this subsection prohibits horseracing for any stake, purse, prize, or premium.

(c) The holder of a nonwagering permit is exempt from the provisions of ss. 550.04 and 550.10 and is exempt from the imposition of daily license fees and admissions tax.

(3)(a) Upon receipt of a nonwagering permit, the permitholder must apply to the division before June 1 of each year Florida Pari-mutuel Commission for an annual nonwagering license for the next succeeding calendar year. Such application shall set forth the days and locations at which it will conduct nonwagering horseracing and shall indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before August 1 of each year, the division shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the succeeding calendar year during the period and for the number of days set forth in the application subject to all other provisions of s. 550.50.

~~(c) The division may conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit. dates to conduct nonwagering racing. No racing dates may be granted to a nonwagering permit holder which conflict with the racing dates of any pari-mutuel permit holder within 50 miles of the location of the racetrack of the nonwagering permit holder if the pari-mutuel permit holder objects to such dates. The commission shall provide notice to pari-mutuel permit holders affected by an application for nonwagering racing dates.~~

(Renumber subsequent sections.)

Senators Frank and Scott offered the following amendment which was moved by Senator Scott and adopted:

Amendment 2—On page 2, between lines 12 and 13, insert:

Section 3. Section 550.08, Florida Statutes, is amended to read:

550.08 Maximum length of race meeting.—No license shall be granted to any person or to any racetrack for a meet or meeting in any county to extend longer than an aggregate of 90 74 racing days for thoroughbred horseracing, 120 days for quarter horse racing, 120 days for harness horse racing, and 105 days for dog racing in any racing season. Nothing in this section shall be construed to expand or otherwise alter the provisions of s. 550.081 and s. 550.41.

(Renumber subsequent sections.)

Senator McPherson moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 2, after the semicolon (;) insert: amending s. 550.02, F.S., authorizing certain licensed thoroughbred running tracks to add one additional race per racing day composed of Arabian horses; amending s. 550.15, F.S., providing that bonding requirements shall not apply to nonwagering licenses; amending s. 550.262, F.S., relating to horseracing awards, purses, and prizes; amending s. 550.263, F.S., providing conforming language; amending s. 550.50, F.S., exempting nonwagering permits from certain pari-mutuel statutes; providing for nonwagering permits;

Senators Frank and Scott offered the following amendment which was moved by Senator Scott and adopted:

Amendment 4—In title, on page 1, line 9, after the semicolon (;) insert: amending s. 550.08, F.S.; increasing the maximum number of racing days for thoroughbred horseracing;

On motion by Senator Scott, by two-thirds vote SB 972 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Barron	Frank	Johnson	Scott
Beard	Gersten	Kirkpatrick	Stuart
Carlucci	Girardeau	Kiser	Thomas
Childers, D.	Grant	Langley	Thurman
Childers, W. D.	Grizzle	Malchon	Vogt
Crawford	Hair	Margolis	Weinstein
Deratany	Hill	McPherson	
Dunn	Jenne	Myers	
Fox	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Neal

CS for SB 492—A bill to be entitled An act relating to research and development facilities; amending s. 159.701, F.S.; providing purpose; amending s. 159.702, F.S.; providing rule of construction; amending s. 159.703, F.S.; providing for membership of research and development authorities; amending s. 159.704, F.S.; prescribing procedure for empowering authorities to transact business and exercise powers; amending s. 159.705, F.S.; providing for cooperation agreements; amending s. 240.299, F.S.; providing an additional definition; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for SB 492 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Fox	Jenne	Myers
Beard	Frank	Jennings	Plummer
Carlucci	Gersten	Johnson	Scott
Childers, D.	Girardeau	Kirkpatrick	Stuart
Childers, W. D.	Gordon	Kiser	Thomas
Crawford	Grant	Malchon	Thurman
Deratany	Grizzle	Margolis	Vogt
Dunn	Hair	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Neal

On motions by Senator Thomas, by two-thirds vote HB 1221 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

On motions by Senator Thomas—

HB 1221—A bill to be entitled An act relating to leaves of absence of officials and employees; amending s. 115.07, F.S., relating to leaves of absence for reserve or guard training; providing legislative intent; providing for computation of leave of absence with respect to officers or employees whose working day consist of certain shifts; providing that where an employee's assigned employment duty conflicts with active or inactive duty training it shall be the responsibility of the employing agency to provide for the assumption of such employment duties while the employee is on assignment; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 956 and by two-thirds vote read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 1221 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Barron	Gersten	Kirkpatrick	Scott
Beard	Girardeau	Kiser	Stuart
Carlucci	Gordon	Langley	Thurman
Childers, W. D.	Grant	Malchon	Vogt
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hair	Meek	
Fox	Hill	Myers	
Frank	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, D. Childers, Dunn, Jenne, Neal, Thomas

CS for CS for SB 956 was laid on the table.

CS for SB 433—A bill to be entitled An act relating to public school district personnel; amending s. 231.40, F.S.; changing the manner of accrual of sick leave for certain employees of school districts; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 433 to conform the bill to CS for HB 586.

Pending further consideration of CS for SB 433 as amended, on motions by Senator Thurman, the rules were waived and by two-thirds vote CS for HB 586 was withdrawn from the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Thurman—

CS for HB 586—A bill to be entitled An act relating to school personnel; amending s. 231.40, F.S.; altering the method of accrual of sick leave for certain employees of the district school system; providing an effective date.

—a companion measure, was substituted for CS for SB 433. On motions by Senator Thurman, by two-thirds vote CS for HB 586 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

Beard	Frank	Jennings	Myers
Carlucci	Gersten	Johnson	Plummer
Childers, D.	Girardeau	Kirkpatrick	Scott
Childers, W. D.	Gordon	Kiser	Stuart
Crawford	Grant	Langley	Thomas
Deratany	Grizzle	Malchon	Thurman
Dunn	Hair	Margolis	Vogt
Fox	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

CS for SB 433 was laid on the table.

On motion by Senator Stuart, the Senate reconsidered the vote by which—

CS for SB 858—A bill to be entitled An act relating to governmental organization; amending ss. 20.21, 20.22, 20.24, 20.25, 20.28, F.S.; providing for Senate confirmation of the executive directors of the Departments of Revenue, General Services, Highway Safety and Motor Vehicles, and Natural Resources and the executive director of the State Board of Administration; amending s. 114.04, F.S.; requiring reappointment or replacement of secretaries, division directors, and certain executive directors at the commencement of each term of a Governor, subject to confirmation by the Senate; amending ss. 14.22, 14.23, 14.25, 14.26, 20.19, 23.133, 23.147, 27.36, 215.64, 266.112, 266.303, 348.753, 348.772, 348.942, 393.001, 400.304, 440.45, 448.06, 947.02, F.S.; providing that certain appointments to office are subject to confirmation by the Senate, including the appointment of the Executive Director of the Florida Governor's Council on Physical Fitness and Sports, the Director of the Office of State-Federal Relations for the State of Florida, the Florida State Commission on Hispanic Affairs, the head of the Citizen's Assistance Office, the Statewide Human Rights Advocacy Committee, the Director of the Office of Early Childhood Development, the Florida Research and Development Commission, the Executive Director of the Office of Prosecution Coordination, the Director of the Division of Bond Finance, the Historic Tallahassee Preservation Board of Trustees, the Historic Palm Beach County Preservation Board of Trustees, certain Orlando-Orange County Expressway Authority members, certain Palm Beach Expressway Authority members, certain St. Lucie County Expressway Authority members, the Florida Developmental Disabilities Planning Council, the State Nursing Home and Long-Term Care Facility Ombudsman Council, the Chief Commissioner of the Workers' Compensation Law, the mediator for the voluntary mediation and conciliation service, and the Parole and Probation Qualifications Committee; amending ss. 186.504, 313.01, 314.01, 373.0693, 483.053, 706.07, F.S.; deleting the requirement that certain appointments to office are subject to confirmation by the Senate, including the appointment of certain members of regional planning councils' governing boards, harbormasters, members of basin boards of the water management districts, the Clinical Laboratories Advisory Council, and the public custodians of lost timber and lumber; providing that appointments that by local law are presently subject to Senate confirmation are no longer subject to such confirmation; providing an effective date.

—as amended passed this day.

On motion by Senator Stuart, the Senate reconsidered the vote by which CS for SB 858 was read the third time.

Senator Stuart moved the following amendments which were adopted:

Amendment 3—On page 21, lines 19-31, and on page 22, lines 1-8, strike all of said lines and renumber subsequent sections.

Amendment 4—On page 22, lines 29-31, and on page 23, lines 1-5, strike all of said lines and renumber subsequent sections.

Amendment 5—On page 24, line 8, after "office" insert: except to the Jacksonville Port Authority

On motion by Senator Stuart, by two-thirds vote CS for SB 858 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Kiser	Stuart
Childers, D.	Gordon	Langley	Thomas
Childers, W. D.	Grant	Malchon	Thurman
Crawford	Grizzle	Margolis	Vogt
Deratany	Hair	McPherson	Weinstein
Dunn	Hill	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

CS for SB 1100—A bill to be entitled An act relating to the Department of Corrections; amending s. 20.315, F.S.; providing for an inspector general; amending s. 944.31, F.S.; providing duties and authority of the inspector general and inspectors; providing an effective date.

—was read the second time by title. On motion by Senator Carlucci, by two-thirds vote CS for SB 1100 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Frank	Kiser	Scott
Carlucci	Gersten	Langley	Stuart
Castor	Girardeau	Malchon	Thomas
Childers, D.	Grant	Margolis	Thurman
Childers, W. D.	Grizzle	McPherson	Vogt
Crawford	Hair	Meek	Weinstein
Deratany	Hill	Myers	
Dunn	Jennings	Peterson	
Fox	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

On motions by Senator Vogt, by two-thirds vote HB 738 was withdrawn from the Committees on Natural Resources and Conservation, and Appropriations.

On motions by Senator Vogt—

HB 738—A bill to be entitled An act relating to the Indian River Lagoon; providing a policy statement, a definition, a report on recommended legislative and administrative action, and a program of research and public awareness; providing responsibility of the Marine Resources Council of East Central Florida and for use of certain moneys thereby; providing an effective date.

—a companion measure, was substituted for SB 716 and by two-thirds vote read the second time by title. On motion by Senator Vogt, by two-thirds vote HB 738 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Barron	Fox	Johnson	Peterson
Carlucci	Frank	Kirkpatrick	Stuart
Castor	Gersten	Kiser	Thomas
Childers, D.	Girardeau	Langley	Thurman
Childers, W. D.	Grant	Malchon	Vogt
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hill	Meek	
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SB 716 was laid on the table.

The President presiding

CS for SB 1225—A bill to be entitled An act relating to alcoholic beverages; creating ss. 316.1937, 562.115, 562.51, F.S.; imposing additional costs upon persons convicted of driving under the influence or driving while intoxicated; providing for deposit of proceeds in trust funds; creating a compensation program for victims of drunk drivers; creating public information and education programs; prohibiting dispensing of beverages to obviously intoxicated persons; providing penalties; creating a responsible vendors program; providing for mitigation; providing for consideration in insurance rates; providing prerequisites to licensure; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 1—On page 4, line 7, after “construed to” insert: create or

Senator Weinstein moved the following amendments which were adopted:

Amendment 2—On page 5, line 13, insert a new Section 4.

Section 4. There is hereby appropriated from the Drunk Driving Information Trust Fund \$1,000,000 and 38 positions to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, and \$13,500 and 1 position to the Division of Administrative Services of the Department of Highway Safety and Motor Vehicles for the purposes of implementing this Act.

(Renumber subsequent sections.)

Amendment 3—On page 1, line 15, after the semicolon (;), insert: providing an appropriation;

On motion by Senator Weinstein, by two-thirds vote CS for SB 1225 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Dunn	Hill	Meek
Barron	Fox	Jenne	Myers
Beard	Frank	Jennings	Plummer
Castor	Girardeau	Johnson	Scott
Childers, D.	Gordon	Kiser	Thomas
Childers, W. D.	Grant	Langley	Thurman
Crawford	Grizzle	Malchon	Vogt
Deratany	Hair	Margolis	Weinstein

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick, Neal

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives returns HB 1348 as requested.

Allen Morris, Clerk

HB 1348—A bill to be entitled An act relating to Volusia County; establishing and organizing a municipality in said county to be known by the name selected by its electors; defining its territorial boundaries; providing for its government, jurisdiction, powers, franchises, immunities, privileges, and means for exercising the same; prescribing the general powers to be exercised by said City; providing extraterritorial powers; creating a Reserve Area; providing for the dissolution of certain existing governments; providing for a referendum.

On motion by Senator Dunn, the Senate reconsidered the vote by which HB 1348 as amended passed May 27.

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

Amendment 1—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. The charter of the municipality created by this act shall be as follows:

PREAMBLE

We the people of the Halifax Area do ordain and ratify this charter in order to create a new municipality to unify local government functions in the Halifax area, promote the goals and objectives set forth in this charter, and provide through the rights and benefits of local self-government under the Constitution and laws of the State of Florida for the public health, safety, comfort, good order, convenience, and general welfare of the citizens.

**ARTICLE I
ESTABLISHMENT OF CITY; CORPORATE LIMIT**

There is hereby created in the County of Volusia a new city to be known by the name selected by its electors in the manner provided in section 12.03. The corporate boundaries of the city shall be as described in Section 14.01.

ARTICLE II - MUNICIPAL POWERS

Section 2.01 General Powers of the City.—The City shall have all the powers of a municipality under the Constitution and laws of the State of Florida as fully and completely as though such powers were specifically enumerated in this charter unless otherwise prohibited by or contrary to the provisions of this charter. The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise expressly prohibited by law.

Section 2.02 Construction of Powers.—The powers of the City under this charter shall be construed liberally in favor of the City.

Section 2.03 Intergovernmental Relations.—The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more other municipalities, with the state government or political subdivisions or agencies thereof, or with the United States of America.

Section 2.04 Extraterritorial Powers.—

(1) In addition to the powers reserved to the City with respect to the Reserve Area created under this section, upon agreement with the County of Volusia governing any unincorporated area or with a municipality governing any incorporated area, the City shall have the governmental, corporate, and proprietary powers to enable it to conduct such municipal government, perform such municipal functions, and render such municipal services, and the City may exercise such power for municipal services, as has been agreed to by a municipality or county for an area outside the City's boundary, not otherwise within the Reserve Area, except when and to the extent expressly prohibited by general law.

(2) The City may provide any municipal service to or perform any municipal function upon any real property outside the City's boundaries with the consent of the owner of such real property. Such consent may run with the land. The City may determine, impose, levy, and collect user charges, regulatory fees, fines, penalties, liens, and payments in lieu of taxes in connection with the delivering of such services or functions; provided that any such charges, fees, penalties, liens, or payments shall be imposed in amounts not exceeding the amounts imposed for similar services or functions rendered to real property located within the City.

(3) The City may own or operate any public utility outside its boundary in accordance with law. It may establish, impose, and collect user charges, impose penalties and liens, and enact penal codes in connection therewith. It may enter into agreements with real property owners which run with the land. It may acquire, hold, and dispose of property or interests in property in conjunction therewith.

(4) The lands described in subsection (10), and not within the limits of any Constituent Municipality, are hereby set aside and designated as a Reserve Area within which the City shall have the exclusive power to annex lands. Within the Reserve Area and with the consent of the owner of the lands affected, which consent may run with the land, the City shall have the right to provide water, sewer, and other municipal services prior

to annexation. The right to provide municipal services in the Reserve Area shall be exclusive of the right of all other local governments having jurisdiction of the land, except for services contracted to be provided by other governments prior to the effective date of this Charter. If this Charter is adopted in the Approving Referendum, no Constituent Municipality shall have any power of annexation within the Reserve Area after the effective date of this charter even though such Constituent Municipality may have excepted itself from the City pursuant to an Opt-Out Referendum.

(5) The City shall not have the power to annex any lands within the Reserve Area without the consent of the owner of such lands except as provided by law.

(6) Prior to the annexation of lands in the Reserve Area, the City shall have exclusive jurisdiction to exercise all powers granted to local governments under the Local Government Comprehensive Planning Act of 1975 (LGCPA) as amended from time to time; shall have exclusive jurisdiction to adopt a comprehensive plan governing the Reserve Area with which all land development regulations enacted or amended shall be consistent and the City shall be the local government unit exercising regulatory authority over, granting development permits for, and planning jurisdiction over, land development in the Reserve Area, pursuant to the LGCPA.

(7) Within 2 years after the effective date, the City shall adopt a comprehensive plan, as defined in the LGCPA for the area of its jurisdiction, including the lands within the Reserve Area. Until such plan is adopted, any development order or development regulation issued or approved by the County of Volusia affecting lands within the Reserve Area shall be consistent with the comprehensive plan of the County of Volusia. After the adoption of the comprehensive plan of the City, all development undertaken by, and all actions taken in regard to development orders by or development regulation issued or approved by the County of Volusia shall be consistent with the comprehensive plan of the City as adopted. The City shall have standing to enforce judicially the provisions of its comprehensive plan with respect to any development order or development regulation issued or approved by the County of Volusia affecting lands within the Reserve Area.

(8) Notwithstanding any other provisions of law, the Local Planning Agency of the City shall be considered the Local Planning Agency of the Reserve Area. After the adoption of the comprehensive plan by the City, no land development code, land development regulation, or any amendment thereto, including any zoning change, shall be adopted by the County Council of Volusia County with respect to all or any portion of the Reserve Area until such regulation, code, or amendment has first been referred to the Local Planning Agency of the City for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan or element or portion thereof.

(9) The provisions of s. 171.062(2), Florida Statutes, and any other law of like effect shall not apply as to any lands within the Reserve Area.

(10) The Reserve Area shall consist of the land described in Section 14.02.

ARTICLE III

GROWTH MANAGEMENT: STATEMENT OF GENERAL GOALS, OBJECTIVES, AND MANDATES FOR COMPREHENSIVE PLAN OF THE CITY.

Section 3.01 General.—It is the purpose and intent of this charter that the City will effectively plan and manage its continued population growth and development, protect and restore its environmental heritage, and enhance and improve its economic base and condition. As required by law, the City shall adopt a comprehensive plan that prescribes the principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the City. This article states certain goals, objectives, and mandates for the comprehensive plan of the City and its Reserve Area.

Section 3.02 Goals and Objectives of the City.—The following shall be goals and objectives of the City.

(1)(a) Goal: The City and its Reserve Area shall grow and develop according to an orderly plan.

(b) Objectives:

1. The City shall adopt and implement a comprehensive plan to guide, manage, and control population growth throughout the City and its Reserve Area in a manner that is compatible with the natural systems, social needs, and economic welfare of the City and its Reserve Area.

2. The City shall encourage growth and development, consistent with all elements of the comprehensive plan, that affords greater economic, social, and cultural opportunities to its residents.

3. The City's urban growth shall be compact, and the City shall discourage strip, scattered, and leap-frog development, especially into areas not suitable for development or not adequately served by urban services.

4. The City shall integrate all of its techniques for growth management pursuant to the comprehensive plan, including, but not limited to, plans for development of streets, roads, and other transportation systems and facilities, plans and policies regarding development and extension of water, sewer, and other urban services, and land use and preservation policies.

5. The City shall provide, to the extent allowable by constitutional and statutory law, effective means of enforcing the requirement that development orders and development regulations shall be consistent with the City's comprehensive plan, by adopting policies concerning administrative and judicial standing for substantially affected persons.

(2)(a) Goal: The City shall protect the underground fresh water resources from saltwater intrusion and from other sources of pollution.

(b) Objectives:

1. The City shall establish a coordinated water system that will produce and distribute potable water for present and future needs from wells located in areas least vulnerable to saltwater intrusion.

2. The City shall cooperate with the County of Volusia and other municipalities in producing potable water and conducting water conservation and recovery programs.

3. The City shall adopt and implement policies that protect the aquifer from pollution, including pollution from landfills, drainage wells, and hazardous waste dumps.

4. The City shall establish standards for construction of wells, see that permits are required for construction of wells, and monitor existing wells to guard against pollution.

(3)(a) Goal: The City shall protect, preserve, and restore the important environmental resources of the City and the Reserve Area.

(b) Objectives:

1. The City shall plan for protection of the estuaries, rivers, creeks, and other waterways as well as wetlands, as defined by law, within the City and Reserve Area, including plans for:

a. Protection of headwaters from development having unmitigated adverse effect.

b. Protection of the watercourses from harmful runoff and other pollution.

c. Improvement of the quality and level of treatment of the effluent that is discharged into these waters.

d. Alternatives to the discharge of effluent into these waterways.

e. Clean-up and restoration of the waterways.

2. The City shall restrict degradation of primary ocean dunes by development or by vehicular or pedestrian traffic, restore dunes where possible; protect the ocean beach from erosion and loss of sand, and develop catastrophe recovery and preparedness plans.

3. The City shall endeavor to establish user-oriented parks and recreation areas, open space, and public facilities, especially along the ocean-front and rivers.

4. The City shall protect its historic and scenic amenities with plans and programs for those structures or lands in the City and its Reserve Area that have historical, archaeological, architectural, scenic, or similar significance.

(4)(a) Goal: The City shall promote the development of a stronger and more broadly based and well-balanced economy in order to increase employment and economic opportunities for its residents.

(b) Objectives:

1. The City shall develop principles and guidelines for the commercial and industrial development of the City, and affirmative policies designed to expand, balance, and stabilize the economic base of the City by:

a. Attracting new businesses and new employment to the City through cooperation with the County of Volusia and neighboring municipalities in programs to recruit prospective businesses.

b. Encouraging expansion of existing businesses, developing small business enterprises, and creating new minority enterprise and employment opportunities.

c. Developing public facilities to support diversified economic development.

d. Providing adequate affordable housing and other community amenities needed by prospective businesses.

2. The City shall plan for the support and improvement of its resort and tourist industry through programs to:

a. Promote higher quality tourist business.

b. Develop and redevelop the beachfront area to protect its value as the City's most valuable economic asset.

c. Protect the quality of the experience of using the beach for pleasant, wholesome, and safe recreation.

d. Maintain long-term policies that protect and promote public access to the beach.

e. Promote other area resort attractions.

3. The City shall adopt an affirmative action policy and attempt to involve the total community in broadening and stabilizing the City's economic base.

4. The City shall ensure that, consistent with all requirements of law or ordinance, applications for permits, approvals, and development orders are handled efficiently and expeditiously on the basis of reliable rules consistently applied without undue delay.

Section 3.03 Goals and objectives; Annual Report.—Not less often than annually and in conjunction with annual review of the comprehensive plan, the City Council shall cause to be prepared and made public a report of the Council that fairly and accurately describes for the primary benefit of the residents of the City, the City's progress toward achieving the goals and objectives of the City, as set forth in this Charter and as prescribed by the City Council. In the preparation of the annual progress report, the Council shall receive and consider the reports of the City's Standing Commissions, the Local Planning Agency, and the Manager concerning the annual citizen survey. The annual progress report shall update and supplement objectives consistent with the goals of the City. The Council shall hold a public hearing on the annual progress report.

Section 3.04 Statement of Intent Regarding Inclusion in City and Reserve Area of Certain Areas.—The City and Reserve Area include natural features that are environmentally sensitive and important to the life and well-being of its residents. These natural features include: the Halifax River, the Tomoka River, and Spruce Creek, as well as their tributaries and headwaters; wetlands (as defined by general law); and the barrier island beach and its remaining dunes. These areas have been included within the City and its Reserve Area so that development affecting these features and their preservation may be controlled by the City's comprehensive plan. No inference shall be drawn from the inclusion of lands within the City or the Reserve Area that such land is now deemed suitable for development. No inference shall be drawn from this paragraph that any specific lands are not suitable for development.

Section 3.05 Mandates for Policies and Elements of Comprehensive Plan for Future Growth of the City and Reserve Area.—In addition to all other requirements imposed by law or by this charter, the City's comprehensive plan, including all required and optional elements thereof, shall comply with the following mandates:

(1) The plan shall be adopted as an ordinance.

(2) The plan may be amended only by enactment of an ordinance.

(3) The plan shall be comprehensively reviewed annually, and it may by ordinance be amended once each year to conform it to changed circumstances or other conditions.

(4) Except upon the occasion of the regular annual amendment, the plan may be amended only by adoption of an amendatory ordinance upon the affirmative vote of eight members of the council.

(5) The plan shall be adopted in accordance with the procedures required by law. In addition to the requirements for participation by the public and by the Local Planning Agency, the plan shall be reviewed and prepared in cooperation with the Standing Commissions and Community Trustees. Residents and property owners of the Reserve Area shall be accorded the same rights of notice, participation, and standing in the comprehensive planning process as are accorded to residents and property owners of the City.

(6) The plan shall identify those goals, objectives, and policies that are to be achieved and implemented within a period of 5 years and those goals, objectives, and policies that are to be achieved and implemented over longer, but specified periods of time.

(7) The plan shall include a land use map that details its provisions, which map shall clearly show residential uses, commercial uses, industrial uses, agricultural uses, areas in transition, recreational areas, conservation areas, educational facilities, public buildings, public facilities, wetlands, as defined by general law, estuarine marshes, beaches, shores, flood plains, rivers, lakes, harbor facilities, undeveloped coastal barriers, and other uses and characteristics pertinent to the textual provisions of the plan.

(8) The plan shall require that all development orders and development regulations enacted or amended shall be consistent with the adopted comprehensive plan and shall prohibit any change in existing zoning of lands until a period of 2 years after adoption of the comprehensive plan, except on recommendation of the appropriate zoning board or upon affirmative vote of eight members of the Council. A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, timing and other aspects of development permitted by such order or regulation are compatible with or further the objectives, policies, land uses, densities or intensities in the comprehensive plan and do not inhibit or obstruct these objectives, policies, land uses, and densities or intensities. A development undertaken by the local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and do not inhibit or obstruct these objective policies, land uses, and densities or intensities. A development order or regulation is not inconsistent merely because it is more restrictive than the plan if the regulation or order affects the Reserve Area or if the plan sets forth a future time for effectiveness of less restrictive rules.

(9) The plan shall include a Capital Improvements Plan, which shall encompass a 5-year program, to be reviewed and amended as necessary annually. This plan shall include all capital projects, including utilities, roads, streets, bridges, and public facilities, all of which shall be consistent with all elements of the comprehensive plan. The Capital Improvements Plan shall identify the method or methods of financing planned improvements.

(10) In addition to all elements required by law and any additional elements included in the plan by the Council, the plan shall include a Rivers Element, a Beach Element, an Economic Development Element, and a Historic Preservation Element, each of which shall be developed in cooperation with the appropriate Standing Commissions.

Section 3.06 Consistency Statement.—The City shall cause its planning staff to prepare a written statement analyzing every proposed development regulation, actions taken in regard to a development, development order, or other policy covered by the plan with respect to its consistency with the plan. Such Plan Consistency Statement shall be referred for advisory recommendation to any Standing Commission that has responsibility to monitor an element mentioned in the Plan Consistency Statement.

Section 3.07 Standing Commissions.—

(1) In addition to the Local Planning Agency required by law, there shall be a Beach Commission, a Rivers Commission, an Economic Development Commission, and a Historic Preservation Commission. Each commission shall be composed of residents of the City or Reserve Area appointed as provided by ordinance and serving staggered terms of 3 years, as provided by ordinance. The Manager shall see that the standing commissions are provided adequate staff and facilities to perform their official duties.

(2) The duties of the Beach Commission shall be to:

(a) Assist the Council and planning agency in the development of the beach element of the comprehensive plan.

(b) Monitor the enforcement and implementation of such element.

(c) Make such formal recommendations to the Council as will tend to enhance and protect the beach as the City's most important economic and recreation resource and its most valuable natural amenity.

(d) Annually make a report to the Council concerning the state of the beach and the status of the beach element of the plan.

(e) Perform such other duties as may be prescribed by ordinance.

(3) The duties of the Rivers Commission shall be to:

(a) Assist the Council and planning agency in the development of the Rivers Element of the comprehensive plan.

(b) Monitor the enforcement and implementation of such element.

(c) Make such formal recommendations to the Council as preserve and maintain these waterways.

(d) Make an annual report to the Council concerning the state of the estuaries, rivers, creeks, and other waterways, as well as wetlands, as defined by general law, within the City and its Reserve Area and upon the status of the Rivers Element of the plan.

(e) Perform such other duties as may be prescribed by ordinance.

(4) The duties of the Economic Development Commission shall be to:

(a) Assist the Council and planning agency in the development of the economic development element of the comprehensive plan.

(b) Make such formal recommendations to the Council as will tend to assist in the attraction of desirable business and industry to the city consistent with the comprehensive plan.

(c) Monitor the enforcement and implementation of the economic development element of the plan.

(d) Make an annual report to the Council concerning the state of the economy of the City and its Reserve Area and the status of the Economic Development Element of the Plan.

(e) Perform such other duties as may be prescribed by ordinance.

(5) The duties of the Historic Preservation Commission shall be to:

(a) Assist the Council and the planning agency in the development of the historic preservation element of the comprehensive plan.

(b) Make such recommendations to the Council as will tend to assist in the preservation and restoration of structures or lands having historical, archaeological, architectural, scenic, or similar significance, consistent with the comprehensive plan.

(c) Monitor the enforcement and implementation of the historical preservation element of the plan.

(d) Make an annual report to the Council concerning the duties assigned to this Commission.

(6) The annual report of each Standing Commission shall include its evaluation of the City's progress toward achieving those goals and objectives of the City related to its duties as well as its recommendations concerning the updating and supplementation of objectives consistent with the goals of the City.

ARTICLE IV

COMMUNITIES: POLICIES REGARDING PRESERVATION OF CHARACTER OF COMMUNITIES

Section 4.01 Statement of Intent.—This City comprises Former Constituent Municipalities and unincorporated areas that are distinct Communities. Each Community possesses certain unique and desirable characteristics and aesthetic qualities that contribute to the maintenance of property values and provide a pleasant, safe, and wholesome atmosphere that is conducive to the health, safety, and welfare of its residents. Although this charter unifies the governments of these Former Constituent Municipalities and unincorporated areas, it is not intended to eliminate the desirable distinctive features of the Communities. It shall be the goal of the City, consistent with the public interest, to protect, preserve, and enhance the unique and desirable characteristics of each Community within the City, in that the Communities are valued assets of the City. Restrictions on height of buildings, regulations regarding the use of oceanfront and other waterfront property, regulations regarding preservation of natural and environmental amenities, and regulations protecting residential neighborhoods from incompatible uses shall continue in effect substantially as in effect on the effective date of this Charter, subject to change as authorized by this Charter. Such regulations shall be adopted into uniform citywide ordinances that incorporate their substance into appropriate zoning districts, classifications, and other provisions. It is not intended that these or any other existing land use regulations must be changed solely for the purpose of causing any one area of the City to conform to any other area.

Section 4.02 Communities.—To effect the intent of this article, the City shall be subdivided into Communities. The land that is included within the corporate limits of each Former Constituent Municipality on the effective date of this charter shall constitute a separate Community. The unincorporated land encompassed by the North Peninsula Municipal Service District shall constitute a Community to be known as "Community of North Peninsula," the land encompassed by the South Peninsula Municipal Service District shall constitute a Community to be known as "Community of South Peninsula," and the land currently in the fire district of Allendale - Harbor Oaks shall constitute a Community to be known as "Community of Allendale - Harbor Oaks." In addition, the Council shall assign all remaining land within the City either into additional Communities or into one or more of the Communities created herein, as the Council may determine after considering the nature of each area. Each Community comprised of the land of a Former Constituent Municipality shall be known by the name of the Former Constituent Municipality, as follows: "Community of (*name of municipality*)."
Any new Community created by the Council shall be known by such name as may be adopted by the Council.

Section 4.03 Community Trustees.—

(1) TRUSTEES.—There shall be a Board of Trustees for each Community.

(2) FIRST TRUSTEES.—The governing body of each Former Constituent Municipality shall serve as the first Board of Community Trustees of the succeeding Community. The advisory boards of the North and South Peninsula Municipal Services Districts, respectively, shall serve as the first Community Trustees of their respective Communities. The Council shall appoint the first Board of Community Trustees, which shall have five members, of all other Communities. Until successors take office, the first Trustees shall discharge all duties and responsibilities of the Community Trustees. Any vacancy in the office of Trustee under this paragraph shall be filled by the Council.

(3) SUCCESSOR TRUSTEES.—The Council shall provide by ordinance for the selection and appointment of successor Trustees for each Community to take office 1 year after the effective date of this charter. There shall be five Trustees for each Community. Each trustee shall serve such terms, possess such qualifications, and operate pursuant to such bylaws and rules of procedure as may be prescribed by ordinance adopted by the Council for uniform application to all Communities.

(4) SELECTION OF TRUSTEES.—The Council shall provide by ordinance for a uniform method of selection and removal of Community Trustees. Such selection may be by election, by appointment of the Mayor, by appointment of the Council, or such other method as may be prescribed by the Council. The Council shall prescribe such qualifications for the office of Trustee as may reasonably assure that the Trustee is a resident of the Community, familiar with its individual characteristics, and qualified to perform the duties of Trustee.

Section 4.04 Powers and Functions of Community Trustees.—The Community Trustees shall have the power and it shall be their duty as follows:

(1) The Trustees shall serve as the zoning board of the Community, and in furtherance of that function, to the extent that any of the following have application or effect on land use or preservation within the Community, the Trustees shall:

(a) Review proposed amendments to the future land use element of comprehensive plans, zoning ordinances, zoning maps, and sign ordinances as enacted by Former Constituent Governments and continued in effect under the transitional rules of this charter, hold public hearings, and make recommendations concerning the proposal to the Council.

(b) Review the future land use element of the proposed comprehensive plan, hold public hearings, and make recommendations concerning the proposal to the Council.

(c) Review any proposed amendment to the future land use element of the comprehensive plan, hold public hearings, and make recommendations concerning the proposal to the Council.

(d) Review the proposed zoning ordinance and map of the City, hold public hearings, and make recommendations concerning the proposal to the Council.

(e) Review any proposed amendment to the zoning ordinance, zoning map, or sign ordinances, hold public hearings, and make recommendations concerning the proposal to the Council. If the Trustees of the Community shall disapprove a reviewed proposal with respect to territory within its Community, then the Council may adopt such proposal only upon the affirmative vote of eight members of the Council.

(2) The Trustees shall perform such additional functions and exercise such further powers as may be authorized or directed by the Council.

Section 4.05 Staff.—The Manager shall provide the Trustees with adequate staff and facilities to discharge their official duties.

Section 4.06 Merger of Communities.—Any two or more communities may merge pursuant to a joint resolution adopted by the respective Boards of Trustees and approved by vote of a majority of the electors voting within each Community at a referendum held pursuant to ordinance.

ARTICLE V
CITY COUNCIL AND MAYOR

Section 5.01 City Council; Composition.—There shall be a City Council, consisting of 13 Members: A Mayor elected by the City at large, and 12 Council Members, each elected from a single member district. A Council Member shall be a qualified elector of the City and a resident of the district within which he qualifies. Each council district shall elect one Council Member. The initial council districts shall be fixed by the Municipal Reorganization Board, as provided in Section 12.02 of this charter. Except as provided for the first Mayor and Council, the term of office of the Mayor and each Council Member shall commence at 12 noon on the first Tuesday of December following the date of the general City election.

Section 5.02 Reapportionment of Council Districts.—Following each official federal census the Council shall apportion the 12 council districts so that all districts are as nearly equal in population as practicable, and are arranged in a logical and compact geographic pattern. Reapportionment shall be completed at least 6 months prior to the next general City election and shall not affect the term of office of any incumbent.

Section 5.03 Election and Terms.—Council Members shall be elected in the regular City primary and general elections held in odd-numbered years in the manner provided in Article VII of this charter. Council Members shall serve staggered 4-year terms as hereinafter provided. A Council Member who is elected for two consecutive 4-year terms shall not be eligible to be elected for the succeeding term, but he shall be eligible to be elected as Mayor.

Section 5.04 Compensation and Expenses.—Council Members shall serve with compensation and shall receive reimbursement for authorized travel and per diem as prescribed in s. 112.061, Florida Statutes, or as otherwise provided by law, incurred in the performance of their official duties. The salary of Council Members, together with the manner of payment, shall be established by ordinance adopted at least 6 months prior to the next general City election. Until otherwise provided by ordinance,

the annual salary of a council member shall be \$7,500, payable in equal monthly installments. No increase in salary shall become effective until commencement of terms of Council Members elected at the next regular City election.

Section 5.05 General Powers and Duties of Council.—Except as otherwise prescribed herein or by law, all powers of the City shall be vested in the Council. The Council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the City by law.

Section 5.06 The Mayor; Term; Qualification; Election; Compensation.—

(1) The Mayor shall be an elector of the City and shall be elected for a term of 4 years by the electors of the City at large.

(2) The Mayor shall be elected in the regular city primary and general elections held in odd-numbered years at 4-year intervals in the manner prescribed in Article VII of this Charter.

(3) The annual salary of the Mayor shall be \$15,000, payable in equal monthly installments, unless increased or decreased by ordinance of the Council; provided that such compensation shall not be diminished during his term of office. The Mayor shall receive travel and per diem expenses incurred in the performance of his official duties according to s. 112.061, Florida Statutes, or as otherwise provided by law.

Section 5.07 Powers and Duties of Mayor.—The Mayor shall have the power and it shall be his duty:

(1) To be the official spokesman for the City and its chief advocate of policy.

(2) To preside at all meetings of the Council.

(3) To have the right to vote and for all purposes to be deemed a member of the Council.

(4) To sign ordinances on their final passage and to sign deeds, bonds, contracts, and other instruments and documents in any case in which the execution of legal instruments of writing or of other necessity, arising where the laws of the State, or provisions of the charter, or ordinance or resolution to the Council so require.

(5) To be recognized by the courts for the purposes of martial law and for all ceremonial purposes.

(6) With consent of the Council, to take command of the police, govern the City by proclamation, and maintain order and enforce the laws in times of grave danger or emergency. If the President of the United States or the Governor of the State of Florida declares an emergency to exist, to take command of the police, govern the City, and maintain order and enforce laws until such time as the Council is able to give its consent or otherwise to act.

(7) To call special meetings of the Council as provided by section 5.14 of this charter.

(8) To make recommendations to the Council for legislation and studies concerning all matters relating to the City and its welfare.

(9) To represent the City in its intergovernmental relations.

(10) To appoint for his information and assistance, and to serve at his pleasure, advisory boards, commissions, and committees.

(11) To require reconsideration of ordinances passed by the Council as provided in Section 5.17 of this charter.

(12) To perform such other duties as may be required by law, this charter, ordinance, or resolution.

Section 5.08 Limitation on Terms of Service.—A Mayor who has been elected for two consecutive 4-year terms shall not be eligible to be elected for the succeeding term, but he shall be eligible to be elected as a Council Member in the district in which he is a resident at the time he qualifies for office.

Section 5.09 Office of the Vice Mayor.—In the temporary absence or disability of the Mayor, the Vice Mayor shall perform the duties of the Mayor. The Vice Mayor shall be one of the Council Members. On the date of commencement of the first regular term of the Council, the Council Member of District 1 shall automatically become the Vice Mayor and

shall retain the office until the first Tuesday in December 1986. Thereafter, the office of Vice Mayor shall be rotated each 6 months among Council Members in order according to their consecutively numbered council districts. A permanent vacancy in the Office of Mayor shall be filled as elsewhere provided in this charter; however, until a permanent vacancy in the Office of Mayor is filled, the Vice Mayor shall perform the duties of the Mayor.

Section 5.10 Prohibitions.—

(1) **HOLDING OTHER OFFICE.**—No former Mayor or Council Member shall hold any compensated appointive City office or employment until 1 year after the expiration of the term of office to which he was elected or appointed.

(2) **COUNCIL NOT TO INTERFERE IN ADMINISTRATIVE AFFAIRS.**—Neither the Mayor nor any Council member shall direct or request any personnel action by the Manager or any of his subordinates, nor interfere with the performance by the Manager of any duties required of him by this charter. Except for the purpose of inquiry, investigation, or oversight, the Mayor, the Council, and its members shall deal with the City's administrative service solely through the Manager, and neither Council Members nor the Mayor shall give directions or make requests to any subordinates of the Manager. Nothing in this section shall be construed to prohibit or restrict the Mayor or any individual member of the Council from making inquiry by questions and personal observation, concerning any aspect of city government operations so as to obtain independent information to assist the Mayor or a member in the formulation of sound policies to be considered by the Council. This section shall not preclude the Council from making known to the Manager its views concerning personnel actions and the internal administration of City government.

Section 5.11 Vacancies; Forfeiture of Office; Filling of Vacancies.—

(1) **VACANCIES.**—A vacancy in the office of Mayor or in the office of Council member shall occur upon the death of the incumbent, his removal from office, resignation, succession to other office, unexplained absence for 60 consecutive days, his judicially determined incompetency, or his forfeiture of office as prescribed in subsection (2).

(2) **FORFEITURE OF OFFICE.**—The Mayor or a Council Member shall forfeit his office if he:

(a) Lacks at any time or fails to maintain during the term of office any qualification for the office prescribed by this charter or required by law;

(b) Is convicted of a felony, or enters a plea of guilty or nolo contendere thereto, even if an adjudication of guilt has been withheld; or is convicted of, any misdemeanor arising directly out of his official conduct or duties, or enters a plea of guilty or nolo contendere thereto, even if an adjudication of guilt has been withheld;

(c) Is found to have violated any standard of conduct or code of ethics established by law for public officials and has been suspended from office by the Governor pursuant to s. 112.317(5), Florida Statutes; or

(d) Is absent from three consecutive regular Council meetings without being excused by the Council.

(3) **SUSPENSION FROM OFFICE.**—The Mayor or any Council Member shall be suspended from office upon return of an indictment or issuance of any information charging the Mayor or Council Member with any felony, or with a misdemeanor arising directly out of his official conduct or duties. During the period of suspension, the Mayor or Council Member shall not perform any official act, duty or function, or receive any pay, allowance, emolument, or privilege of office. If the Mayor or Council Member is found not guilty, or the charges are otherwise dismissed, the suspension shall be lifted and the Mayor or Council Member shall be entitled to full back pay and such other emoluments or allowances to which he would have been entitled had he not been suspended.

(4) **FILLING OF VACANCIES.**—A vacancy in the Office of Mayor or of the Council shall be filled in one of the following ways:

(a) If there is less than 6 months remaining in the unexpired term or if there is less than 6 months before the next regular City election, the Council by a majority vote of the remaining members shall choose a successor to serve until the newly elected Mayor or Council Member is qualified. If 2 years remain in the term of the vacated seat at the time of the next regular election, that seat shall be filled by election for the remaining 2 years;

(b) If there is 6 months or more remaining in the unexpired term and no regular City election is scheduled within 6 months, the Council shall fill the vacancy on an interim basis as provided in paragraph (a), and shall schedule a special election to be held no sooner than 60 days, nor more than 90 days following the occurrence of the vacancy. If a run-off election is necessary, it shall be scheduled 2 weeks following the election.

Notwithstanding any quorum requirements established herein, if at any time the membership of the Council is reduced to less than a quorum, the remaining members may by majority vote, appoint additional members under either paragraph (a) or (b).

(5) **EXTRAORDINARY VACANCIES.**—In the event that the Mayor and all members of the Council are removed by death, disability, or forfeiture of office, the Governor shall appoint an interim Council that shall call a special election as provided in subsection (4) and such election shall be held in the same manner as the first election under this charter.

Section 5.12 City Clerk.—The Manager shall appoint a Clerk of the Council who shall be the official custodian of the records of the City, shall give notice of Council meetings to its members and to the public, shall keep the journal of its proceedings, and shall provide clerical assistance to Council Members and the Mayor in the discharge of their official duties, as may be prescribed by act of the Council.

Section 5.13 The Internal Auditor.—

(1) The Council may appoint an Internal Auditor who shall serve at the pleasure of the Council. The compensation of the Internal Auditor shall be fixed by the Council.

(2) The Internal Auditor shall be responsible, under the direction and supervision of the Council, for the periodic audit of the accounts and fiscal affairs of the City. The Internal Auditor may review the financial and management procedures and systems, and comment on their adequacy for control and safeguard of all City funds. The Council may authorize the Internal Auditor to perform audits, investigations and inquiries, including without limitation, performance audits and oversight audits. All audits, reports and comments of the Internal Auditor shall be submitted to the Council in writing and copies shall be furnished by him to the Mayor, Manager and the officer or department concerned. The Manager shall respond to such audits, reports, and comments within such time as shall be required by the Council.

Section 5.14 Procedure.—

(1) **MEETINGS.**—The Council shall meet regularly at least twice in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of a majority of the Council Members and, whenever practicable, upon no less than 12 hours notice to each member and the public. All meetings shall be public, unless otherwise required by law.

(2) **RULES AND JOURNAL.**—The Council shall determine its own rules, which shall be reduced to writing, shall determine its order of business, and shall keep a journal containing all minutes of meetings and a record of all of its official acts.

(3) **VOTING.**—Voting, on ordinances and resolutions, shall be by roll call and shall be recorded in the journal. A majority of the Council shall constitute a quorum, but a smaller number may convene from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Except as otherwise provided in this charter, or by law, the Council shall act only by the affirmative vote of the majority of a quorum present.

Section 5.15 Legislative Action.—

(1) The Council shall act by ordinance, resolution or motion.

(2) In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the Council shall be by ordinance which:

(a) Adopt or amend an administrative code or establish, alter or abolish any City department or agency.

(b) Grant, renew or extend a franchise.

(c) Authorize the borrowing of money not inconsistent with the limitations in the constitution and general law of the state.

(d) Purchase, convey, or lease for in excess of 5 years, or authorize by administrative action the purchase, conveyance or lease for in excess of 5 years of any lands of the City.

Section 5.16 Emergency Ordinances.—Emergency ordinances may be enacted as provided by general law.

Section 5.17 Submission of Ordinances to the Mayor.—

(1) Every ordinance passed by the Council shall be presented by the Clerk to the Mayor for his signature and approval as promptly as possible following its final passage.

(2) No later than 5:00 p.m. on the third business day after the date of receipt by him, the Mayor shall return the ordinance to the Clerk with or without his approval. If the ordinance has been approved by the Mayor, it shall be deemed enacted; if the ordinance has not been approved, it shall be resubmitted to the Council through the Clerk with the Mayor's written motion that the ordinance be reconsidered, which motion shall state specifically the reasons why the Mayor has withheld his approval and wishes to have the ordinance reconsidered. The Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor.

(3) If the Mayor fails to approve the ordinance in accordance with subsections (1) and (2) or does not resubmit the ordinance with his written motion for reconsideration as provided in subsection (2), the ordinance shall be deemed enacted upon the expiration of the period prescribed in subsection (2) and the Mayor shall sign the ordinance as a ministerial act.

(4) Each ordinance resubmitted by the Mayor with his written motion for reconsideration shall be presented by the Clerk to the Council at its next regular or special meeting. If the Council after discussion on the merits then reaffirms its action by a majority vote of the Council present, the ordinance shall be deemed enacted upon the expiration of the period prescribed in subsection (2) and the Mayor shall sign the ordinance as a ministerial act.

Section 5.18 Budget Adoption.—The Council shall by ordinance adopt the budget on or before the 30th day of September of each year. If it fails to adopt the budget by this date, the Council by resolution may direct that the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of 15 days and renewed by resolution each 15 days with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

Section 5.19 Appropriation Amendments During the Fiscal Year.—

(1) SUPPLEMENTAL APPROPRIATIONS.—If during the fiscal year revenue in excess of those estimated in the budget are available for appropriation, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(2) REDUCTION OF APPROPRIATIONS.—If at any time during the fiscal year it appears probable to the Manager that the revenue available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one or more appropriations.

(3) LIMITATIONS; EFFECTIVE DATE.—No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law or by contract to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(4) TRANSFER OF APPROPRIATIONS.—At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

Section 5.20 Authentication, Recording and Disposition of Charter Amendments, Ordinances and Resolutions.—

(1) AUTHENTICATION.—The Mayor and the Clerk shall authenticate by their signatures all ordinances enacted and resolutions adopted by the Council. In addition, when charter amendments have been approved by the electors, the Mayor and the Clerk shall authenticate by their signatures the charter amendment, such authentication to reflect the approval of the charter amendment by the electorate.

(2) RECORDING.—The Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Council. Ordinances shall, at the direction of the Council, be periodically codified. The Clerk shall also maintain the charter in current form and shall enter all charter amendments and file copies of amendments with the Secretary of State's office.

(3) PRINTING.—The Council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the City for public inspection and available for purchase at a reasonable price.

Section 5.21 Code of Technical Regulations.—The Council may by ordinance adopt, amend, or repeal, by reference, any standard code of technical regulations. The procedure and requirements governing the adoption, amendment, or repeal of a code of technical regulations ordinance shall be as prescribed for ordinances generally, except that the requirements of section 5.20 for distribution and filing of copies of the ordinances shall be construed to include copies of the code of technical regulations.

ARTICLE VI
ADMINISTRATION

Section 6.01 General Provisions Concerning Departments.—

(1) There shall be a City Manager who shall be the chief administrative officer of the City. The Manager shall be responsible to the Council for all executive and administrative functions of the City.

(2) The executive and administrative functions and programs of the City shall be allocated to and vested in such departments as are created and established by ordinance.

(3) There shall be a director of each department who shall be an officer of the City and the principal officer of his department. Except as otherwise provided by law or this charter, each director shall, subject to the supervision and direction of the Manager, be responsible for the conduct and operations of his department, including the general management and control of such divisions, bureaus or other units of the departments, as may be prescribed by ordinance of the Council.

(4) All directors of departments shall be appointed by the Manager with the advice and consent of the Council, except where another appointing authority has been provided by this charter or by law. Directors shall serve at the pleasure of the Manager.

(5) Except as otherwise provided by law, the directors of departments and other appointed officers of the City shall be appointed on the basis of their respective executive, administrative, and professional qualifications and experience.

Section 6.02 City Manager; Appointment; Removal; Compensation.—

(1) APPOINTMENT.—The Manager shall be appointed by majority vote of the Council, and shall serve at the pleasure of the Council. The Manager shall be chosen on the basis of his professional training, executive, and administrative experience, and qualifications. He shall maintain residency within the City during his tenure of office and shall not engage in any other business or occupation.

(2) REMOVAL.—The Council may remove the Manager by a majority vote of all the Council, and upon demand by the Manager, a public hearing will be held prior to a vote to remove the Manager.

(3) COMPENSATION.—The compensation of the Manager shall be fixed by the Council.

Section 6.03 Acting City Manager.—Within a reasonable time, but not more than 60 days after his appointment, the Manager shall by letter filed with the Council, which he may change at will, designate a qualified city administrative employee to exercise the powers and perform the

duties of Manager during the Manager's temporary absence or disability. During any absence or disability, the Council may revoke such designation at any time and appoint another employee of the City to serve until the Manager shall return or the Manager's disability shall cease.

Section 6.04 Powers and Duties of City Manager.—The City Manager shall:

(1) Appoint and, when deemed necessary for the good of the City, suspend or remove any City employee or officer provided by or under this charter, except as otherwise provided by law, or this charter or personnel rules adopted pursuant to this charter. The Manager may authorize any administrative officer who is subject to the direction and supervision of the Manager to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this charter or by law.

(3) Attend all Council meetings and have the right to take part in discussion but may not vote.

(4) Prepare the agenda for each Council meeting, and include thereon any item requested by the Mayor or any Council Member.

(5) See that all laws, provisions of this charter, and acts of the Council are faithfully executed.

(6) Prepare and submit an annual budget.

(7) Submit to the Council and make available to the public, a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(8) Make such other reports as the Council may require concerning the operations of City departments, offices, and agencies subject to his direction and supervision.

(9) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(10) Perform such other duties as are specified in this charter or as may be required by the Council.

(11) Provide general liaison between the Council and all departments, boards, commissions, and employees of the City.

(12) Regularly examine accounts, records and operations of every board, commission, authority, department, office, and agency which receive appropriations from the Council.

(13) Ensure that City government and services are properly responsive to the needs of the citizens, and to that end:

(a) Establish an effective system for response to citizen complaints, questions, or requests concerning City services.

(b) To the extent practical, endeavor to maintain offices for the conduct of public business convenient to each Community.

(c) Annually determine citizen opinions concerning the quality and effectiveness of City services through such techniques as citizen surveys based on random samples or other systematic studies, the results of which shall be reported to the Council and to the public.

Section 6.05 Supervision of Departments.—Except as otherwise provided in this charter or by law, the Manager shall be responsible for the supervision and direction of all departments, agencies or offices of the City. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

Section 6.06 Administrative Code.—

(1) The Council shall adopt by ordinance, and from time to time amend, an Administrative Code. The Code shall be prepared and submitted by the Manager and to the Council for its consideration and adoption within 120 days after the effective date of this Charter. The Code shall be updated and revised by amendment at least annually.

(2) The Code shall include, but shall not be limited to, the following:

(a) An organizational chart and description by function and program responsibility of all departments, divisions, and subagencies of city government.

(b) The personnel regulations and policies of the City.

(c) The budgetary procedures of the City.

(d) The rules of practice and procedure, including standing policies regarding meeting times and places, of all quasi-judicial tribunals, zoning boards, code enforcement boards, standing committees, including advisory committees, and commissions, created by ordinance or by this Charter.

(e) The policies of the City regarding public access to records and meetings of the City.

(f) Other administrative rules and procedures that are not otherwise covered in this Charter.

(3) The Code shall include an information copy of the rules of parliamentary order and practice of the Council as adopted and amended from time to time by the Council. The adoption of the Code as an ordinance shall not effect the status of the Council's Rules of Procedure. Notwithstanding such adoption as a part of the Code, the Council's Rules of Procedure may be adopted or amended by resolution of the Council.

Section 6.07 City Attorney; Appointment; Removal; Compensation.—

(1) APPOINTMENT.—There shall be a City Attorney who shall be appointed by the Manager with the advice and consent of the Council, and who shall serve at the pleasure of the majority of the Council Members. The City Attorney shall be chosen on the basis of his professional training and qualifications. He shall be a member of The Florida Bar and a full-time employee of the City, and shall not otherwise engage in the practice of law.

(2) REMOVAL.—The City Attorney may be removed only by a majority vote of all the Council members and, upon demand by the City Attorney, a public hearing shall be held prior to a vote to remove the City Attorney.

(3) COMPENSATION.—The compensation of the City Attorney shall be fixed by the Council.

Section 6.08 Assistant City Attorney and Special Counsel.—The Council may authorize the employment of one or more Assistant City Attorneys and the retention of special counsel where the circumstances of a particular case warrant.

Section 6.09 Powers and Duties of the City Attorney.—

(1) The City Attorney or his designated Assistant shall attend all Council meetings and perform such professional duties as may be required of him by law, by the Manager, or by the Council.

(2) The City Attorney shall act as legal advisor to, and attorney and counselor for, the Mayor, the Council, the City and all of its elected and appointed officers, all departments and divisions of the City government, and all regulatory and advisory boards on all legal matters relating to their official duties. No contract with the City shall be valid or take effect until its approval as to form and correctness is endorsed thereon by the City Attorney or an Assistant City Attorney specifically authorized by the Council.

ARTICLE VII NOMINATIONS AND ELECTIONS

Section 7.01 Electors.—Any person who is a resident of the City, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the City shall be an elector of the City.

Section 7.02 Nonpartisan Elections.—All nominations and elections for the office of Council Member shall be conducted on a nonpartisan basis without regard to a designation of political party affiliation of any nominee on any nominating petition or ballot.

Section 7.03 Nominations.—In order to qualify for election, each candidate for the Council shall submit a petition supporting such candidacy of no less than 25 persons who are qualified electors of the district in which the candidate seeks to qualify. In order to qualify for election, can-

didates for the office of Mayor shall submit a petition of no less than 25 qualified electors supporting his candidacy. The manner, time, and form of the submission and acceptance of nominating petitions and other qualifying papers shall be provided by ordinance adopted at least 90 days prior to the commencement of the qualifying period.

Section 7.04 Elections.—If there are more than two candidates for an elective city office, there shall be a primary election. Any candidate receiving a majority of the votes cast therein shall be declared elected. If no candidate receives a majority of the votes cast in the primary election, the names of the two candidates receiving the highest number of votes for each Council seat to be filled shall be placed on the ballot for a general election. If there are only two candidates for an elective city office, there shall be a general election and whichever candidate receives a majority of the votes cast shall be declared elected. The regular city primary election shall be held on the second Tuesday of October in each odd-numbered year, and the regular city general election shall be held on the second Tuesday in November of each odd-numbered year.

ARTICLE VIII
INITIATIVE, REFERENDUM, RECALL

Section 8.01 Initiative and Referendum.—

(1) INITIATIVE.—The electors of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, the power to adopt or reject it at a City election, provided that such power shall not extend to the inducement, authorization or issuance of bonds or other evidences of indebtedness, the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees, or to the adoption of amendment of a comprehensive plan, a development order or to zoning or rezoning or use of real property.

(2) REFERENDUM.—The electors of the City shall have the power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered, the power to approve or reject it at a City election, provided that such power shall not extend to the inducement, authorization or issuance of bonds, or to any emergency ordinance or ordinance relating to appropriation of money, levy of taxes, or salaries of City officers or employees, or to the adoption or amendment of a comprehensive plan, a development order, or to zoning or rezoning or use of real property.

(3) COMMENCEMENT OF PROCEEDINGS.—Any five electors may commence initiative or referendum proceedings by filing with the Clerk or other official designated by the Council an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Clerk or other official designated by the Council may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

(4) PETITIONS.—

(a) Number of Signatures.—Initiative and referendum petitions must be signed by electors of the City equal in number to at least 10 percent of the total number of electors registered to vote at the last regular City election.

(b) Form and Content.—All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of Circulator.—Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for Filing Referendum Petitions.—Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

(5) PROCEDURE FOR FILING.—

(a) Certificate of Clerk; Amendment.—Within 20 days after the initiative petition or referendum petition is filed, the Clerk or other official designated by the Council shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by certified mail, return receipt requested. Grounds for insufficiency are only those specified in subsection (3). A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk or other official designated by the Council within 2 days after receiving the copy of the certificate, and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (4)(b) and (c), and within 5 days after it is filed the Clerk or other official designated by the Council shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by certified mail, return receipt requested, as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under paragraph (b) within the time required, the Clerk or other official designated by the Council shall promptly present his certificate which shall then be a final determination as to the sufficiency of the petition.

(b) Council Review.—If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(6) REFERENDUM PETITIONS, SUSPENSION OF EFFECT OF ORDINANCE.—When a referendum petition is filed with the Clerk or other official designated by the Council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such a suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition;
- (b) The petitioners' committee withdraws the petition;
- (c) The Council repeals the ordinance; or
- (d) A vote of the City on the ordinance has been certified.

(7) ACTION ON PETITIONS.—

(a) Action by Council.—When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article V or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days, it shall submit the proposed or referred ordinance to the voters of the City.

(b) Submission to Electors.—The vote of the qualified electors of the City on a proposed or referred ordinance shall be held no less than 30 days and no later than 60 days from the date that the petition is determined sufficient. If no regular City election is to be held within the period described in this subsection, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) Withdrawal of Petitions.—An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the Council a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(8) RESULTS OF ELECTION.—

(a) Initiative.—If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum.—If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 8.02 Recall.—The electors of the City shall have the power to remove from office any elected official of the City, as provided by law.

ARTICLE IX FINANCIAL

Section 9.01 Indebtedness of Former Constituent Governments.—All outstanding bonds and other evidences of indebtedness issued by Former Constituent Governments are obligations of the City, and unless otherwise provided by act of the Council, payment of such obligations and the interest thereon shall be made from and secured by taxes, revenues, and money's derived from the same sources and same area from which payment would have been made had this charter not become effective. For purposes of establishing areawide service delivery for water, sewer, and solid waste disposal, the City may refinance and consolidate all or any part of existing revenue indebtedness; provided, however, that this shall not be construed to alter or abridge responsibility for performance of, or if necessary, the payment of obligations under that certain agreement between the City of Daytona Beach and the County of Volusia dated April 21, 1982, pertaining to certain County of Volusia bonds issued to construct the Ocean Center. The Council shall have no power to cause said agreement to be paid or performed by revenues derived from any source other than those heretofore explicitly pledged thereunder. Nothing herein shall be construed to impair the rights of holders of bonds described in said agreement. Nothing herein shall be construed to impair the rights of bondholders of those Former Constituent Governments, and nothing herein shall be construed to modify the extent of the obligations or pledges of those Former Constituent Governments made to such bondholders.

Section 9.02 Indebtedness and Revenues of the County.—This City and the County of Volusia may upon mutual agreement provide for this City assuming any debt and receiving any assets, revenues, taxes, and rights and privileges under franchises of any dependent district of the County of Volusia.

Section 9.03 Funds of Former Constituent Municipalities.—Except as provided in Section 9.01, on the effective date all funds, debts, obligations, and revenues of the Former Constituent Municipalities shall become funds, debts, obligations, and revenues of the City. Any funds or revenues that were legally encumbered by the Former Constituent Municipalities shall be held and expended in accordance with such encumbrances. All records and property of the Former Constituent Governments shall be transferred to the City.

ARTICLE X RETIREMENT AND PENSION BENEFITS

Section 10.01 Retirement and Pension System Authorized.—The Council shall provide a system of retirement and pension benefits for the officers and employees of the City. Nothing in this section shall impair or diminish the rights and privileges, including rights and privileges of social security coverage, to which employees for Former Constituent Governments may be entitled under retirement and pension plans of or under Former Constituent Governments on the effective date of the charter.

Section 10.02 Former Retirement and Pension Plans.—Retirement and pension plans of Former Constituent Governments existing immediately prior to the effective date of this charter shall continue as retirement and pension systems of the City and all accrued benefits and rights under such plans shall continue unimpaired for the same duration provided in such plans and shall constitute an obligation and liability of the City. The Council may increase rights and benefits under any retirement or pension plan of a Former Constituent Government, but may not decrease accrued rights and benefits. All officers and employees of Former Constituent Governments entitled to benefits under any such

plan shall continue to be entitled to such benefits, and for the purpose of all such plans, service with the City shall constitute service under the plans. An officer or employee entitled to benefits under a retirement or pension plan of a Former Constituent Government may elect instead to be covered by the system authorized by section 10.01 of this charter, but may not be required to make such election. Officers and employees of Former Constituent Governments not covered by existing pension plans on the effective date of this charter who become employees of the City shall not be eligible to enter into the plans of the Former Constituent Governments, but may be eligible for participation in the system authorized by section 10.01 of this charter.

Section 10.03 Amendment of Prior Plans.—The Council shall have the power to amend or merge any plans of Former Constituent Governments and to establish which officers of the City are responsible for the administration of the plans and the handling and investment of funds under such plans.

ARTICLE XI GENERAL PROVISIONS

Section 11.01 Charter Amendment.—This charter may be amended in accordance with the provisions for Charter Amendments as specified in the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, as amended from time to time, or its successor, or otherwise as may be provided by general law. The form, content, and certification of any petition to amend shall be established by ordinance.

Section 11.02 Standards of Conduct.—All elected officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the Council may, by ordinance, establish a code of ethics for officials and employees of the City which may be supplemental to general law but in no case may an ordinance diminish the provisions of general law.

Section 11.03 Severability.—If any article, section, subsection, sentence, clause, or provision of this charter or the application thereof shall be held invalid for any reason, the remainder of the charter and of any ordinances or regulations made thereunder shall remain in full force and effect.

Section 11.04 Charter Review.—

(1) A charter review commission consisting of 13 members shall be appointed by the Council for the purpose of conducting a comprehensive study of the operation of City government and the ways in which the conduct of City government might be improved or reorganized. At least one member of the commission shall be an elector of each Council district of the City. No member of the Legislature or of the Council shall be a member of the commission.

(2) The first commission shall be appointed within 5 years of the effective date of the charter, and a commission shall be appointed at least every 10 years thereafter. Within 1 year from its appointment, each commission shall present to the Council any recommendations for amendment of the charter or for the improvement of City government operations.

(3) After receipt of the review commission's recommendations, the Council shall conduct a series of not less than three public hearings of each recommended amendment to the charter and shall thereafter schedule a referendum, if required by law, on each proposed charter amendment at the next regular city general election.

ARTICLE XII TRANSITION SCHEDULE

12.01 Approving Referendum; Opt-Out Referenda.—

(1) This charter shall become effective only upon the approval by a majority of those qualified electors, who reside in any Constituent Municipality or in the unincorporated area included in the boundaries described in section 14.01 or section 14.02, voting in a referendum, hereafter the "Approving Referendum," to be held on October 15, 1985, and to be called, conducted, and paid for by the County of Volusia, except that this subsection (1) shall take effect upon becoming a law. No less than 30 days public notice of such referendum shall be given. The question to appear on the ballot shall be as follows:

Shall there be a new city government consisting of the lands within the area described in Ch. 85-..., Laws of Florida, subject to the exception of those areas that subsequently vote to be excluded, as provided in said Act?

Yes..... No.....

(2) If this act is approved in accordance with subsection (1), all Constituent Governments shall be included in the City unless they remove themselves from the City in the following manner:

(a) The governing body of any Constituent Government by majority vote may call, conduct, and pay for a separate referendum, hereafter the "Opt-Out Referendum," on the issue of whether or not it shall be included in the City. As the governing body of the unincorporated areas proposed to be included in the City, the Volusia County Council may call, conduct, and pay for a separate Opt-Out Referendum for the unincorporated areas of the North Peninsula, South Peninsula and Mainland which are within the proposed corporate limits of the City. No less than 30 days public notice of any such Opt-Out Referendum shall be given. Each of these three unincorporated territories shall be treated as separate territories for purposes of any Opt-Out Referendum, so that the North Peninsula, South Peninsula, and Mainland shall vote separately.

(b) If an Opt-Out Referendum is required, the referendum shall be held on December 10, 1985. The question to appear on the ballot in incorporated areas shall be as follows:

Shall the lands within the (City/Town of) of which I am a resident be included in the city created in East Volusia County-Halifax area approved by the Referendum of October 15, 1985.

Yes..... No.....

The question to appear on the ballot in unincorporated areas shall be as follows:

Shall the unincorporated lands within the (North/South Peninsula Municipal Service District (or) (description of lands comprising the unincorporated mainland areas within the boundary) of which I am a resident be included in the city created in East Volusia County-Halifax area approved in the Referendum of October 15, 1985?

Yes..... No.....

No Constituent Government shall be included in the City if an Opt-Out Referendum is therein conducted unless a majority of those qualified electors of the Constituent Government voting in the Opt-Out Referendum vote in favor of inclusion. If any Constituent Government is excluded from the City by an Opt-Out Referendum, then its government shall be deemed to have continued in existence and its acts, ordinances, and contractual obligations entered prior to the referendum shall be in full force and effect.

(3) Should any Constituent Municipality or unincorporated area opt-out by referendum resulting in the creation of an enclave of another municipality or unincorporated area that is within the proposed boundaries of the City so that the enclave is no longer contiguous to the remaining lands within the City, then those lands within the resulting enclave shall not be a part of the City. If any portion of the Reserve Area created in Section 2.04 is no longer contiguous to the City by reason of any Opt-Out Referendum, such portion shall no longer be part of the Reserve Area. For this purpose "contiguous lands" means any lands within the boundaries of the City which abut, adjoin, touch, or are connected by road or bridge that permit the free flow of traffic between the land areas so joined and are sufficiently unified for the providing of municipal services. No local rights-of-way, utility easements, railroad rights-of-way or like entities may be used in a corridor fashion to establish contiguity; however, the separation of lands by a right-of-way for highway, road, railroad, canal, or utility, or by a body of water, watercourse, park or other minor geological division of a similar nature, running parallel with and between the lands, shall not constitute a break with contiguity. The City of Port Orange and the City of Daytona Beach are hereby deemed to be contiguous.

Section 12.02 Transitional Organization.—If this act is adopted and by the Approving Referendum it is determined that the charter is to become effective, a Municipal Reorganization Board shall be constituted as follows:

(1) The Governor shall within 30 days following the Approving Referendum select from the areas indicated the following numbers of qualified electors from each area to serve on the Board:

- (a) City of Daytona Beach - 4
- (b) City of Ormond Beach - 2

- (c) City of Port Orange - 2
- (d) City of Holly Hill - 1
- (e) City of South Daytona - 1
- (f) City of Daytona Beach Shores - 1
- (g) Town of Ponce Inlet - 1
- (h) North Peninsula Municipal Service District - 1
- (i) South Peninsula Municipal Service District - 1
- (j) Mainland Unincorporated Area - 1

After the Opt-Out Referenda are held and members of those municipalities and unincorporated areas that do not opt-out shall comprise the Board and shall then select a chairman by majority vote. The Board shall serve without compensation.

(2) The Board shall meet from time to time between December 10, 1985, and the date the first elected Council takes office, under such rules of organization and procedure as it may adopt. The Board shall have as its purpose providing an orderly transition from multiple government units to a consolidated government. To accomplish this goal, the Board shall have the following duties:

- (a) Selection of a name for the City in accordance with Section 12.03.
- (b) The division of the City into council districts, which shall be accomplished by no later than January 20, 1986, and which districts shall be numbered sequentially 1 through 12 from west to east and north to south. Such districts shall be as nearly equal in population as possible, shall be composed of contiguous territories, shall be as compact as practicable, and insofar as possible, and subject to the foregoing, shall be comprised of the territories of the Former Constituent Governments.
- (c) The making of such recommendations, including budget recommendations, as it deems appropriate to the first Council.

(d) The approval of all amendments of budgets of municipalities that will be consolidated by this act.

(3) When the first elected Council begins its term of office, the Board will cease and shall have no further function, office or powers.

(4) Members of the Board shall not be qualified to hold the office of Mayor or Council Member for a period of 2 years from the effective date of the charter.

Section 12.03 Selection of Name.—The Board shall select not less than two, nor more than five proposed names for the City. The proposed names for the City shall be placed on the ballot to be voted upon by qualified electors of the City at the same time as the general election for the Office of Mayor and for Council Members. The name receiving the plurality of votes cast shall be the name of the City created hereby.

Section 12.04 First Election and First Council.—

(1) Upon approval of this act, a primary election for the offices of Mayor and Council Members shall be held on April 15, 1986, if necessary, and a general election shall be held on May 6, 1986, both of which are to be called, conducted and paid for by the County of Volusia on no less than 14 days public notice. The general law applicable to the election of municipal offices shall apply to the conduct of such elections, unless the contrary is indicated herein.

(2) Candidates for the first election shall qualify no later than March 1, 1986. Qualification for the offices of Mayor and Council Members shall otherwise be in accordance with the provisions of this charter.

(3) The Mayor and Council Members elected at the first election shall begin their term of office upon certification of the results of said election by the Supervisor of Elections of Volusia County, but between that date and October 1, 1986, they shall have only such powers as are permitted by Section 12.05.

(4) The first meeting of the Council shall be held within 7 days after the certification of the results of the election of the Mayor and Council Members, at a place and time to be designated by the Mayor. The Council shall organize in accordance with the provisions of this charter. By lot the Council Members shall determine whether those in odd-or even-numbered districts shall serve for an initial term of 1 year or 3 years, beginning with the effective date of this charter. Thereafter, all elections shall be for terms of 4 years.

(5) Council Members elected pursuant to this section shall hold office until their successors are elected in the elections for City offices called in accordance with the provisions of this charter in 1987 and 1989, as applicable. Those Council Members who serve a term ending in 1987 shall be eligible to hold two succeeding regular terms. The Mayor elected pursuant to this section shall hold office until a successor is elected and qualified in 1989, which shall be considered as a full term for purposes of the limitation on the right of succession.

Section 12.05 Early Assumption of Some Duties.—

(1) The Mayor and Council Members elected in the first election upon the assumption of their offices may exercise the following limited powers:

- (a) To hold organizational and other meetings.
 - (b) To select and employ a Manager and Internal Auditor, and confirm employment of a City Attorney.
 - (c) To prepare and adopt a budget for the fiscal year beginning October 1, 1986.
 - (d) To establish standing and ad hoc committees.
 - (e) To consider ordinances, resolutions, and codes for adoption on or after October 1, 1986.
 - (f) To make an assessment of the Former Constituent Governments on the basis of population, and to collect the amounts assessed, for the purpose of providing a reasonable transition budget in an amount sufficient to pay salaries for the Mayor, Council Members, Manager and other essential employees of the City, and to pay for such other expenses as to the Council shall seem appropriate, which budget shall be for use until the effective date of this charter.
 - (g) To approve amendments of budgets of municipalities that will be consolidated by this act.
 - (h) To arrange the transfer of revenues, funds, and other assets from the Former Constituent Governments to the City.
 - (i) To take such other lawful actions as are deemed appropriate to effect the transition.
- (2) For the purpose of facilitating the transition, ordinances adopted within 60 days after the effective date of this charter may be adopted as emergency ordinances.
- (3) The Manager may select and employ department heads and other employees he deems necessary for an orderly transition.

Section 12.06 Cooperation of Former Constituent Governments.—All officers, officials and employees of the Former Constituent Governments shall cooperate with and assist the Council, Manager and other officers of the City in planning the initial budget for the City and in consolidating the agencies, boards, commissions, and departments of the Former Constituent Governments, and transferring the functions, duties and responsibilities of such agencies, boards, commissions, and departments to the appropriate agencies of the City and in all other respects in order that the transfer of the governmental and corporate functions of the Former Constituent Governments shall be accomplished in the most orderly manner possible. The Former Constituent Governments shall promptly pay the assessments made in accordance with Section 12.05(1)(f), and to the extent possible provide working areas and facilities for the officers and employees of the City.

Section 12.07 Ordinances and Regulations Continued.—All ordinances and regulations of Former Constituent Governments which are in force on the effective date of this charter shall continue in full force and effect after the effective date of this charter in the areas to which they apply immediately prior to the said effective date and until repealed, modified, or amended by the Council. All orders, rules, and regulations made by any agency, department, or officer of any of the Former Constituent Governments which are in force on the effective date of this charter shall continue in full force and effect in the areas in which they apply immediately prior to the effective date of this charter until repealed, revised or modified by the appropriate department, agency, or officer of the City in accordance with this charter.

Section 12.08 Pending Matters.—All rights, claims, orders, contracts and legal and administrative proceedings involving the Former Constitu-

ent Governments shall continue in effect as rights or obligations of the City, except as modified pursuant to the provisions of this charter. No action or proceeding, civil or criminal, pending on the effective date of this charter, brought by or against any of the municipalities herein abolished, or any governmental unit or officer thereof, shall be abated or otherwise affected thereby. All such actions or proceedings may be continued notwithstanding that functions, powers or duties of any such municipality, governmental unit or officer party thereto may be or under this charter be assigned or transferred to the City, or any governmental unit or officer thereof; and the action or proceeding may be prosecuted or defended by the City, or any department, agency, office or officer thereof, to which such functions, powers, or duties may have been assigned or transferred.

Section 12.09 Deletion of Obsolete Schedule Items.—The Council shall have the power by resolution to delete from this Article XII any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

Section 12.10 Effective Date of Charter.—This charter shall become effective on October 1, 1986, unless and to the extent otherwise provided herein, and the "effective date" as used herein shall be October 1, 1986, except that Articles XII and XIII and section 14.03 shall take effect upon approval of the charter by vote of the electors and except that this section and subsection (1) of section 12.01 shall take effect upon becoming a law.

Section 12.11 Dissolution of Former Constituent Governments.—Upon the effective date of this charter and as provided either in this charter or any special acts relating to it, the existing governments of the Cities of Daytona Beach, Daytona Beach Shores, Holly Hill, Port Orange, Ormond Beach, South Daytona, and the Town of Ponce Inlet are abolished, except that any such municipality whose electors voted to opt-out of the City as provided in Section 12.01(2)(b) of this charter shall not be abolished. Thereupon, the governments of Daytona Beach, Daytona Beach Shores, Holly Hill, Port Orange, Ormond Beach, South Daytona, and Ponce Inlet, except those that opted out, shall be merged into the government created by this charter, which shall succeed to own and possess all property, property rights, interest, uncollected taxes, dues, claims, and judgments held or owned by such municipalities. The city shall have, exercise and enjoy all rights, immunities, powers, benefits, privileges, and franchises now or formerly possessed or held by said abolished municipalities, commissions, agencies or boards, either individually or collectively.

Section 12.12 Employees Continued.—All employees of Former Constituent Governments shall, on the effective date of this charter become employees of the City without any loss of accrued benefits on account of the adoption of this charter. As used in this section, "employees" refers to full-time, paid personnel, other than city managers and their assistants, and city attorneys and their assistants.

Section 12.13 Reserve Area.—If and to the extent that any unincorporated territory that is contiguous to the City and not otherwise within the Reserve Area defined in Section 2.04 shall be excluded from the City by an Opt-Out Referendum, or by judgment of a court of competent jurisdiction, or by any other cause, then such territory shall be deemed to be a part of, and is hereby included within, the Reserve Area and subject to all provisions of Section 2.04.

ARTICLE XIII DEFINITIONS

Section 13.01 Definitions.—For all purposes of this charter the following terms shall have the following meanings:

- (1) "City" means the municipality created by this charter after all Opt-Out Referenda are concluded.
- (2) "Constituent Governments" means the Cities of Daytona Beach, Daytona Beach Shores, Holly Hill, Ormond Beach, Port Orange, and South Daytona, the Town of Ponce Inlet, and Volusia County to the extent of the municipal services provided and powers exercised by Volusia County to those areas included within Exhibit A that are, before the effective date, in the unincorporated area of Volusia County.
- (3) "Constituent Municipality" means the cities of Daytona Beach, Daytona Beach Shores, Holly Hill, Ormond Beach, Port Orange, and South Daytona as well as the Town of Ponce Inlet.
- (4) "Council" means the City Council.

(5) "Council Member" means a member of the Council elected from a single member district and does not include the Mayor.

(6) "Former Constituent Governments" means any Constituent Government that is dissolved by the effect of this charter, including Volusia County to the extent deemed a Constituent Government.

(7) "Former Constituent Municipalities" means any Constituent Municipality that is dissolved by the effect of this charter.

(8) "Mainland" means all of the unincorporated lands described in Exhibit "A" located west of the Halifax River.

Section 13.02 Interpretations.—The use of the word "his" shall be taken to mean "his," "her," or "its," and the singular may include the plural wherever the context so implies or admits. All terms used in this charter that are especially defined for purposes of the Local Government Comprehensive Planning Act of 1975 (s. 163.3161, Florida Statutes, *et seq.*) shall be given the meaning specified in such Act whenever the context so implies or admits. Statements of intent have been included to promote the general understanding and purpose of the charter and to serve as polestars to guide its interpretation and construction. Statements of intent are meant to be directory, not to be self-executing, and not to be given independent effect. The term "goal" as used in this charter refers to a long-term end toward which programs and activities of the City are ultimately directed, stated in such terms as to be general and immeasurable. The term "objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal. The term "policy" means the way in which programs and activities are conducted to achieve an identified goal. When this charter uses the terms "goal" and "objective," it is stating the aspirations and intentions of the people who will ratify and adopt this charter. When this charter uses the term "policy," it refers to actions to be taken in the discretion of the appropriate officials of the City. The term "mandate" refers to a command or instruction given from the electorate to their representatives by this charter. To the extent that any such mandate is legally enforceable, any person who has standing under the law may maintain an action in mandamus to enforce the mandate.

ARTICLE XIV LAND DESCRIPTIONS

Section 14.01 City Boundaries.—The corporate boundaries of the city shall be as follows:

Beginning at the intersection of the boundary line between Volusia County and Flagler County with the West shore line of the Atlantic Ocean, said boundary line being the Easterly extension of the North line of Section 32, Township 12 South, Range 32 East; thence West, along the said North line of Section 32 and continuing along the North line of Section 31, Township 12 South, Range 32 East, and extending into Section 37, Township 12 South, Range 32 East, to its intersection with the thread of Haul Over (a/k/a Smith's) Creek; thence Southerly, along the said thread of Haul Over Creek, to its intersection with the line dividing Lots 7 and 8 as shown on Map of Partition of the Bulow Tract (Filed in Office—September 20, 1867, L. M. Richardson, Clerk, Volusia County) according to map recorded in St. Augustine; thence Westerly, along said line dividing Lots 7 and 8 (Bulow Partition) and following the continuance of said line which now becomes the line between the Bulow and Ormond Grants, to a point of intersection with the centerline of Old King's Road; thence Southerly, along said centerline of Old King's Road, to its intersection with the Township line between Township 12 South and Township 13 South, being also the North line of Government Lot 1, Section 2, Township 13 South, Range 31 East; thence West, along the said North line of Government Lot 1, Section 2, to the Northwest corner thereof; thence South, along the West line of said Section 2 and continuing South along the West lines of Sections 11, 14, 23, 26 and 35, Township 13 South, Range 31 East, and along the West lines of Sections 2, 11, 14 and 23, Township 14 South, Range 31 East, to the Southwest corner of said Section 23; thence West, along the North line of Section 27, Township 14 South, Range 31 East, to the Northwest corner of said Section 27; thence South, along the West line of said Section 27, to the Southwest corner of said Section 27; thence East, along the South line of said Section 27, to a point that is 125 feet West of the Southeast corner of said Section 27, thence South, along a line that is 125 feet West of and parallel to the West line of Section 35, Township 14 South, Range 31 East, to a point that is 125 feet South of and 125 feet West of the Southwest corner of said Section 35; thence East, along a line that is 125 feet South of and parallel to the South lines of Sections 35 and 36, Township 14 South,

Range 31 East, and continuing East along a line that is 125 feet South of, and parallel to, the South line of Section 31, Township 14 South, Range 32 East, to its intersection with the Westerly right-of-way line of Interstate Highway #95 (I-95); thence Southerly, along the Westerly right-of-way line of I-95, to its intersection with the North line of Section 9, Township 15 South, Range 32 East; thence West, along the North line of said Section 9, to the Northwest corner of said Section 9; thence South, along the West line of said Section 9, to its intersection with the North line of the South one-half of the SW 1/4 of said Section 9; thence East, along the North line of the South one-half of the SW 1/4 of said Section 9 and continuing East along the North line of the South one-half of the SE 1/4 of said Section 9, to its intersection with the Westerly right-of-way line of I-95; thence Southerly, along the Westerly right-of-way line of I-95, to its intersection with the Northerly line of a 100-foot drainage and utility right-of-way described in Official Records Book 1478, page 598 of the Public Records of Volusia County, Florida; thence South 67°38'34" West, along said Northerly easement line to a concrete monument that is 155.81 feet Westerly from the Easterly line of Taylor Road, a 50 foot right-of-way per Official Records Book 407, page 163 of the Public Records of Volusia County, Florida; thence North 17°15'37" West, a distance of 65.26 feet to a concrete monument; thence South 67°38'34" West, a distance of 741.21 feet to a concrete monument; thence through a bearing equation whereby the bearing of North 81°23'36" West equal North 81°21'25" West ahead; thence North 81°21'25" West, a distance of 633.36 feet to a concrete monument; thence South 70°43'27" West, a distance of 4,792.85 feet to a concrete monument; thence South 89°33'15" West, a distance of 1,164.48 feet to a concrete monument; thence South 00°38'29" East, a distance of 65.00 feet to the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of Section 29, Township 15 South, Range 32 East; thence Westerly, 1,329.96 feet to the Northwest corner of said NW 1/4 of the NE 1/4 of Section 29; thence Southerly 1,324.04 feet to the Southwest corner of said NW 1/4 of the NE 1/4 of Section 29; thence Easterly, 1,329.63 feet to the Southeast corner of said NW 1/4 of the NE 1/4 of Section 29; thence South 00°38'29" East, along a projection of the East line of said NW 1/4 of the NE 1/4 of Section 29, a distance of 392.90 feet to a concrete monument; thence North 89°33'15" East, a distance of 1,329.51 feet to a concrete monument in the East line of said Section 29; thence continue North 89°33'15" East, a distance of 670.49 feet to a concrete monument; thence North 00°37'36" West and parallel with the East line of Section 29, a distance of 1,719.32 feet to a concrete monument in the North line of aforesaid Section 29, Township 15 South, Range 32 East; thence continue North 00°37'36" West, a distance of 228.10 feet to a point in the Southerly line of the aforesaid easement recorded in Official Records Book 1478, pages 598 through 602; thence Easterly, along said Southerly easement line 3,502 feet more or less to the centerline of the Tomoka River; thence Southerly along the centerline of said Tomoka River, to its intersection with the North line of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 27, Township 15 South, Range 32 East; thence East along said North line of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 27 and continuing East along the North line of the SE 1/4 of the SW 1/4 of the SW 1/4 of said Section 27, a distance of 375 feet; thence South 02°08'55" East, a distance of 377.27 feet to a point in the Northwesterly right-of-way of State Road 600 (U. S. 92) as now laid out and as shown on Sheet 4 of 5 of the Florida State Road Department right-of-way map for Section 79002-2401; thence Northeasterly along said right-of-way of State Road 600 (U. S. 92) to the intersection of the Easterly right-of-way line of Lease C2CA-6007, site 24 to the United States Government; thence North 17°18'00" West along said line, a distance of 1,452.1 feet to a point; thence South 65°08'15" East, a distance of 967.08 feet to a point in the Northwesterly right-of-way line of said State Road 600 (U. S. 92); thence Southwesterly, along the said Northwesterly right-of-way of State Road 600 (U. S. 92), a distance of 300 feet; thence North 65°08'15" West a distance of 150 feet; thence South 24°51'45" West and parallel to the aforesaid Northwesterly right-of-way line of State Road 600 (U.S. 92) a distance of 200 feet; thence South 65°08'15" East, a distance of 150 feet to a point in the said Northwesterly, right-of-way line of State Road 600 (U. S. 92); thence Southwesterly along the said Northwesterly right-of-way of State Road 600 (U. S. 92) to a point radially opposite Station 15§03.89 of Ramp "I" as laid out and shown on sheet 4 of 5 of the State of Florida Road Department right-of-way map for Section 79002-2401; thence Southeasterly across said State Road 600 (U. S. 92), to a point in the Northwesterly right-of-way of said Ramp "I"; thence Northeasterly and Southeasterly along said Ramp "I," and continuing Southerly along the Westerly right-of-way line of I-95, to its intersection with the centerline of Taylor Road; thence Southwesterly, along the centerline of Taylor Road, to its intersection with the West line of the East one-half of Sec-

tion 19, Township 16 South, Range 33 East; thence South, along the West line of the East one-half of said Section 19 and continuing South along the West line of the East one-half of Section 30, Township 16 South, Range 33 East, to its intersection with the Southwest corner of the SW 1/4 of the NE 1/4 of said Section 30; thence East, along the South line of the SW 1/4 of the NE 1/4, to the Southeast corner of the SW 1/4 of the NE 1/4 of said Section 30; thence North, along the East line of the SW 1/4 of the NE 1/4 of said Section 30, to the Southwest corner of the NE 1/4 of the NE 1/4 of said Section 30; thence East along the South line of the NE 1/4 of the NE 1/4 of said Section 30, a distance of 462 feet to a point; thence North, along a line that is 462 feet East of and parallel to the West line of the NE 1/4 of the NE 1/4 of said Section 30, to its intersection with the North line of said Section 30; thence East, along the North line of said Section 30, to its intersection with the Easterly right-of-way line of Airport Road; thence Southeasterly along the Easterly right-of-way line of said Airport Road, to its intersection with the West line of Section 29, Township 16 South, Range 33 East; thence South, along said West line of Section 29, to the Southwest corner of said Section 29, said point also being the Northeast corner of Section 31, Township 16 South, Range 33 East; thence South, along the East line of said Section 31, a distance of 422.81 feet to a point of curvature; thence along said curve having a central angle of $38^{\circ}40'52''$, a radius of 1,450.00 feet, a chord bearing of South $18^{\circ}21'44''$ West and an arc distance of 978.91 feet to the point of tangency; thence South $37^{\circ}42'10''$ West, a distance of 1610.02 feet; thence run South $01^{\circ}02'19''$ East, a distance of 733.92 feet; thence North $89^{\circ}00'19''$ East a distance of 1322.10 feet to a point on the West line of Section 32, Township 16 South, Range 33 East; thence South, along the West line of said Section 32 and continuing South, along the West line of Section 5, Township 17 South, Range 33 East, to a point of intersection with the centerline of County Road #4118 (C.R.#4118 and also known as Pioneer Trail); thence Easterly, along the centerline of C.R.#4118, to its intersection with the East line of the West one-half of Section 8, Township 17 South, Range 33 East; thence North, along the East line of the West one-half of said Section 8 and continuing North along the East line of the West one-half of Section 5, Township 17 South, Range 33 East, to its intersection with the South line of Section 32, Township 16 South, Range 33 East; thence East, along the South lines of Sections 32 and 33, Township 16 South, Range 33 East, to the Southeast corner of said Section 33; thence North, along the East line of said Section 33, to its intersection with the North line of the South one-half of the SE 1/4 of said Section 33; thence West along the North line of the South one-half of the SE 1/4 of said Section 33, to its intersection with the East line of the West one-half of the SE 1/4 of said Section 33; thence North, along the East line of the West one-half of the SE 1/4 of said Section 33 and continuing North along the East line of the West one-half of the NE 1/4 of said Section 33, to its intersection with the thread of Spruce Creek; thence Easterly, along the thread of Spruce Creek and continuing Easterly through Turnbill Bay (Strickland Bay), to its intersection with the Westerly City Limits line of Ponce Inlet; thence Southerly, along the Westerly City Limits line of Ponce Inlet, to its intersection with the Northerly City Limits line of New Smyrna Beach; thence Easterly, along the said Northerly City Limits line of New Smyrna Beach, to its intersection with the shoreline of the Atlantic Ocean; thence continuing Easterly along a line that is at right angles to the shoreline of the Atlantic Ocean for a distance of 3 miles; thence Northerly along a line that is 3 miles Easterly of, and parallel to, the shoreline of the Atlantic Ocean to its intersection with a line extending Easterly, at right angles to the shoreline of the Atlantic Ocean, from the point of beginning of this description; thence Westerly, along the last described line, to said POINT OF BEGINNING.

Section 14.02 Reserve Area.—The Reserve Area shall consist of the following described land:

Beginning at the intersection of the boundary line between Volusia County and Flagler County with the West shore line of the Atlantic Ocean, said boundary line being the Easterly extension of the North line of Section 32, Township 12 South, Range 32 East; thence West, along the said North line of Section 32 and continuing along the North line of Section 31, Township 12 South, Range 32 East, and extending into Section 37, Township 12 South, Range 32 East, to its intersection with the thread of Haul Over (a/k/a Smith's) Creek; thence Southerly, along the said thread of Haul Over Creek, to its intersection with the line dividing Lots 7 and 8 as shown on Map of Partition of the Bulow Tract (Filed in Office-September 20, 1867, L. M. Richardson, Clerk, Volusia County) according to map recorded in St. Augustine; thence Westerly, along said line dividing Lots 7 and 8 (Bulow Partition) and following the continuance of said line which now becomes the line between the Bulow and

Ormond Grants, to a point of intersection with the centerline of Old King's Road; thence Southerly, along said centerline of Old King's Road, to its intersection with the Township line between Township 12 South and Township 13 South, being also the North line of Government Lot 1, Section 2, Township 13 South, Range 31 East; thence West, along the said North line of Government Lot 1, Section 2, to the Northwest corner thereof; thence South, along the West line of said Section 2 and continuing South along the West lines of Sections 11, 14, 23, 26 and 35, Township 13 South, Range 31 East, and along the West lines of Sections 2, 11, 14 and 23, Township 14 South, Range 31 East, to the Southwest corner of said Section 23; thence West, along the North lines of Sections 27, 28, 29 and 30, Township 14 South, Range 31 East, and continuing along the North lines of Sections 25 and 26, Township 14 South, Range 30 East, to its intersection with the West line of the East one-half of said Section 26; thence South, along the West line of the East one-half of said Section 26, to its intersection with the North line of Section 35, Township 14 South, Range 30 East; thence East, along the said North line of Section 35, to the Northeast corner of said Section 35; thence South, along the East line of said Section 35, to its intersection with the North line of the South one-half of said Section 35; thence West, along the North line of the South one-half of said Section 35, to its intersection with the West line of the East one-half of the SW 1/4 of said Section 35; thence South, along the West line of the East one-half of the SW 1/4 of said Section 35, to its intersection with the South line of said Section 35; thence East, along the said South line of Section 35, to the Northwest corner of Section 6, Township 15 South, Range 31 East; thence South, along the West lines of Sections 6 and 7, Township 15 South, Range 31 East, to its intersection with the South line of the North one-half of said Section 7; thence East, along the South line of the North one-half of said Section 7, to its intersection with the East line of said Section 7; thence North along the East line of said Section 7, to the Northeast corner of said Section 7; thence East, along the North lines of Sections 8, 9 and 10, Township 15 South, Range 31 East, to its intersection with the West line of the East one-half of said Section 10; thence South, along the West line of the East one-half of Sections 10 and 15, Township 15 South, Range 31 East, to its intersection with the North line of Section 22, Township 15 South, Range 31 East; thence East, along the North lines of Sections 22 and 23, Township 15 South, Range 31 East, to its intersection with the West line of the East one-half of the NW 1/4 of said Section 23; thence South, along the West line of the East one-half of the NW 1/4 of said Section 23, to its intersection with the North line of the South one-half of said Section 23; thence East, along the North line of the South one-half of said Section 23, to its intersection with the West line of the East one-half of said Section 23; thence South, along the West line of the East one-half of said Section 23, to its intersection with the North line of Section 26, Township 15 South, Range 31 East; thence East, along the North line of said Section 26, to its intersection with the West line of the East one-half of the NE 1/4 of said Section 26; thence South, along the West line of the East one-half of the NE 1/4 and continuing South along the West line of the East one-half of the SE 1/4 of said Section 26, to its intersection with the North line of Section 35, Township 15 South, Range 31 East; thence East, along the North lines of Sections 35 and 36, Township 15 South, Range 31 East, to its intersection with the West line of the East one-half of the NW 1/4 of said Section 36, thence South, along the West line of the East one-half of the NW 1/4 of said Section 36, to its intersection with the North line of the South one-half of said Section 36; thence East, along the North line of the South one-half of said Section 36, to its intersection with the West line of the East one-half of said Section 36; thence South, along the West line of the East one-half of said Section 36, to its intersection with the North line of Section 1, Township 16 South, Range 31 East; thence West, along the North line of said Section 1, to the Northwest corner of said Section 1; thence South, along the West lines of Sections 1 and 12, Township 16 South, Range 31 East, to a point of intersection with the centerline of U.S. Highway #92; thence Southeasterly in a straight line, to the Southeast corner of said Section 12; thence South, along the West lines of Sections 18 and 19, Township 16 South, Range 32 East, to the Southwest corner of said Section 19; thence East, along the South line of said Section 19, to the Southeast corner of said Section 19; thence South, along the West lines of Sections 29 and 32, Township 16 South, Range 32 East and continuing South along the West line of Section 5, Township 17 South, Range 32 East, to the Southwest corner of said Section 5; thence East, along the South line of said Section 5, to the Southeast corner of said Section 5, thence South, along the West line of Section 9, Township 17 South, Range 32 East, to the Southwest corner of said Section 9; thence East, along the South lines of Sections 9 and 10, Township 17 South, Range 32 East, to the Southeast corner of said Section 10; thence North, along the East line of said Section 10, to the Northeast corner of

said Section 10; thence East, along the South line of Section 2, Township 17 South, Range 32 East, to the Southeast corner of said Section 2; thence North, along the East line of said Section 2, to its intersection with the South line of the NW 1/4 of the NW 1/4 of Section 1, Township 17 South, Range 32 East; thence East, along the South line of the NW 1/4 of the NW 1/4 of said Section 1, to the Southeast corner of the NW 1/4 of the NW 1/4 of said Section 1; thence North, along the East line of the NW 1/4 of the NW 1/4 of said Section 1, to its intersection with the North line of said Section 1; thence East, along the North line of said Section 1 and continuing East along the North line of Section 6, Township 17 South, Range 33 East, to the Northwest corner of Section 5, Township 17 South, Range 33 East; thence South, along the West line of said Section 5, to a point of intersection with the centerline of County Road #4118 (C.R.#4118 and also known as Pioneer Trail); thence Easterly, along the centerline of C.R.#4118, to its intersection with the East line of the West one-half of Section 8, Township 17 South, Range 33 East; thence North, along the East line of the West one-half of said Section 8 and continuing North along the East line of the West one-half of Section 5, Township 17 South, Range 33 East to its intersection with the South line of Section 32, Township 16 South, Range 33 East; thence East, along the South lines of Sections 32 and 33, Township 16 South, Range 33 East, to the Southeast corner of said Section 33, thence North, along the East line of said Section 33, to its intersection with the North line of the South one-half of the SE 1/4 of said Section 33; thence West along the North line of the South one-half of the SE 1/4 of said Section 33, to its intersection with the East line of the West one-half of the SE 1/4 of said Section 33; thence North, along the East line of the West one-half of the SE 1/4 of said Section 33 and continuing North along the East line of the West one-half of the NE 1/4 of said Section 33, to its intersection with the thread of Spruce Creek; thence Easterly, along the thread of Spruce Creek and continuing Easterly through Turnbull Bay (Strickland Bay), to its intersection with the Westerly City Limits line of Ponce Inlet; thence Southerly, along the Westerly City Limits line of Ponce Inlet, to its intersection with the Northerly City Limits line of New Smyrna Beach; thence Easterly, along the said Northerly City Limits line of New Smyrna Beach, to its intersection with the shoreline of the Atlantic Ocean; thence continuing Easterly along a line that is at right angles to the shoreline of the Atlantic Ocean for a distance of 3 miles; thence Northerly, along a line that is 3 miles Easterly of, and parallel to, the shoreline of the Atlantic Ocean to its intersection with a line extending Easterly, at right angles to the shoreline of the Atlantic Ocean, from the point of beginning of this description; thence Westerly, along the last described line, to said POINT OF BEGINNING.

14.03 Annexation Policies.—Any annexation of more than 20 acres of land within the Reserve Area, as described in this act, between April 1, 1985, and the effective date of the Charter created by this act, is null and void, provided that this section shall take effect only upon the approval of the Charter pursuant to this act.

HB 1348 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Dunn	Jennings	Peterson
Barron	Fox	Johnson	Plummer
Beard	Frank	Kirkpatrick	Stuart
Carlucci	Gersten	Kiser	Thomas
Castor	Girardeau	Langley	Thurman
Childers, D.	Grant	Malchon	Vogt
Childers, W. D.	Grizzle	Margolis	Weinstein
Crawford	Hill	Meek	
Deratany	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Neal

LOCAL CALENDAR

SB 605—A bill to be entitled An act relating to Pinellas County; prohibiting municipalities from annexing territory within the Palm Harbor Special Fire Control District or the East Lake Woodlands Fire District; authorizing the board of county commissioners to create a municipal service taxing unit within the area encompassed by such districts and to levy, within the unit, ad valorem taxes, services charges, and special assessment to provide municipal services and facilities not provided by the districts; requiring a referendum prior to the provision of certain services; providing an effective date.

—was read the second time by title.

Senator Kiser moved the following amendment which was adopted:

Amendment 1—On page 1, line 17, strike everything after the enactment clause and insert:

Section 1. Notwithstanding any other provision of law, no municipality in Pinellas County may annex any unincorporated territory situated on the effective date of this act within the boundaries of the Palm Harbor Special Fire Control District unless the annexation of such territory by the municipality is first approved by the board of county commissioners of Pinellas County or unless annexation proceedings were commenced prior to the effective date of this act.

Section 2. (1) Notwithstanding any other provision of law, the board of county commissioners of Pinellas County may, by ordinance, create a municipal service taxing unit composed of the unincorporated territory situated within the boundaries of the Palm Harbor Special Fire Control District and may levy ad valorem taxes in the unit within the limits fixed for municipal purposes, as authorized by Section 9(b) of Article VII of the State Constitution. The board of county commissioners may also impose, by ordinance, services charges and special assessments within the unit.

(2) Any ad valorem taxes, services charges, or special assessments which are to be levied or imposed solely within the unit may only be levied or imposed to provide, within the unit, municipal services and facilities which are approved by a majority vote of the electors of the unit voting in a referendum called for that purpose; which are not provided by the Palm Harbor Special Fire Control District; and which are not provided in the other unincorporated areas of the county.

(3) The electors of the unit may petition the board of county commissioners to provide specific services or facilities. If any elector presents to the board of county commissioners a petition which requests specific services or facilities and which is signed by 10 percent of the registered electors of the unit, the board of county commissioners shall submit a proposal to provide such services or facilities to the electors of the unit for approval or rejection at the next general election.

Section 3. This act shall take effect upon becoming a law.

On motion by Senator Kiser, by two-thirds vote SB 605 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 454—A bill to be entitled An act relating to the City of Jacksonville; amending subsection (b) of section 1 of chapter 63-1447, Laws of Florida, as amended, to provide that any member of the Jacksonville Port Authority appointed for two consecutive full terms shall not be eligible for appointment to the succeeding term; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 454 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Childers, W. D.	Gersten	Hill
Barron	Crawford	Girardeau	Jennings
Beard	Deratany	Gordon	Johnson
Carlucci	Dunn	Grant	Kirkpatrick
Castor	Fox	Grizzle	Kiser
Childers, D.	Frank	Hair	Malchon

Margolis	Myers	Scott	Thurman
McPherson	Peterson	Stuart	Vogt
Meek	Plummer	Thomas	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 455—A bill to be entitled An act relating to the City of Jacksonville; amending section 14.07 of chapter 67-1320, Laws of Florida, as amended, being the Charter of the City of Jacksonville, providing the method for filling vacancies on the Duval County School Board; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 455 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 456—A bill to be entitled An act relating to the City of Jacksonville; adding a new section 14.04 to article 14 of chapter 67-1320, Laws of Florida, as amended, to establish the commencement of terms of newly elected members of the Duval County School Board; providing for the supersedure of any law or ordinance inconsistent with the provisions of this act; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 456 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 459—A bill to be entitled An act relating to the City of Jacksonville; amending section 6.05 of chapter 67-1320, Laws of Florida, as amended; revising the Charter of the City of Jacksonville to provide for filling vacancies that occur in the office of mayor; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 459 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Grizzle	Kirkpatrick	Meek	Stuart
Hair	Kiser	Myers	Thurman
Hill	Malchon	Peterson	Thurman
Jennings	Margolis	Plummer	Vogt
Johnson	McPherson	Scott	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 482—A bill to be entitled An act relating to the City of Jacksonville; amending Section 3 of Chapter 63-1305, Laws of Florida, as amended, to provide that any member of the Duval County Hospital Authority appointed for two consecutive full terms shall not be eligible for appointment to the succeeding term; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 482 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 505—A bill to be entitled An act relating to the City of Jacksonville; amending Section 28.104 of Article 28 of Chapter 67-1320, Laws of Florida, as amended, to provide that any member of the Jacksonville Downtown Development Authority appointed for two consecutive full terms shall not be eligible for appointment to the succeeding term; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 505 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

HB 506—A bill to be entitled An act relating to the City of Jacksonville; amending Section 7.403 of Chapter 67-1320, Laws of Florida, as amended, changing the designation of the public health division from a local health unit to a public health unit; providing that the public health officer may be a doctor of osteopathy who is trained in public health administration; amending references to the state division of health to change such references to the state department of health and rehabilitative services; repealing section 2 of chapter 71-709, Laws of Florida, relating to administrative and logistical support, the provisions of which are incorporated herein; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 506 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

On motions by Senator Myers, the rules were waived and by two-thirds vote HB 792 was withdrawn from the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

On motion by Senator Myers, by unanimous consent—

HB 792—A bill to be entitled An act relating to the Pal-Mar Water Control District, Palm Beach and Martin Counties; authorizing the Board of Supervisors of the Pal-Mar Water Control District to plan, construct, and maintain different water control systems by units of development; prohibiting the board of supervisors from planning, constructing, and maintaining different water control systems by units of development unless the owners of a majority of acres within the unit to be developed express their desire, in writing or by referendum or by certified letter, to have the water control system developed; providing severability; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Myers, by two-thirds vote HB 792 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SPECIAL ORDER, continued

The Senate resumed consideration of—

SB 464—A bill to be entitled An act relating to the code of ethics for public officers and employees; amending s. 112.313, F.S.; defining “regulatory employee”; requiring state agencies to identify regulatory employee positions; requiring each regulatory employee to sign a statement developed by the Commission on Ethics as a condition of employment and annually thereafter; providing penalties; providing an exemption to chapter 120, F.S., with respect to development of the plan; requiring the Commission on Ethics to develop an information program to advise agency heads; providing an effective date.

Senator McPherson moved the following amendment which was adopted:

Amendment 3—On page 3, line 22, strike “\$100” and insert: the amount specified in s. 111.011(1)(c)

On motion by Senator Vogt, by two-thirds vote SB 464 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Mr. President	Fox	Kiser	Scott
Barron	Frank	Langley	Stuart
Beard	Girardeau	Malchon	Thomas
Castor	Gordon	Margolis	Thurman
Childers, D.	Grizzle	McPherson	Vogt
Childers, W. D.	Hair	Meek	Weinstein
Crawford	Hill	Myers	
Deratany	Jennings	Peterson	
Dunn	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten, Grant, Jenne, Kirkpatrick, Neal

CS for CS for SB 617—A bill to be entitled An act relating to the State University System; providing legislative intent; providing operational autonomy; amending s. 240.202, F.S.; establishing authority for the State University System; establishing Board of Regents’ responsibility for state universities; creating s. 240.2012, F.S.; establishing the State University System as a political subdivision; amending s. 240.205, F.S.; providing authority to acquire real and personal property; amending s. 240.209, F.S.; providing for employment of personnel; providing authority for management information systems; providing for the adoption of rules; providing for the administration of a program for the maintenance and construction of facilities; providing for administrative costs; creating s. 240.2091, F.S.; requiring an annual report to be made to the State Board of Education and the Legislature; amending s. 240.227, F.S.; providing for delegation of authority to university presidents; amending s. 240.257, F.S.; providing for the establishment of challenge grants; creating s. 240.269, F.S.; providing for appropriations; creating s. 240.2695, F.S.; providing for operating budgets and budget controls; amending s. 240.273, F.S.; providing that funds and property shall be held by the Board of Regents; amending s. 240.277, F.S.; providing for approval of expenditure of vending machine collections; providing an exemption for certain budget entities; amending s. 240.279, F.S.; providing for working capital funds; amending s. 240.281, F.S.; providing for deposit of funds; creating s. 11.063, F.S.; providing that employees may participate in lobbying activities; amending s. 110.205, F.S.; exempting State University System personnel from the career service system; amending s. 255.245, F.S.; providing for rental fees for space in state buildings; amending s. 282.308, F.S.; providing for information technology resource plans; creating s. 240.214, F.S.; allowing for coverage under the state’s risk management and safety programs; amending ss. 287.155, 287.20, F.S.; authorizing participation in the state motor pool; amending s. 447.203, F.S.; providing authority for collective bargaining; amending s. 216.251, F.S.; providing for setting of salaries of positions in the State University System by the Board of Regents; providing for an agreement with respect to the transfer of Career Service employees; providing for legislative review of such agreement; repealing ss. 240.225, 240.283, F.S., and 240.285, F.S., as amended, relating to delegations by the Department of General Services, additional compensation, and the transfer of funds; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendment which was moved by Senator Castor and failed:

Amendment 1—On page 29, lines 23 and 24, Subsections (2) and (10) of section 447.203, Florida Statutes, are amended to read:

Subsection (2) of section 447.203, Florida Statutes, is amended to read:

Senator Castor moved the following amendment which was adopted:

Amendment 2—On page 30, line 15, strike “units” and insert: agents

Senator Carlucci moved the following amendments which were adopted:

Amendment 3—On page 30, between lines 11 and 12, insert:

Section 27. Notwithstanding any provision of law to the contrary, the Auditor General shall conduct periodic audits of the records of the State University System

Amendment 4—On page 2, line 29, after the semicolon (;) insert: providing for audits by the Auditor General;

On motion by Senator Castor, by two-thirds vote CS for CS for SB 617 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Jennings	Plummer
Beard	Gersten	Johnson	Scott
Castor	Girardeau	Kiser	Stuart
Childers, D.	Gordon	Langley	Thomas
Crawford	Grant	Malchon	Thurman
Deratany	Grizzle	Margolis	Vogt
Dunn	Hair	Meek	Weinstein
Fox	Hill	Myers	

Nays—2

Carlucci Peterson

Vote after roll call:

Yea—W. D. Childers, Jenne, Kirkpatrick, Neal

CS for SB 797—A bill to be entitled An act relating to education; amending s. 228.072, F.S.; providing for matriculation and tuition fees for adult education; amending s. 240.209, F.S.; providing for matriculation fees for college credit courses at state universities; amending s. 240.35, F.S.; providing for matriculation and tuition fees at community colleges; providing for use of community college financial aid fees for academic merit; amending s. 717.09, F.S.; providing for the disposition of unclaimed fee refunds; providing an effective date.

—was read the second time by title.

Senator Castor moved the following amendment which was adopted:

Amendment 1—On page 3, between lines 7 and 8, insert:

Section 3. Section 240.213, Florida Statutes, is amended to read:

240.213 Board authorized to secure liability insurance.—

(1) The Board of Regents is authorized to secure, or otherwise provide as a self-insurer, or by a combination thereof, comprehensive general liability insurance, including professional liability for health care and veterinary sciences, for:

- (a) The board.
- (b) The students and faculty of any university within the State University System.
- (c) The officers, employees, or agents of the board.
- (d) The professional practitioners practicing a profession within, or by virtue of employment by, any university in the State University System.
- (e) Any of the universities in the State University System or subdivisions thereof.
- (f) The faculty members and students of the Jacksonville Health Education Program and the University of South Florida Affiliated Hospitals Program.
- (g) Shands Teaching Hospital and Clinics, Inc., and affiliated programs.
- (h) The University of South Florida Cancer and Chronic Diseases Research and Treatment Center, Inc., and affiliated programs.
- (i) University direct support organizations as authorized under s. 240.299.

The Board of Regents is authorized to delegate to the universities, as appropriate, the authority to secure any liability insurance for the above.

(2) *The Board of Regents may self-insure or purchase liability insurance in amounts equal to or in excess of those liability limits set forth in s. 768.28(5). In consideration of the premium at which such insurance may be written, it shall be a part of the insurance contract between the insurer and the Board of Regents and other entities described in s. 768.28(2) that the insurer shall pay settlements and judgements on behalf of the Board of Regents and other entities described in s. 768.28(2) in accordance with the liability limits of such insurance. The*

Board of Regents is further authorized to self-insure or to purchase liability insurance, or both in amounts equal to or in excess of those liability limits set forth in s. 768.28(5) for those individuals and entities described in subsection (1) which or who are not described in s. 768.28(2) or s. 768.28(9)(a). The purchase of such liability coverage shall not be construed as a waiver of immunity by the Board of Regents and any insured under Section 1 which or who is entitled to governmental immunity. not be entitled to the benefit of the defense of governmental immunity of the Board of Regents in any suit brought against the insured. Immunity of the Board of Regents against any liability described in subsection (1) is waived to the extent of liability insurance carried by the Board of Regents and to the extent of funds available in a particular insurance trust fund for the satisfaction of any claim for which such trust fund was established.

(3) In the event the Board of Regents adopts a self-insurance program, the Administration Commission is authorized pursuant to s. 215.32 to establish the necessary insurance trust funds in the State Treasury. Such trust funds shall be administered in accordance with rules established by the Board of Regents.

(4) There shall be no funds appropriated directly to any insurance trust fund. The Executive Office of the Governor, upon request of the Board of Regents, is authorized to transfer to any insurance trust fund any funds appropriated in the General Appropriation Act or other acts of the Legislature for the purposes of this section. The Board of Regents is further authorized to accept any payments, receipts, gifts, or donations made for the purposes of this section and deposit such funds in the appropriate insurance trust fund.

(5) The Board of Regents is authorized and empowered to make such rules as may be necessary to carry out the provisions of this section, including the delegation of authority, other than rulemaking authority, to appropriate levels of administration within the State University System. *Any self-insurance programs created by the Board of Regents shall not have the capacity to initiate suits or be sued.*

(6) *In the event the Board of Regents adopts self-insurance programs, the claims files maintained by such self-insurance programs shall be privileged and not discoverable under the rules of civil procedure and shall be only for the use of the self-insurance programs in fulfilling their duties and responsibilities as formulated by the Board of Regents pursuant to subsection (5).*

(Renumber subsequent sections.)

Senators Castor and Hair offered the following amendment which was moved by Senator Castor and adopted:

Amendment 2—On page 7, between lines 30 and 31, insert:

Section 5. Subsection (10) is added to section 240.1201, Florida Statutes, 1984 Supplement, to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) *The following persons shall be classified as residents for tuition purposes:*

- (a) *Active duty members of the armed services of the United States stationed in this state, their spouses, and dependent children.*
- (b) *Full-time instructional and administrative personnel employed by state public schools, community colleges, and institutions of higher education as defined in s. 228.041, and their spouses, and dependent children.*

(Renumber subsequent sections.)

Senators Grant and Meek offered the following amendment which was moved by Senator Grant and adopted:

Amendment 3—On page 7, line 31, insert:

Section 5. Paragraphs (c) and (d) of subsection (1) of section 240.343, Florida Statutes, are amended to read:

240.343 Sick leave.—Each community college district board of trustees shall adopt rules whereby any full-time employee who is unable to perform his duties at the college on account of personal sickness, accident disability, or extended personal illness, or because of illness or death of the employee's father, mother, brother, sister, husband, wife, child, or other close relative or member of the employee's own household, and who consequently has to be absent from work shall be granted leave of absence for sickness by the president or by the president's designated representative. The following provisions shall govern sick leave:

(1) EXTENT OF LEAVE WITH COMPENSATION.—

(c) A board of trustees may establish rules and prescribe standards to permit a full-time employee to be absent no more than 4 2 days for personal reasons ~~and 2 days for emergencies~~. However, such absences for personal reasons ~~and emergencies~~ shall be charged only to accrued sick leave, and leave for personal reasons ~~and emergencies~~ shall be noncumulative.

(d) A board of trustees may establish rules to provide terminal pay for accumulated sick leave to a full-time employee *upon retirement* or to his beneficiary if service is terminated by death. However, such terminal pay may not exceed an amount determined as follows:

1. 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.
2. 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.
3. 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.
4. During *the next 3 years and after the 10th year* of service, the daily rate of pay multiplied by 50 percent times the number of days of accumulated sick leave.
5. *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.*

If an employee receives terminal pay benefits based on unused sick leave credit, all unused sick leave credit shall become invalid; however, if an employee terminates his employment without receiving terminal pay benefits and is reemployed, his sick leave credit shall be reinstated.

(Renumber subsequent section.)

Senator Peterson moved the following amendment which was adopted:

Amendment 4—On page 7, line 30, after the period (.) insert: *The board shall annually report to the Legislature and the State Board of Education the amount of unclaimed matriculation and tuition fees by institution.*

Senators Gordon and Barron offered the following amendment which was moved by Senator Gordon and failed:

Amendment 5—On page 2, line 8, strike all of page 2 and page 3 to line 7.

The vote was:

Yeas—12

Barron	Dunn	Girardeau	Langley
Childers, D.	Frank	Gordon	Myers
Childers, W. D.	Gersten	Kirkpatrick	Scott

Nays—17

Mr. President	Grant	Meek	Vogt
Beard	Hill	Peterson	Weinstein
Carlucci	Johnson	Plummer	
Castor	Malchon	Thomas	
Fox	Margolis	Thurman	

Vote after roll call:

Yea—Deratany

Senator Jenne moved the following amendment which was adopted:

Amendment 6—On page 3, between lines 7 and 8, insert:

Section 3. A new subsection (4) is added to section 240.235, Florida Statutes, to read:

240.235 Fees.—

(4) *The Board of Regents shall adopt rules allowing the Deans of the law schools at Florida State University and the University of Florida to waive registration fees, beginning with the fall semester of 1985, for disadvantaged, needy law students at their respective institutions.*

(Renumber subsequent subsections.)

Senator Neal moved the following amendments which were adopted:

Amendment 7—On page 2, lines 17-25, strike beginning with “On” and ending with “year.” and insert: *On July 1 of each year, beginning in 1986, the average undergraduate and graduate matriculation fees shall increase by the same percentage that the prior year’s general revenue appropriation per full-time equivalent enrollment increased over the preceding year; except that the increase in these fees shall not exceed 5 percent in any year. At a minimum the fees for law and medical professional students shall increase by the same percentage as the increase in the undergraduate and graduate fees. If there is a decrease in the prior year’s appropriation from general revenue per full-time equivalent enrollment, the fees shall remain the same as they were in the prior year.*

Amendment 8—On page 4, lines 20-24, after “year” strike the phrase beginning with “and” and ending with “purposes.”

Senator Jenne moved the following amendments which were adopted:

Amendment 9—In title, on page 1, line 7, after “universities,” insert: amending s. 240.235, F.S.; directing the Board of Regents to allow the waiver of certain fees for disadvantaged, needy students attending law school at the University of Florida or Florida State University;

Amendment 10—In title, on page 1, line 7, after “universities,” insert: amending s. 240.213, F.S.; authorizing the Board of Regents to secure or self-insure state university personnel for general and professional liability insurance in health care and veterinary science disciplines;

Amendment 11—On page 1, line 13, after the semicolon (;) insert: amending s. 240.1201, F.S.; providing that certain members of the armed services, and certain personnel employed by the state education system and their spouses and dependent children, be classified as state residents for tuition purposes;

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—34

Mr. President	Dunn	Johnson	Plummer
Barron	Fox	Kirkpatrick	Scott
Beard	Frank	Kiser	Stuart
Carlucci	Gersten	Malchon	Thomas
Castor	Girardeau	Margolis	Thurman
Childers, D.	Grant	McPherson	Vogt
Childers, W. D.	Grizzle	Meek	Weinstein
Crawford	Hill	Myers	
Deratany	Jennings	Peterson	

Nays—2

Gordon Langley

Vote after roll call:

Yea—Jenne, Neal

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

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

SB 40—A bill to be entitled An act relating to nursing homes and related health care facilities; amending s. 400.162, F.S.; specifying funds and property that must be maintained in trust; providing for handling of funds and property of deceased residents; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 28, strike: *any*, and insert: *one has been appointed at the time the nursing home disburses such funds.*

Amendment 2—On page 2, line 12, strike: *any*, and insert: *one has been appointed at the time the nursing home disburses such property,*

Amendment 3—On page 1, line 30, and on page 2, line 13, after the word “form” insert: *provided by the nursing home to the resident*

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

SB 40 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Jennings	Peterson
Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Castor	Girardeau	Kiser	Thomas
Childers, D.	Gordon	Langley	Thurman
Childers, W. D.	Grant	Malchon	Vogt
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hair	Meek	
Dunn	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Neal, Stuart

The Honorable Harry A. Johnston, II, President

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

CS for SB 1152—A bill to be entitled An act relating to appellate court filing fees; amending s. 25.241, F.S.; increasing Supreme Court filing fees; providing an exemption from the requirement to pay the Clerk of the Supreme Court a filing fee for the State of Florida when appearing as appellant or petitioner; amending s. 35.22, F.S.; providing a similar exemption with respect to payment of filing fees in the district courts of appeal; increasing district courts of appeal filing fees; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike all of lines 29 and 30 and insert:

Section 2. Subsections (1) and (3) of section 35.22, Florida Statutes, are amended to read:

Amendment 2—On page 2, line 3, insert:

(1) ~~Each district court of appeal shall appoint a clerk who shall be paid an annual salary to be determined in accordance with s. 25.382. The clerk of each of the district courts of appeal shall be appointed, and clerks of the district courts of appeal shall be paid an annual salary, as fixed by law, which shall be \$4,000 less than the annual salary provided for the Clerk of the Supreme Court.~~

Amendment 3—In the title, on page 1, line 12, insert: providing that the clerk of each district court of appeal shall be paid an annual salary in accordance with s. 25.382, F.S.;

Amendment 4—On page 1, line 29, insert:

Section 2. Subsection (4) of section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall make the following charges for services rendered by his office in recording documents and instruments and in performing the duties enumerated. However, in those counties where the clerk's office operates as a fiscal unit of the county pursuant to s. 145.022(1), the clerk shall not charge the county for such services.

Charges

(4) For preparing, numbering, and indexing an original record of appellate proceedings, per *instrument page* 2.00 .50

(Renumber subsequent sections.)

Amendment 5—In the title, on page 1, line 8, insert: amending s. 28.24(4), F.S.; revising the service charge for preparing, numbering, and indexing an original record of appellate proceedings;

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

CS for SB 1152 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Castor, Neal, Peterson

The Honorable Harry A. Johnston, II, President

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

SB 1185—A bill to be entitled An act relating to executions; amending s. 922.07, F.S.; directing the Governor to have certain condemned persons committed to the Department of Corrections Mental Health Treatment Facility; directing the facility administrator to notify the Governor of certain findings; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike lines 22-23 and insert: committed to a *Department of Corrections mental health treatment facility the state hospital for the insane.*

On motion by Senator Vogt, the Senate refused to concur in the House amendment and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Harry A. Johnston, II, President

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

SB 263—A bill to be entitled An act relating to drivers' licenses; amending ss. 322.12 and 322.121, F.S.; specifying that eyesight examinations may be given by a department examiner or a licensed ophthalmologist, optometrist, or physician; providing for subsequent screening; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

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

Section 1. Subsection (8) is added to section 322.05, Florida Statutes, to read:

322.05 Persons not to be licensed.—The department shall not issue any license:

(8) *To any person whom the department has good cause to believe is an alien and who is not duly authorized to be employed or to permanently reside in the United States by the immigration laws or by the Attorney General of the United States, and no such person may obtain an identification card under the provisions of s. 322.051.*

(Renumber subsequent sections.)

Amendment 2—On page 1 in the title, line 2, after the semicolon (;) insert: amending s. 322.05, F.S., prohibiting the issuance of driver licenses or an identification card to illegal aliens;

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

Amendment 1—On page 1, strike all of lines 11-14 and insert: (8) *To an alien who is not duly authorized to be in the United States under the immigration laws of the United*

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

Amendment 1—In title, on page 1, line 4, strike "illegal" and insert: unauthorized

On motions by Senator Deratany, the Senate concurred in House Amendments 1 and 2 as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 263 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	Peterson
Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Kiser	Stuart
Childers, D.	Gordon	Langley	Thomas
Childers, W. D.	Grant	Malchon	Thurman
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hair	Meek	
Dunn	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, McPherson, Neal

The Honorable Harry A. Johnston, II, President

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

CS for SB 189—A bill to be entitled An act relating to environmental regulation; amending s. 403.061, F.S.; applying certain classifications, standards, and criteria for waters used for deepwater shipping to additional ports; amending s. 403.816, F.S.; applying certain provisions relating to maintenance dredging of deepwater ports to additional ports; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

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

Section 1. Subsection (26) of section 403.061, Florida Statutes, 1984 Supplement, is 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:

(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality; appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate mixing zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for deepwater commercial navigation.

(b) The provisions of paragraph (a) 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, St. Petersburg, Port Bartow, Florida Power Corporation's Crystal River Canal, Boca Grande, Green Cove Springs, and Pensacola.

Section 2. Section 403.816, Florida Statutes, 1984 Supplement, is amended to read:

403.816 Permits for maintenance dredging of deepwater ports.—

(1) The department shall establish a permit system under this chapter and chapter 253 which provides for the performance, for up to 25 years from the issuance of the original permit, of maintenance dredging of permitted navigation channels, port harbors, turning basins, and harbor berths. No charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority except as provided in s. 403.813(1)(f).

~~(2) Disposal of spoil material resulting from maintenance dredging of deepwater navigation channels, port harbors, turning basins, or harbor berths shall be exempt from the requirements of s. 253.124 when spoil material is to be removed and deposited:~~

~~(a) On a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state;~~

~~(b) In a spoil disposal area permitted under ss. 403.061(24), 403.087, and 253.124; or~~

~~(c) In a federally authorized ocean disposal area beyond the territorial limits of the state.~~

(2)(3) The provisions of s. 253.77 do not apply to a permit for maintenance dredging and spoil site approval when there is no change in the size or location of the spoil disposal site and when the applicant provides documentation to the department that the appropriate lease, easement, or consent of use for the project site issued pursuant to chapter 253 is recorded in the county where the project is located.

(3)(4) The provisions of this section 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, St. Petersburg, Port Bartow, Florida Power Corporation's Crystal River Canal, Boca Grande, Green Cove Springs, and Pensacola.

Section 3. This act shall take effect upon becoming a law.

Amendment 2—On page 1, strike the entire title and insert: A bill to be entitled An act relating to environmental regulation; amending s. 403.061, F.S.; applying certain classifications, standards, and criteria for waters used for deepwater shipping to additional ports; amending s. 403.816, F.S.; applying certain provisions relating to maintenance dredging of deepwater ports to additional ports; providing an effective date.

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

CS for SB 189 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Fox	Jennings	Peterson
Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Kiser	Thomas
Childers, D.	Gordon	Langley	Vogt
Childers, W. D.	Grant	Malchon	Weinstein
Crawford	Grizzle	Margolis	
Deratany	Hair	Meek	
Dunn	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, McPherson, Neal, Stuart

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1313 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Tourism and Economic Development and Representative Carlton—

HB 1313—A bill to be entitled An act relating to private activity bonds; creating part VI of chapter 159, F.S., the "Florida Private Activity Bond Allocation Act"; providing purpose and definitions; providing for the allocation of private activity bonds; providing for fees; providing effect on prior executive orders; providing authority for an executive order to conform to amendments to the Internal Revenue Code or regulations issued thereunder; providing for applications for allocations; providing an appropriation; amending s. 159.26, F.S.; providing legislative findings and purpose; amending s. 159.27, F.S.; defining "project"; defining "mass commuting facility"; providing for retroactivity; providing effective dates.

—was read the first time by title.

On motion by Senator Margolis, by unanimous consent HB 1313 was taken up out of order. On motions by Senator Margolis, by two-thirds vote HB 1313 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	Fox	Jennings	Myers
Barron	Frank	Johnson	Peterson
Bear	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Childers, D.	Gordon	Langley	Thomas
Childers, W. D.	Grant	Malchon	Thurman
Crawford	Grizzle	Margolis	Vogt
Deratany	Hair	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Dunn, Jenne, Neal

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended and passed CS for HB's 1122 and 805, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

CS for HB's 1122 and 805—A bill to be entitled An act relating to education; requiring certain male students applying for or receiving state funded scholarships or financial aid to show proof of compliance with selective service system registration requirements; providing penalties; providing for notification and appeal; providing an effective date.

Amendment 1 to Senate Amendment 1—On page 1, line 25, and on page 2, lines 1 through 20, strike all of said lines and insert: shall submit to the postsecondary institution, prior to the receipt of aid awarded subject to the provisions of chapter 240, Florida Statutes, an affidavit showing compliance with the Selective Service System registration requirements of Section 3 of the federal Military Selective Service Act. Such evidence may include a copy of the Selective Service System registration acknowledgement letter received from the Selective Service System or the Selective Service Affidavit of the United States Office of Education. Falsification of such evidence shall result in the denial of any pending application or revocation of any award currently held to the extent that no further payments shall be made.

(2) The postsecondary institution shall notify the Department of Education of any male applicant for or recipient of any scholarship or financial aid awarded under part IV of chapter 240, Florida Statutes, who fails to show proof of Selective Service System registration in the manner and within the time prescribed by the Department of Education. Any pending application of such award shall be denied and any such award currently held shall be revoked to the extent that no further payments shall be made. The Department of Education shall notify the applicant or recipient of any such award denied or revoked and shall give him the opportunity, either in person, in writing, or by counsel of his choice, to present evidence appealing such action.

Section 2. This act shall take effect July 1, 1985 or upon becoming a law, whichever occurs later.

Amendment 1 to Senate Amendment 2—On page 1, line 19 after the semicolon (;), strike all through the semicolon on line 22.

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

CS for HB's 1122 and 805 passed as amended. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Fox	Jennings	Peterson
Barron	Frank	Johnson	Plummer
Carlucci	Gersten	Kirkpatrick	Thomas
Childers, D.	Girardeau	Kiser	Thurman
Childers, W. D.	Gordon	Langley	Vogt
Crawford	Grant	Malchon	Weinstein
Deratany	Hair	Meek	
Dunn	Hill	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

The Honorable Harry A. Johnston, II, President

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

CS for CS for SB 1—A bill to be entitled An act relating to the Beverage Law; amending s. 561.01, F.S.; defining the words "sale" and "sell" for purposes of such law; amending ss. 561.15, 562.11 and 562.111, F.S.; raising the legal age for sale, consumption, or possession of alcoholic beverages; raising the age restriction for licensure under the Beverage Law; providing grandfather provisions; providing that licensed retail alcoholic beverage establishments shall not violate s. 2, Article I of the State Constitution; specifying color of drivers' licenses for such persons; providing for severability; providing for legislative review; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 5—On page 1, line 20, strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 561.15, Florida Statutes, 1984 Supplement, is amended to read:

561.15 Licenses; qualifications required.—

(1) Licenses shall be issued only to persons of good moral character who are not less than 21 1/2 years of age. Licenses to corporations shall be issued only to corporations whose officers are of good moral character and not less than 21 1/2 years of age. There shall be no exemptions from the license taxes herein provided to any person, association of persons, or corporation, any law to the contrary notwithstanding.

Section 2. Section 562.11, Florida Statutes, 1984 Supplement, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21 1/2; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21 1/2; penalties.—

(1)(a) It is unlawful for any person to sell, give, serve, or permit to be served alcoholic beverages to a person under 21 1/2 years of age or to permit a person under 21 1/2 years of age to consume such beverages on the licensed premises. Anyone convicted of a violation of the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A licensee who ~~violates paragraph (a) sells, gives, serves, or permits to be served any alcoholic beverage to a person under 19 years of age or permits a person under 19 years of age to consume any alcoholic beverage on the licensed premises~~ shall have a complete defense to any civil action therefor, except for any administrative action by the division under the Beverage Law, if, at the time the alcoholic beverage was sold, given, served, or permitted to be served, the person falsely evidenced that he was of legal age to purchase or consume the alcoholic beverage and the appearance of the person was such that an ordinarily prudent person would believe him to be of legal age to purchase or consume the alcoholic beverage and if the licensee carefully checked one of the following forms of identification: the person's driver's license, an identification card issued under the provisions of s. 322.051, or the person's passport, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he was of legal age to purchase or consume the alcoholic beverage. Nothing herein shall negate any cause of action which arose prior to June 2, 1978.

(2) It is unlawful for any person to misrepresent or misstate his age or the age of any other person for the purpose of inducing any licensee or his agents or employees to sell, give, serve, or deliver any alcoholic beverages to a person under 21 1/2 years of age.

(a) Anyone convicted of violating the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person under the age of 17 years who violates such provisions shall be within the jurisdiction of the judge of the circuit court and shall be dealt with as a juvenile delinquent according to law.

(c) In addition to any other penalty imposed for a violation of this subsection, if a person uses a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles in the violation of this subsection, the court may:

1. Order the person to participate in public service or a community work project for a period not to exceed 40 hours; and
2. Suspend the person's driver's license or driving privilege for a period not to exceed 1 year.

(3) Any person under the age of 21 49 years testifying in any criminal prosecution or in any hearing before the division involving the violation by any other person of the provisions of this section may, at the discretion of the prosecuting officer, be given full and complete immunity from prosecution for any violation of law revealed in such testimony that may be or may tend to be self-incriminating, and any such person under 21 49 years of age so testifying, whether under subpoena or otherwise, shall be compelled to give any such testimony in such prosecution or hearing for which immunity from prosecution therefor is given.

Section 3. Section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 49 prohibited.—It is unlawful for any person under the age of 21 49 years, except a person employed under the provisions of s. 562.13 acting in the scope of his employment, to have in his possession alcoholic beverages, except that nothing herein contained shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants. Notwithstanding the provisions of s. 562.45, any person under the age of 21 49 who is convicted of a violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; however, any person under the age of 21 49 who has been convicted of a violation of this section and who is thereafter convicted of a further violation of this section is, upon conviction of the further offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 562.51, Florida Statutes, is created to read:

562.51 Retail alcoholic beverage establishments; rights as private enterprise.—Licensed retail alcoholic beverage establishments open to the public are private enterprises and may refuse service to any person who is objectionable or undesirable to the licensee, but such right to refuse service shall not be in violation of s. 2, Art. I of the State Constitution.

Section 5. Section 322.141, Florida Statutes, is amended to read:

322.141 Color of licenses issued to minors.—All licenses originally issued or reissued issued by the department to persons under the age of 21 48 years for the operation of motor vehicles shall have markings or color, including photographic backdrop, which shall be an obviously separate and distinct color backdrop from all other licenses issued by the department for the operation of motor vehicles. No license currently issued shall be recalled because of background color.

Section 6. Section 562.113, Florida Statutes, is hereby repealed.

Section 7. This act shall take effect July 1, 1985, except that:

(1) The amendments to ss. 561.15 and 562.11, Florida Statutes, 1984 Supplement, and s. 562.111, Florida Statutes, insofar as they raise the legal age of persons who may be licensed under the Beverage Law or who may consume or possess alcoholic beverages, shall not apply to persons born on or before June 30, 1966.

(2) No license under the Beverage Law issued prior to the effective date of this act to a person under the age of 21 years shall be denied or revoked by virtue of the amendments to s. 561.15, Florida Statutes, 1984 Supplement, in this act.

Amendment 6—In the title, on page 1, strike lines 1-16 and insert: A bill to be entitled An act relating to the Beverage Law; amending ss. 561.15, 562.11 and 562.111, F.S.; raising the legal age for sale, consumption, or possession of alcoholic beverages; raising the age restriction for licensure under the Beverage Law; providing grandfather provisions; repealing s. 562.113, F.S., relating to drinking age for military personnel on active duty; providing that licensed retail alcoholic beverage establishments shall not violate s. 2, Article I of the State Constitution; specifying color of drivers' licenses for such persons; providing an effective date.

Senator D. Childers moved that the Senate concur in the House amendments.

Senator D. Childers moved that debate be limited to five minutes per side. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—17

Mr. President	Deratany	Hill	Myers
Beard	Dunn	Jennings	Peterson
Carlucci	Fox	Johnson	
Childers, D.	Grant	Kiser	
Crawford	Grizzle	Langley	

Nays—15

Barron	Gordon	Margolis	Scott
Frank	Hair	McPherson	Vogt
Gersten	Kirkpatrick	Meek	Weinstein
Girardeau	Malchon	Plummer	

Senators Gordon, Barron, W. D. Childers, Gersten, Castor, Frank, Girardeau, Weinstein, Meek, Fox, Scott and Margolis offered the following amendment to House Amendment 5 which was moved by Senator Gordon:

Amendment 1—On page 4, lines 29-31, and on page 5, lines 1-4, strike all of said lines and insert:

Section 4. No person, firm, or corporation licensed under the Beverage Law shall withhold membership, its facilities, or services from any person on account of race, religion, sex, or national origin, except any nationally recognized fraternal organization which by its nature is all of one gender and any such organization which is oriented to a particular religion or which is ethnic in character.

Senator Langley moved that debate be limited to five minutes per side. The motion failed.

Further consideration of CS for CS for SB 1 was deferred.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments to HB 1352 and requests the Senate to recede; in the event the Senate refuses to recede, requests a Conference Committee. The Speaker has appointed Representatives Gustafson, Simon, Woodruff, Watt, Lippman, Meffert; Alternate Lewis as Conferees on the part of the House.

Allen Morris, Clerk

HB 1352—A bill to be entitled An act relating to professional malpractice; amending s. 395.011, F.S.; providing certain restrictions on an applicant's suit regarding staff privileges; amending s. 395.0115, F.S.; requiring licensed facilities to discipline staff members for certain conduct; requiring investigation by the governing board of licensed facilities of certain conduct by staff members; providing for attorney's fees and costs in certain actions by staff members and requiring staff members to post security in such actions; amending s. 458.331, F.S.; providing definitions; requiring the Department of Professional Regulation to investigate certain physicians; amending s. 459.015, F.S.; providing definitions; requiring the department to investigate certain osteopaths; creating s. 627.4147, F.S.; requiring medical malpractice insurance or self-insurance policies to include certain provisions regarding cooperation of the insured and rights of the insurer to settle without the insured's consent; requiring notice prior to cancellation or nonrenewal; allowing certain requirements; amending s. 627.912, F.S.; requiring insurers and self-insurers to report additional information regarding professional liability claims; requiring the Department of Insurance to report certain information to specified agencies; amending s. 768.40, F.S.; expanding the immunity granted to medical review committees and extending immunity to insurer and self-insurer review committees; providing for review of negligence by hospitals and ambulatory surgical centers; requiring health care providers to submit to such review as a condition of licensure; providing for attorney's fees and costs in certain actions by health care providers and requiring health care providers to post security in such actions; amending s. 768.41, F.S.; requiring certain medical facilities to submit annual risk management reports to the Department of Health and Rehabilitative Services; providing for rules; amending s. 768.45, F.S.; providing for the standard of care in medical malpractice actions; expanding guidelines for qualifying as an expert witness; amending s. 768.48, F.S.; reclassifying certain

damages for itemized verdicts; creating s. 768.495, F.S.; requiring attorneys filing medical negligence actions to investigate the circumstances and certify that a good faith belief that grounds exist for such actions; providing additional requirements for punitive damage claims; providing for awards of attorney's fees and costs under certain circumstances; amending s. 768.51, F.S.; providing for periodic payments of damages in certain medical malpractice actions; creating s. 768.57, F.S.; requiring notice to prospective defendants and a waiting period before filing suit in medical malpractice actions; requiring a review by insurers and self-insurers during such waiting period; providing for settlement offers of admission of liability and for arbitration; tolling the statute of limitations during such waiting periods; providing arbitration procedures; requiring separate notice filings in multiple-defendant cases; creating s. 768.65, F.S.; providing for offers of judgment and demands for settlement; providing penalty for rejection; creating s. 768.575, F.S.; limiting attorney's fees in medical malpractice actions; amending s. 768.49, F.S.; providing for remittitur and additur in medical malpractice actions; creating s. 768.58, F.S.; requiring settlement conferences in medical malpractice actions; creating s. 768.59, F.S.; establishing apportionment of damages and fault; providing for contribution based on fault in medical malpractice cases; providing for reallocation; amending s. 768.46, F.S.; providing that a valid medical consent in writing raises a rebuttable presumption of validity; amending s. 626.973, F.S.; excluding medical malpractice coverage from fictitious group statute; creating s. 768.60, F.S.; providing that health care facilities are liable for failure to review competence of medical staff; providing health care facilities are liable for failure to maintain risk management program; providing methods of insurance for hospitals; providing certain waiver of sovereign immunity; amending s. 627.351, F.S.; establishing a premium cap for a special risk category and requirement for this category; increasing the association's insurance limits; requiring a risk management program for association insureds; providing for recovery of the special risk category deficit; imposing a premium surcharge for medical malpractice insurance; providing for recovery of a deficit arising from the standard risk category; creating s. 395.0165, F.S.; making alteration of medical records a criminal offense; providing penalties; creating s. 768.61, F.S.; prohibiting excessive diagnostic testing; providing penalties; creating s. 458.320, F.S.; requiring physicians to show financial responsibility or to purchase insurance; providing for reporting of failure to comply; creating s. 459.0085, F.S.; requiring osteopaths to show financial responsibility or purchase insurance; providing for reporting of failure to comply; creating s. 455.244, F.S.; providing for evaluation and certification of foreign medical schools; providing for language equivalency examinations; amending s. 458.311, F.S.; limiting the time a medical applicant may take the FLEX examination; amending s. 455.213, F.S.; providing that certain health care practice boards shall require continuing education as a condition of relicensure; creating s. 455.2287, F.S.; prohibiting and penalizing misrepresentation in health care license providers; amending s. 458.327, F.S.; prohibiting and penalizing misrepresentation in health care licensing and practicing medicine; amending s. 459.013, F.S.; prohibiting and penalizing misrepresentation regarding osteopaths; creating s. 205.194, F.S.; prohibiting local occupational license without state license; amending s. 463.011, F.S., deleting obsolete language; repealing ss. 205.195, 205.197, 205.198, 205.199, and 480.051, F.S., repealing obsolete sections; amending s. 458.307, F.S.; increasing the number and lay membership of the Board of Medical Examiners; creating s. 768.64, F.S.; providing form and requirements for arbitration agreements in certain group health insurance contracts; providing selection of arbitrators; tolling the statute of limitations; creating part IX of chapter 626, F.S.; creating a health care risk manager advisory council and providing its duties; providing powers and duties of the Department of Insurance relating to the regulation of health care risk managers; providing for certification; prohibiting specified acts and providing penalties; providing for disciplinary actions and grounds therefor; amending s. 624.501, F.S.; providing a certification fee for risk managers; amending s. 458.337, F.S.; requiring notice and reason of physician discipline to be given to the department; providing the department subpoena power over certain records; amending s. 455.241, F.S.; extending department's access to patient records for disciplinary purposes; amending s. 395.017, F.S.; providing that the department may obtain certain disciplinary records; limiting public access; repealing s. 768.56, F.S., relating to attorney's fees in medical malpractice cases; creating s. 768.66, F.S.; requiring department to study risk management; amending ss. 395.502, 395.509, and 395.5094, F.S., allowing hospitals to increase revenues by the amount of the premium surcharge imposed under s. 627.351(4); creating s. 641.391, F.S., requiring health maintenance organizations to establish internal risk management programs; providing for rules; requiring certain reports; providing for review and repeal; providing severability; providing for prospective application; providing an effective date.

On motions by Senator Hair, the Senate refused to recede from the Senate amendments to HB 1352 and acceded to the request for a conference committee. The President appointed Senator Hair, chairman; Senators Langley, Myers, Barron, Weinstein and Grant. The action of the Senate was certified to the House.

On motion by Senator Jenne, the rules were waived and time of adjournment for May 29 was extended from 5:00 p.m. until 6:30 p.m.

On motion by Senator Jenne, by two-thirds vote SB 673 was scheduled for consideration at 3:30 p.m., May 29.

On motions by Senator Jenne, the rules were waived and by two-thirds vote CS for CS for SB's 1183 and 885 was withdrawn from the Committee on Transportation.

On motions by Senator Jenne, the rules were waived and by unanimous consent House Bills 812 and 302 were withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Jenne, the rules were waived and by two-thirds vote Senate Bills 555 and 266 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Jenne, the rules were waived and by two-thirds vote Senate Bills 1187 and 1107 were withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motions by Senator Jenne, the rules were waived and by two-thirds vote HB 341 was withdrawn from the Committee on Judiciary-Civil.

On motions by Senator Jenne, the rules were waived and by two-thirds vote CS for HB 742 was withdrawn from the Committee on Governmental Operations.

On motions by Senator Jenne, the rules were waived and by two-thirds vote HB 1340 was withdrawn from the Committees on Commerce and Appropriations.

On motions by Senator Jenne, by two-thirds vote CS for HB 1202 was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Jenne, the rules were waived and by two-thirds vote SB 903 was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations.

ENROLLING REPORTS

CS for CS for SB 290 and CS for SB 489 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 28, 1985.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 27 was corrected and approved.

RECESS

On motion by Senator Jenne, the Senate recessed at 6:36 p.m. to reconvene at 9:00 a.m., Wednesday, May 29.

SENATE PAGES

May 27-31

Julie Anne Anderson, Tallahassee; Suzy Braswell, Tallahassee; Denise Elizabeth Brown, Tallahassee; Sean Cates, Tallahassee; Stephanie Douglas, Tallahassee; Nathaniel DuPont, Jr., Quincy; Michele L. Famiglietti, Jupiter; Scott Groeschner, South Daytona; Drew M. Hedleston, Laurel; Derrick D. Jones, Quincy; Terri Kelley, Stuart; Pam Mitten, Tallahassee; Jill Marie Nast, Tallahassee; Brian Sheridan Smith, Tampa; Steven Spector, Tallahassee; Jennifer I. Stine, Orlando; Cara M. Vesely, Sarasota; Michelle Walker, Tallahassee; James Woodroffe, Tampa; Cheryl Anne Young, Tallahassee