



Journal of the Senate

Number 26

Wednesday, May 29, 1985

Prayer

The following prayer was offered by Jackie Sharkey, Administrative Assistant, Sergeant at Arms, Tallahassee:

Dear God, creator of all things, we praise your name and thank you for all our blessings. We pray especially for this group gathered here.

Lord, help us to be not anxious, but joyful always.

Lord, help us to remember that by prayer and petition with thanksgiving, all things are possible.

Lord God, give us guidance, patience and understanding to all people in all places. Amen.

Call to Order

The Senate was called to order by the President at 9:00 a.m. A quorum present—40:

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

Excused periodically: Senators Myers, Barron, Weinstein, Grant, Thomas, Gordon, Beard, Castor, Kirkpatrick, Peterson, Fox, Langley, Jenne, Hair, Grizzle and Stuart to work on appropriations and related matters, and medical malpractice; Senator Neal to complete necessary work on Appropriations Implementing Legislation and the PECO Bill

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, May 29, 1985: CS for SB 673, CS for CS for SB 34, CS for CS for SB 1081, CS for SB's 862, 740 and 1241, SB 661, CS for HB 1202, CS for CS for SB 997, SB 136, CS for SB 761, CS for SB 526, CS for CS for SB 973, CS for SB 974, CS for SB 1273, SB 851, SB 426, CS for SB 708, CS for SB 1176, HB 1425, HB 844, SB 1271, SB 690, CS for SB 519, CS for SB 261, SB 1128, SB 1129, SB 58, SB 28, CS for SB 121, CS for SB 138, SB 1216, HB 607, CS for SB 584, CS for SB 91, SM 778, CS for SB 585, SB 968, CS for SB 897, CS for SB 1147, CS for SB 1005, SB 1083, CS for SB 1061, SB 267, SB 386, CS for SB 218, SB 600, CS for SB 287, CS for SB 618, SB 161, CS for SB 865, CS for CS for SB 99, SB 86, SB 1012, CS for CS for SB 204, CS for CS for SB 235, SB 144, CS for SB 307, SB 1250, SM 1197, SB 239, CS for SB 206, SB 727, CS for SB 573, SB 1189, SB 1201, CS for SB 952, CS for SB 1267, CS for SB 413, SB 106, CS for SB 643, CS for SB 1270, CS for SB 1055, SB 71, CS for SB 1136, SB 711, CS for SB 963, SB 796, CS for SB 1089, CS for CS for SB 1194, SB 407, CS for SB 451, CS for SB 406, SJR 926, CS for SB 109, CS for SB 140, CS for SB 1243

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Rules and Calendar recommends the following pass: SB 646 with 1 amendment, SB 342 with 1 amendment

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Rules and Calendar recommends the following pass: SB 168 with 2 amendments, SB 1029, SJR 971, CS for SCR 1088, SJR 824, SCR 639, CS for SB 898

The bills were placed on the calendar.

The Committee on Rules and Calendar recommends a committee substitute for the following: SB 1178

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

FIRST READING OF COMMITTEE SUBSTITUTE

By the Committee on Rules and Calendar and Senator Gordon—

CS for SB 1178—A bill to be entitled An act relating to state employment; creating s. 110.151, F.S.; requiring the Department of Administration to implement a pilot program for child care for state officers' and employees' children or legal guardians; authorizing the use of space in state owned buildings for child care centers; authorizing a waiver of rental fees under certain circumstances; providing for the selection of a center operator on a competitive contract basis; authorizing the use of appropriated funds for renovation of state owned buildings, for equipment and supplies, and for coordination of activities; authorizing the department to adopt rules; requiring regular reports; providing for future repeal; providing an effective date.

On motion by Senator Grant, by two-thirds vote SR 1333 was withdrawn from the Committee on Rules and Calendar.

CONSIDERATION OF RESOLUTION

On motion 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.

WHEREAS, Sheriff John H. Whitehead of Lake Butler was the dean of Florida sheriffs when he retired in 1984, after winning eight elections and serving 4 years as a constable and 32 years as Union County Sheriff, and

WHEREAS, after returning home from U.S. Navy service in eight major sea battles of World War II, Sheriff Whitehead at age 27 became the youngest sheriff in the state, and has spent most of his adult life enforcing the law in Union County, and

WHEREAS, Sheriff Whitehead's dedication was so great that not only he but also his wife, Vivian, and their family lived in the county jail and ran it for his first 13 years in office, while his mother served as bookkeeper, and

WHEREAS, Sheriff Whitehead has expressed his philosophy in the words, "Help the little fellow who's down on his luck. The man on top can help himself.", and

WHEREAS, one coworker has remarked on his "knack of changing and updating his procedures as needed," and other coworkers praise his dedication and fairness, and

WHEREAS, fellow sheriffs admire his competence and note that he typifies all that is good in his profession, and

WHEREAS, Governor Bob Graham has praised the sheriff for operating his office in "the highest tradition of quality law enforcement", and

WHEREAS, in 1984, the Florida Congressional Delegation voted Sheriff Whitehead a Congressional Distinguished Service Award, and

WHEREAS, Sheriff Whitehead was President of the Florida Sheriffs' Association in 1975, sat on the first Correctional Standards Council that year, has served on the Board of Trustees of the Florida Sheriffs Boys' Ranch from its founding, and has also taken an interest in the Florida Sheriffs Girls' Villa, and

WHEREAS, it is fitting that Florida lawmakers recognize one of the state's most competent and respected enforcers of the law, NOW, THEREFORE,

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

That the Florida Senate honors John H. Whitehead for his 32 outstanding years as the Sheriff of Union County, during which Sheriff Whitehead helped keep the county crime rate low, strove to keep his office procedures abreast of the times, and distinguished himself as a plainspoken champion of his fellow citizens.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to Sheriff John H. Whitehead as a tangible token of the esteem of the Florida Senate for his contributions to law enforcement in this state.

—was taken up out of order by unanimous consent, read the second time in full and unanimously adopted.

On motion by Senator Jenne, by two-thirds vote consideration of CS for CS for SB 1194 was set for 11:00 a.m. this day.

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 88, CS for SB 492, CS for CS for SB's 668, 1054 and 1106, CS for SB 713, CS for SB 782, Senate Bills 94, 116, 246, 263, 391, 411, 606, 845, 972, 1126, 1255, 1299; and has adopted SCR 1245.

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 Amendment 1 to House Amendment 1, receded from House Amendment 2 and passed as amended SB 173.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has receded from House amendment and passed SB 1185.

Allen Morris, Clerk

The bill contained in the foregoing message was 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 as amended CS for HB 664, House Bills 201, 544, 1074, 1364.

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 House Bills 333, 334, 336, 338, 339, 446, 492, 511, 513, 523, 524, 704, 711, 720, 726, 782, 784, 811, 1071, 1073, 1084, 1146, 1207, 1208, 1401, 1402, 1407, 1409; and has passed as amended House Bills 335, 340, 512, 564, 570, 625, 793, 923, 944, 1032, 1033, 1209, 1339, 1400 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Shackelford—

HB 333—A bill to be entitled An act relating to Manatee County; amending sections 5, 10, 15, and 16 of chapter 84-477, Laws of Florida, relating to the Oneco-Tallevast Fire Control District; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 334—A bill to be entitled An act relating to Manatee County; amending sections 5, 10, 15, and 16 of chapter 84-474, Laws of Florida, relating to the Whitfield Fire Control District; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 336—A bill to be entitled An act relating to Manatee County; providing for the inclusion of certain unincorporated land in Manatee County into the Parrish Fire Control District; providing for a board of fire commissioners; providing for the appointment of commissioners; providing for the authority to levy special assessments and charges; providing for the deposit of collected funds; providing for the use of funds; providing for the borrowing power of the district; providing for the authority and power to acquire certain property; providing for the duties of the board of commissioners; providing for the authority to employ qualified personnel; providing for financial reporting; providing for the existence of the district; providing definitions; providing a schedule of special assessments; providing for impact fees; providing severability; providing for liberal interpretation; providing for repeal of conflicting laws; providing for an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 338—A bill to be entitled An act relating to Manatee County; providing for the inclusion of certain unincorporated land in Manatee County into the Ellenton Fire Control District; providing for a board of fire commissioners; providing for the appointment of commissioners; providing for the authority to levy special assessments and charges; providing for the deposit of collected funds; providing for the use of funds; providing for the borrowing power of the district; providing for the authority and power to acquire certain property; providing for the duties of the board of commissioners; providing for the authority to employ qualified personnel; providing for financial reporting; providing for the existence of the district; providing definitions; providing a schedule of special assessments; providing for impact fees; repealing chapters 59-1539, 61-2449, 65-1892, 67-1692, 74-531, 75-435, 79-505, 80-537, 83-464, and 84-482, Laws of Florida, relating to the former Ellenton Fire Control District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 339—A bill to be entitled An act relating to Manatee County; amending sections 5, 10, 15, and 16 of chapter 84-481, Laws of Florida, relating to the Samoset Fire Control District; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 446—A bill to be entitled An act relating to Manatee County; amending chapter 27696, Laws of Florida, 1951, as amended and codified by chapter 84-476, Laws of Florida, relating to the Anna Maria Island Fire Control District; amending sections 5, 10, 15, and 16 of chapter 84-476, Laws of Florida; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Lewis and others—

HB 492—A bill to be entitled An act relating to the City of Jacksonville; establishing the Office of General Counsel within the Charter of the City of Jacksonville as Chapter 2 of Article 7 of Chapter 67-1320, Laws of Florida, as amended; prescribing matters relating to the selection of General Counsel, the organization and function of the Office of General Counsel; amending Paragraph (2) of Subsection (e) of Section 3.01 of Chapter 67-1320, Laws of Florida, as amended, to provide that matters prescribed by the Charter relating to the Office of General Counsel must be approved by referendum of the electors; amending Section 7.104 of Chapter 67-1320, Laws of Florida, as amended, so as to prohibit the amendment by ordinance of any provision of Chapter 2 of Article 7 relating to the Office of General Counsel; providing for the superseding of any law or ordinance inconsistent with the provisions of this act and prohibiting the enactment of any ordinance in conflict herewith; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Webster and others—

HB 511—A bill to be entitled An act relating to the City of Orlando, Orange County; relating to the pension fund of the fire department of said city; amending section 1 of chapter 31086, Laws of Florida, 1955, as amended, providing for continuity of service and benefits for firefighters originally employed in a temporary status before being made permanent; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peoples—

HB 513—A bill to be entitled An act relating to Charlotte County; amending sections 1 and 4 of chapter 70-625, Laws of Florida, as amended, changing the name of the Charlotte South Volunteer Fire Department to Charlotte South Fire Department; increasing special assessments made with respect to the Charlotte County special fire control district; providing for impact fees on new homes and new businesses; providing a referendum.

—was referred to the Committee on Rules and Calendar.

By Representative Peoples—

HB 523—A bill to be entitled An act relating to the Port Charlotte-Charlotte Harbor Fire Control District, Charlotte County; amending chapter 65-1355, Laws of Florida, as amended, authorizing the use and imposition of impact fees on new construction within the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peoples—

HB 524—A bill to be entitled An act relating to Harbour Heights Fire District, Charlotte County; amending sections 3 and 4 of chapter 69-931, Laws of Florida, as amended, providing for an increase in compensation paid to the treasurer; providing for the assessment of a capital contribution charge to be paid prior to the issuance of a building permit for any new nonresidential unit; providing rates applicable to nonresidential units; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative M. E. Hawkins—

HB 704—A bill to be entitled An act relating to the Big Corkscrew Island Fire Control and Rescue District, Collier County; amending section 11 of chapter 77-535, Laws of Florida, authorizing a 3-year levy of additional ad valorem tax millage for the construction of a fire station in the district; providing for a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley—

HB 711—A bill to be entitled An act relating to the City of Sanibel, Lee County, amending section 1, chapter 83-514, Laws of Florida; removing the prohibition on the taking of saltwater fish in manmade canals during certain hours; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 720—A bill to be entitled An act relating to Manatee County; amending sections 5, 10, and 16 of chapter 84-475, Laws of Florida, relating to the Palmetto Fire Control District; amending provisions relating to the authority to levy special assessments; providing for adoption of a specified fire code; clarifying language with respect to facility investment fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative M. E. Hawkins—

HB 726—A bill to be entitled An act relating to the Golden Gate Fire Control and Rescue District, Collier County; amending section 6 of chapter 82-284, Laws of Florida, to allow for an increase in the total millage to be levied on all property within the district of 1 mill for a period of 2 fiscal years of the district board; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 782—A bill to be entitled An act relating to Lee County; repealing Section 2 of chapter 61-2408, Laws of Florida, relating to the establishment, membership, meetings and duties of the Technical Advisory Council; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 784—A bill to be entitled An act relating to the North Fort Myers Fire Control District, Lee County; amending section 3 of chapter 30925, Laws of Florida, 1955, as amended; deleting the cap on the total accumulative debt of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 811—A bill to be entitled An act relating to Lehigh Acres Fire Control and Rescue District, Lee County; amending section 6 of chapter 63-1546, Laws of Florida, as amended; increasing the maximum millage that may be levied by the Lehigh Acres Fire Control and Rescue District; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative D. L. Thomas and others—

HB 1071—A bill to be entitled An act relating to the Englewood Water District; amending s. 3(B), chapter 59-931, Laws of Florida, as amended; authorizing the board of such district to meet outside the district for certain limited purposes; authorizing the vice-chairman of the district to sign contracts in the chairman's absence; providing that board members and officers shall be indemnified for certain expenses, including attorneys' fees; providing for the election of an interim chairman, vice-chairman, or secretary; amending s. 4, chapter 59-931, Laws of Florida, as amended; providing a limit on the amount of general obligation

bonds that a district may issue; providing the power of eminent domain shall be exercised pursuant to chapter 73 or 74, Florida Statutes; authorizing the board to make certain expenditures for construction projects without advertising or receiving bids; authorizing the board to sell or dispose of certain by-products; authorizing the board to charge a deposit to ensure payment for services; amending s. 9, chapter 59-931, Laws of Florida; authorizing the board to disconnect or shut off services to delinquent customers; authorizing certain fees, including attorneys' fees; providing for recovery of such fees; amending s. 12, chapter 59-931, Laws of Florida; providing that interest rates on general obligation bonds shall not exceed the maximum allowed by general law; amending s. 21, chapter 59-931, Laws of Florida; providing conforming language; amending s. 24, chapter 59-931, Laws of Florida; authorizing the district to dispose of certain property without formal consideration; amending s. 26, chapter 59-931, Laws of Florida; providing conforming language; adding ss. 32, 33, and 34, chapter 59-931, Laws of Florida, as amended; authorizing the district to assume the operation of certain water or sewer systems; authorizing the district to lease real property of the district for certain purposes; authorizing the district to assess and collect an interest charge on certain contractual obligations; providing severability; 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.

By Representatives R. C. Johnson and Mitchell—

HB 1073—A bill to be entitled An act relating to the Panama City Port Authority, Bay County; amending section 2 of chapter 23466, Laws of Florida, 1945, as amended; relating to the composition of the Panama City Port Authority, to remove any limitation for travel or other expenses incurred by the Panama City Port Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dunbar and others—

HB 1084—A bill to be entitled An act relating to Pinellas County; prohibiting the taking of saltwater fish, except by hook and line or hand-held cast net or with no more than five blue-crab traps, within any man-made saltwater canal in Pinellas County, Florida; providing a penalty; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 1146—A bill to be entitled An act relating to Manatee County; amending sections 5, 10, 15, and 16 of chapter 84-479, Laws of Florida, relating to the Westside Fire Control District; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Robinson and others—

HB 1207—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending section 8 of chapter 21483, Laws of Florida, 1941, as amended, relating to the Fireman's Relief and Pension Fund and the benefits to be received therefrom by their widows; amending existing laws relating thereto; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Robinson and others—

HB 1208—A bill to be entitled An act relating to the Fireman's Relief and Pension Fund of the City of Pensacola; amending section 8 of chapter 21483, Laws of Florida, 1941, as amended; relating to the benefits to be received therefrom by their widows and to amend existing laws relating thereto; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Thompson—

HB 1401—A bill to be entitled An act relating to Gulf County; amending section 4 of Chapter 61-2212, Laws of Florida, providing that the board of county commissioners shall be the board of the Highland View Water and Sewer District; amending section 5 of Chapter 61-2212, Laws of Florida, providing that the chairman of the board of county commissioners shall be chairman of the board of the Highland View Water and Sewer District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ward—

HB 1402—A bill to be entitled An act relating to the City of Destin, Okaloosa County; amending section 2.01 of chapter 84-422, Laws of Florida; revising certain exclusion from corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Ward and B. L. Johnson—

HB 1407—A bill to be entitled An act relating to Okaloosa County; repealing section 15 of chapter 81-442, Laws of Florida, eliminating the future conditional repeal of the act which established the Personnel Standards and Review Board for the Okaloosa County Sheriff's Department; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Martin and Mills—

HB 1409—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.

By Representative Shackelford—

HB 335—A bill to be entitled An act relating to Manatee County; amending sections 1, 5, 10, 15, and 16 of chapter 84-478, Laws of Florida, relating to the Cedar Hammock Fire Control District; amending provisions relating to the authority to levy special assessments and to the schedule of such assessments; providing for adoption of a specified fire code; clarifying language with respect to impact fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 340—A bill to be entitled An act relating to Manatee County; providing for the inclusion of certain unincorporated land in Manatee County into the Braden River Fire Control and Rescue District; providing for a board of fire commissioners; providing for the appointment of commissioners; providing for the authority to levy special assessments and charges; providing for the deposit of collected funds; providing for the use of funds; providing for the borrowing power of the district; providing for the authority and power to acquire certain property; providing for the duties of the board of commissioners; providing for the authority to employ qualified personnel; providing for financial reporting; providing for the existence of the district; providing definitions; providing a schedule of special assessments; providing for impact fees; providing severability; providing for liberal interpretation; providing for repeal of conflicting laws; repealing chapters 80-538, 82-329 and 83-462, Laws of Florida, relating to the Braden Fire Control and Rescue District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Webster and others—

HB 512—A bill to be entitled An act relating to Orange County, the West Orange Memorial Hospital Tax District; amending section 3 of chapter 26066, Laws of Florida, 1949, as amended, substituting “chief executive officer” for the term “superintendent”; amending section 5 of chapter 26066, Laws of Florida, 1949, as amended, to further define and expand the definition of the terms “hospital” or “hospitals”; amending section 13 of chapter 26066, Laws of Florida, 1949, as to the composition of the finance committee; amending section 19 of chapter 26066, Laws of Florida, 1949, amending the residence requirement for treatment of indigent sick; amending section 23 of chapter 26066, Laws of Florida, 1949, as to the composition and authority of the executive committee; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Carpenter and others—

HB 564—A bill to be entitled An act relating to Hillsborough County; amending the civil service law of 1985; amending section 5, providing a definition of secretarial and clerical employees of the school board; amending section 6, providing that said employees be exempt from the classified service; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Davis and others—

HB 570—A bill to be entitled An act relating to Hillsborough County; creating the Civil Service Act of 1985; providing a statement of policy; providing a short title designation; providing for application and participation by municipalities; providing definitions; providing for classes of employees; providing for the creation of a civil service board, its method of conducting business, and its powers and duties; providing for employment and promotional lists; providing for the creation and abolition of positions and the filling of vacancies; providing for reporting by the appointing authorities; providing for probationary periods, tenure and retention of benefits upon certain transfers; providing for suspension, dismissal and reinstatement; providing an appeal hearing procedure; providing for recommendation and adoption of classification and pay plans; providing an appropriation; providing for the creation of a review committee and for transition; providing for payment of salaries, wages and compensation; providing for prohibited activities; providing for restrictions on employees qualifying for compensated, elected public office; providing for creation of an employee advisory committee; providing a penalty for violation of the act; providing for repeal of chapter 82-301, Laws of Florida; providing for codification; providing severability; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 625—A bill to be entitled An act relating to the Manatee County Civic Center Authority, Manatee County; adding subsection (13) to section 4 of chapter 78-556, Laws of Florida, relating to publicity, advertising and promotion by the Manatee County Civic Center Authority and authorizing reasonable expenditures relating to such activities; amending subsection (1) of section 5 of chapter 78-556, Laws of Florida, providing for a promotional budget and authorizing cash payments for promotional events and activities; amending subsection (2) of section 5 of chapter 78-556, Laws of Florida, to provide that certain enumerated powers of the Manatee County Civic Center Authority may only be exercised when the cost thereof exceeds \$5,000 (for capital and nonpromotional expenditures) and \$25,000 (for promotional expenditures) with the prior consent of the Board of County Commissioners of Manatee County; adding subsection (4) to section 5 of chapter 78-556, Laws of Florida, providing for approval by a Board of County Commissioners for the borrowing of money and issuance of revenue bonds and requiring referendum for issuance of bonds if over \$500,000 and not requiring such referendum if under \$500,000; repealing chapter 79-503, Laws of Florida; repealing chapter 80-539, Laws of Florida; amending subsection (1) of section 6 of chapter 78-556, Laws of Florida, as amended, providing for the issuance of bonds as authorized by the Board of County Commissioners of Manatee

County, Florida, and providing that bonds secured by the full faith and credit of Manatee County shall be issued only after approval by a majority of the votes cast in an election; amending subsection (3) of section 6 of chapter 78-556, Laws of Florida, as amended, providing for the issuance of revenue bonds; amending subsection (4) of section 6 of chapter 78-556, Laws of Florida, by deleting “shall” and substituting “may” regarding Board of County Commissioners assessment and collection of taxes for support of the Civic Center facilities; and adding subsection (6) of section 6 of chapter 78-556, Laws of Florida, providing that any bonds issued by the Board of County Commissioners shall be approved by the electorate; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Liberti and Harris—

HB 793—A bill to be entitled An act relating to South Florida Conservancy District, Palm Beach and Hendry Counties; amending section 4 of chapter 17258, Laws of Florida, 1935, as amended, authorizing the board of supervisors to adopt rules; authorizing the board of supervisors to establish and collect fees for connection to and use of works of the district; prohibiting connection without written consent; providing an effective date.

Proof of publication of the required notice was attached.

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

By Representative Robinson and others—

HB 923—A bill to be entitled An act relating to the Escambia County Utilities Authority, Escambia County; amending sections 4, 5, 7, 8, 11, and 18 of chapter 81-376, Laws of Florida, as amended; revising requirements for filing oaths of office of elected members of the governing board; revising the method for acquiring powers and systems relating to resource recovery or solid waste; providing powers for purchasing gas systems; authorizing the use of s. 367.081(4)(b), Florida Statutes, and rules adopted pursuant thereto; authorizing the establishment of penalties for violation of authority rules and regulations; revising the method for establishing assessments, rates, fees, and charges; increasing the time permitted for acting on a petition for review of authority action; making grammatical and editorial changes to improve the clarity of chapter 81-376, Laws of Florida; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Clark—

HB 944—A bill to be entitled An act relating to the Central Broward Drainage District, Broward County; amending Section 4 of Chapter 61-1439, Laws of Florida, as amended; deleting or correcting provisions which have had their effect, have served their purpose, or have been impliedly repealed or superseded; correcting grammatical, typographical and like errors; correcting the legal description of the six (6) zones of the Central Broward Drainage District to conform to the legal boundaries of the Central Broward Drainage District, deleting those areas which are no longer included within the Central Broward Drainage District, and simplifying the legal description of zone 6 of the Central Broward Drainage District; improving the clarity of the section and facilitating its correct interpretation; clarifying the date that elected commissioners will assume office and when they will be installed; amending Section 13(k) of Chapter 61-1439, Laws of Florida, as amended, to provide for an increase in the maximum rate of interest the Central Broward Drainage District can charge on assessments and an increase in the penalty that the Central Broward Drainage District can charge on delinquent assessments; amending Section 29 of Chapter 61-1439, Laws of Florida, as amended, to provide for an increase in the maximum rate of interest the Central Broward Drainage District can obligate itself for, for long-term indebtedness; amending Section 40(g) of Chapter 61-1439, Laws of Florida, as amended, to provide for an increase in the maximum rate of interest that the Central Broward Drainage District can assess on costs incurred for work completed due to violations covered by Section 40 of Chapter 61-1439, Laws of Florida, as amended; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dunbar and others—

HB 1032—A bill to be entitled An act relating to Pinellas County; prohibiting municipalities from annexing territory within the Palm Harbor Special Fire Control District; authorizing the board of county commissioners to create a municipal service taxing unit within the area encompassed by such district and to levy, within the unit, ad valorem taxes, services charges, and special assessment to provide municipal services and facilities not provided by the district; requiring a referendum prior to the provision of certain services; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Frishe and others—

HB 1033—A bill to be entitled An act relating to the Pinellas Police Standards Council, Pinellas County; amending s. 4(k) of chapter 72-666, Laws of Florida, as created by chapter 75-494, Laws of Florida, and as amended by chapter 82-370, Laws of Florida; relating to the Council's funding assessment on certain civil and criminal cases by the circuit and county courts; providing a conditional effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Robinson and others—

HB 1209—A bill to be entitled An act relating to the City of Pensacola and the Firemen's Relief and Pension Fund; prescribing the computation of cost-of-living increases; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Tobiassen and others—

HB 1339—A bill to be entitled An act relating to the Pensacola-Escambia Promotion and Development Commission; amending section 9 of chapter 80-579, Laws of Florida; providing that any contract for the sale of real property by the Commission shall state that if the purchaser ceases to utilize the property, title will revert to the Commission upon repayment of the purchase price to the purchaser; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ward—

HB 1400—A bill to be entitled An act relating to Okaloosa County, Destin fire control district, and the City of Destin; amending subsection (2) of section 1 of chapter 82-335, Laws of Florida, providing for the continuing jurisdiction of the district as defined in subsection (1) within the municipal limits of the City of Destin; providing for the inclusion of the ad valorem levy of the district in the city's levy for revenue sharing purposes; providing for the base year and year of qualification of the city for revenue sharing purposes; providing an effective date.

Proof of publication of the required notice was attached.

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

The Senate resumed consideration of—

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.

—which was taken up with pending Amendment 1 to House Amendment 5.

On motion by Senator Jenne, debate on amendments to House Amendment 5 was limited to three minutes per side, one minute per person.

Senators Dunn and Johnson offered the following substitute amendment for Amendment 1 to House Amendment 5 which was moved by Senator Dunn and failed:

Amendment 2—On page 5, strike lines 3 and 4 and insert: to refuse service because of race, religion, sex, or physical handicap

The vote was:

Yeas—13

Beard	Dunn	Johnson	Vogt
Carlucci	Fox	Langley	
Childers, D.	Grant	Myers	
Crawford	Jennings	Thomas	

Nays—18

Barron	Gordon	Margolis	Scott
Childers, W. D.	Grizzle	McPherson	Thurman
Deratany	Hill	Meek	Weinstein
Frank	Malchon	Peterson	
Girardeau	Mann	Plummer	

Vote after roll call:

Yea—Castor

The question recurred on Amendment 1 which was adopted.

The vote was:

Yeas—19

Barron	Fox	Hill	Meek
Carlucci	Frank	Kiser	Plummer
Castor	Girardeau	Malchon	Scott
Childers, W. D.	Gordon	Mann	Weinstein
Dunn	Grizzle	Margolis	

Nays—13

Mr. President	Grant	Myers	Vogt
Beard	Jennings	Peterson	
Childers, D.	Johnson	Thomas	
Crawford	Langley	Thurman	

Vote after roll call:

Yea—Gersten, Stuart

Senator Scott moved the following amendment to House Amendment 5 which was adopted:

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

Section 1. Subsection (9) of section 561.01, Florida Statutes, is amended to read:

561.01 Definitions.—As used in the Beverage Law:

(9) "Sale" and "sell" mean any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the transfer for a consideration to a member or non-member by a bottle club or other club not licensed under the Beverage Law, of a set-up for an alcoholic beverage, when such set-up is to be used in conjunction with the consumption of an alcoholic beverage on the premises of such club. ~~Set-ups shall include ice, mixers, soft drinks, water, etc. serving of an alcoholic beverage by a club licensed under the Beverage Law.~~

Section 2. 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 19 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 3. Section 562.11, Florida Statutes, 1984 Supplement, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21 19; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21 19; 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 19 years of age or to permit a person under 21 19 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 19 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 19 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 19 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 4. Section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 19 prohibited.—It is unlawful for any person under the age of 21 19 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 19 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 19 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 5. Section 562.51, Florida Statutes, is created to read:

562.51 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 organization which is oriented to a particular religion or which is ethnic in character.

Section 6. 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 18 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 7. In the event that a court of last resort determines that it is unconstitutional for the Federal Government to withhold transportation funds from the state because the legal age of the sale, consumption, or possession of alcoholic beverages is under 21 years of age or if federal legislation is enacted to allow the drinking age to be lowered or modified from 21 years of age, it is the intent of the Legislature that the amendments to ss. 561.15, 562.11, and 562.111, Florida Statutes, contained in this act shall be null and void and that those sections revert to the language existing in said sections prior to the effective date of this law.

Section 8. In the event that any section of this act is held unconstitutional by any court of this state or the federal government, such event shall not affect the validity or application of any other provision of this act.

Section 9. 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.

The vote was:

Yeas—21

Barron	Girardeau	Kirkpatrick	Thomas
Carlucci	Gordon	Mann	Vogt
Childers, W. D.	Grant	Margolis	Weinstein
Crawford	Grizzle	McPherson	
Deratany	Hill	Meek	
Gersten	Jennings	Scott	

Nays—14

Mr. President	Dunn	Kiser	Peterson
Beard	Fox	Langley	Thurman
Castor	Frank	Malchon	
Childers, D.	Johnson	Myers	

Senator Scott moved the following amendment to House Amendment 6 which was adopted:

Amendment 1—In title, on page 1, strike all of lines 1-14 and insert: 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.

On motion by Senator D. Childers, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments.

CS for CS for SB 1 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fox	Jennings	Myers
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	Vogt
Crawford	Hair	Margolis	Weinstein
Deratany	Hill	McPherson	
Dunn	Jenne	Meek	

Nays—None

Vote after roll call:

Yea—Neal, Thurman

The Honorable Harry A. Johnston, II, President

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

SB 375—A bill to be entitled An act relating to unrecorded property interests; amending s. 48.23, F.S.; providing that notice of lis pendens operates as a bar to the enforcement of unrecorded property interests in certain circumstances; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 27, following the word "*possession*" insert: *or easements in use*

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

SB 375 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	Johnson	Myers
Beard	Gersten	Kirkpatrick	Neal
Carlucci	Girardeau	Kiser	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thurman
Crawford	Hair	Mann	Vogt
Deratany	Hill	Margolis	Weinstein
Dunn	Jenne	McPherson	
Fox	Jennings	Meek	

Nays—1

Barron

Vote after roll call:

Yea—W. D. Childers

The Honorable Harry A. Johnston, II, President

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

SB 268—A bill to be entitled An act relating to motorcycles and motor-driven cycles; amending s. 316.304, F.S.; authorizing the use of headsets by drivers of such vehicles under certain circumstances; requiring that headset equipment be approved by the department prior to use; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

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

Section 1. Subsection (4) of section 316.211, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

316.211 Equipment for motorcycle riders.—

(4) The department is authorized to approve or ~~disapprove~~ protective headgear made to specifications drawn and devised by, or approved by, the American National Standards Institute, the United States Department of Transportation, the United States Consumer Products Safety Commission, the United States Department of Defense, or any other entity which can provide equally effective equipment specifications ~~and eye protective devices required herein and to issue and enforce regulations establishing standards and specifications for the approval thereof.~~ The department shall publish lists of all protective equipment, and such lists shall be made available by request to all users of such equipment headgear and eye protective devices by name and type which have been approved by it.

(5) The use of protective headgear that includes speakers, other listening devices, or microphones shall be permitted, notwithstanding the provisions of s. 316.304.

Section 2. Section 316.304, Florida Statutes, 1984 Supplement, is amended to read:

316.304 Wearing of headsets.—No person shall operate a vehicle while wearing a headset, headphone, or other listening device, other than a hearing aid or instrument for the improvement of defective human hearing. However, this section does not apply to any law enforcement officer equipped with any communication device necessary in performing his assigned duties, or to any emergency vehicle operator equipped with any ear protection device. In addition, this section does not apply to any applicant for a license to operate a motorcycle or motor-driven cycle while taking the examination required by s. 322.12(4).

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

Amendment 2—In the title, on page 1, strike lines 1-7 and insert:

A bill to be entitled An act relating to motorcycle equipment; amending s. 316.211, F.S., directing the Department of Highway Safety and Motor Vehicles to approve protective headgear for motorcycle riders made to described specifications; permitting the use of certain headgear including speakers, listening devices or microphones; amending s. 316.304, F.S., providing an exemption to the provision on wearing headsets while operating a motor vehicle; providing an effective date.

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

SB 268 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	Dunn	Hill	Myers
Barron	Fox	Jennings	Plummer
Beard	Frank	Johnson	Scott
Carlucci	Gersten	Kiser	Stuart
Castor	Girardeau	Langley	Thurman
Childers, D.	Gordon	Malchon	Vogt
Childers, W. D.	Grant	Mann	Weinstein
Crawford	Grizzle	Margolis	
Deratany	Hair	McPherson	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

The Honorable Harry A. Johnston, II, President

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

SB 529—A bill to be entitled An act relating to homestead exemption; amending ss. 196.011, 196.111, and 196.131, F.S.; directing the property appraisal adjustment board to grant exemption to late homestead exemption applicants under certain conditions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 29, strike “demonstrate” and insert: *document*

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

SB 529 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—37

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

Nays—None

Vote after roll call:

Yea—Neal

The Honorable Harry A. Johnston, II, President

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

SB 196—A bill to be entitled An act relating to torts; creating s. 768.35, F.S.; abrogating the doctrine of interspousal tort immunity for certain intentional torts; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 9-20, strike everything after the enacting clause and insert:

Section 1. Section 768.35, Florida Statutes, is created to read:

768.35 Doctrine of interspousal tort immunity abrogated.—The common law doctrine of interspousal tort immunity is hereby abrogated with regard to the intentional tort of battery, and the ability of a person to sue another person for the intentional tort of battery shall not be affected by any marital relationship between the persons.

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

Amendment 2—In the title, on page 1, lines 1-5, strike the entire title and insert:

A bill to be entitled An act relating to torts; creating s. 768.35, F.S.; abrogating the doctrine of interspousal tort immunity for the intentional tort of battery; providing an effective date.

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

SB 196 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—37

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

Nays—None

Vote after roll call:

Yea—Neal, Vogt

The Honorable Harry A. Johnston, II, President

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

SB 134—A bill to be entitled An act relating to the Parole and Probation Commission; amending s. 947.04, F.S.; requiring the commission to select a vice chairman; amending s. 947.13, F.S.; extending the time limit within which the commission is to submit a report; amending s. 947.16, F.S.; providing a time limit for certain notices; amending s. 947.172, F.S.; deleting the requirement that the chairman sit on certain panels; amending ss. 947.22, 947.23, F.S.; providing for disposition of parole violators; providing that any number of commissioners may administer oaths, compel the attendance of witnesses, issue subpoenas, convene hearings, or make findings of fact regarding parole violations; repealing s. 947.09, F.S., relating to competitive examinations for certain full-time employees; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 6, lines 10 and 11 after “commission,” strike all of said lines and insert: *The commission, or a parole examiner with approval of the parole examiner supervisor, may release the parolee on*

Amendment 2—On page 4, line 27 after “attorney.” insert: *The release order shall be made contingent upon entry of an order by the appropriate circuit judge relinquishing jurisdiction as provided for in paragraph 5(d) and (f).*

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

SB 134 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—35

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

Nays—None

Vote after roll call:

Yea—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 498—A bill to be entitled An act relating to the Department of Corrections; amending s. 20.315, F.S.; providing for appointment of an Assistant Secretary for Health Services; specifying powers and duties; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 10, strike everything after the enacting clause and insert:

Section 1. 20.315 Department of Corrections.—There is created a Department of Corrections.

(4) SECRETARY OF CORRECTIONS; DEPUTY SECRETARY.—The head of the Department of Corrections is the Secretary of Corrections. The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(a) The secretary is the chief administrative officer of the department and shall have the authority and responsibility to plan, direct, coordinate,

and execute the powers, duties, and responsibilities assigned to the department. The responsibilities of the secretary shall include, but not be limited to:

1. Setting departmental priorities.
2. Appointing the Assistant Secretary for Operations, the Assistant Secretary for Management and Budget, the Assistant Secretary for Programs, the Assistant Secretary for Health Services, the program directors, and the regional directors.
3. Directing the management, planning, and budgeting processes.
4. Supervising and directing the promulgation of all departmental rules.

(c) *The secretary shall appoint an inspector general who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary. The inspector general shall have the responsibility for jail inspection, prison inspection and investigation, internal affairs investigation, inmate grievances and management reviews.*

(5) ASSISTANT SECRETARY FOR OPERATIONS.—The Assistant Secretary for Operations shall exercise statewide supervision over all service programs of the department, including the coordination and provision of all services in parole and probation supervision, intake, case management, diagnosis and evaluation, classification, and the management of all institutional and noninstitutional community residential and community nonresidential programs of the department.

(6) ASSISTANT SECRETARY FOR HEALTH SERVICES.—*The Assistant Secretary for Health Services shall be a physician licensed under chapter 458 or a doctor of public health and shall be responsible for coordination and provision of comprehensive department-wide health services and shall oversee the following areas:*

- (a) *Medical and surgical.*
- (b) *Dental.*
- (c) *Psychiatric.*
- (d) *Psychological.*
- (e) *Sanitation.*
- (f) *Food services.*

The Assistant Secretary for Health Services shall have direct professional authority over health care personnel and shall develop a program to prevent as well as treat various disorders in order to ensure an acceptable level of inmate health and well-being. He shall serve at the pleasure of the secretary.

(8)(7) PROGRAM OFFICES.—

(b) The following program offices are established:

1. Adult Services Program Office.—The responsibilities of this office shall relate directly to the custody, care, treatment, and rehabilitation of adult offenders committed to the Department of Corrections.

2. Youth Offender Program Office.—The responsibilities of this office shall relate directly to the development of a comprehensive youthful offender program sufficient to meet the needs of youths committed to the Department of Corrections. This program shall include, but not be limited to, the custody, care, treatment, and rehabilitation of youthful offenders.

3. Community Services Program Office.—The responsibilities of this office shall relate directly to community supervision, intake, investigation, and initial classification of offenders.

4. Health and Education Services Program Office.—The responsibilities of this office shall relate directly to both the development of a comprehensive department-wide health delivery system and an education and rehabilitation program.

(13) (12) DEPARTMENTAL BUDGETS.—

(a) The secretary shall develop and submit annually to the Legislature a comprehensive departmental summary budget document which shall array regional budget requests along program lines. This summary document shall, for the purpose of legislative appropriation, consist of four ~~three~~ distinct budget entities:

1. The Office of the Secretary and the Office of Management and Budget.
2. The Assistant Secretary for Programs and all program offices.
3. The Assistant Secretary for Operations and all regional services.
4. The Assistant Secretary for Health Services.

(b) To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the annual budget requests of all departmental activities. Recommendations on departmental budget priorities shall be furnished to the secretary by the Assistant Secretary for Operations, the Assistant Secretary for Management and Budget, and the Assistant Secretary for Programs, and the Assistant Secretary for Health Services. In addition, the secretary, notwithstanding the provisions of ss. 216.292 and 216.351, may, whenever deemed necessary by reason of significantly changed conditions, transfer funds between the approved operating budgets of the regions. The total of such transfers may not exceed 5 percent of the operating budget of an individual region during any fiscal year.

Section 2. Section 944.31, Florida Statutes, is amended to read:

944.31 *Inspector general; inspectors; power and duties* ~~Prison inspectors' duties.~~—*The inspector general shall be responsible for jail inspection, prison inspection and investigation, internal affairs investigation, inmate grievances and management reviews. The office of the inspector general* ~~Prison inspectors shall be employed by the department and charged with the duty of inspecting the penal and correctional systems of the state. The office of the inspector general~~ ~~prison inspectors shall inspect each jail, stockade or correctional institution or any place in which state or county prisoners are housed, worked, or kept within the state, with reference to the physical conditions, cleanliness, sanitation, safety, comfort, the quality and supply of all bedding, the quality, quantity, and diversity of food served and the manner in which it is served, the number and condition of the prisoners confined therein, and the general conditions of each institution. The office of inspector general~~ ~~They shall see that all the rules and regulations issued by the department are strictly observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general~~ ~~inspectors will be directly responsible to the department which shall coordinate and supervise the their work of inspectors throughout the state. The inspector general and inspectors~~ ~~Each prison inspector may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire~~ ~~he desires, and, he may consult and confer with any prisoner privately and without molestation. The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections. In such investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation, and shall have the authority to detain any person for violations of the criminal laws of the state. Such detention shall be made only on properties owned or leased by the department and the detained person shall be surrendered without delay to the sheriff of the county in which the detention is made, with a formal complaint subsequently made against him in accordance with law.~~

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

Amendment 2—In title, on page 1, strike all of lines 1-6 and insert:

A bill to be entitled An act relating to the Department of Corrections; amending s. 20.315, F.S., creating an Assistant Secretary for Health Services and an Inspector General; specifying powers and duties of the Assistant Secretary for Health Services; renaming and changing the jurisdiction of the Health and Education Services Program Office; providing for a distinct medical budget entity; amending s. 944.31, F.S., specifying the duties of the Inspector General; providing an effective date.

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

CS for SB 498 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—36

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

Nays—None

Vote after roll call:

Yea—Neal

On motion by Senator Hill, the Senate reconsidered the vote by which CS for SB 498 as amended passed.

On motion by Senator Hill, the Senate reconsidered the vote by which the Senate concurred in House Amendment 1.

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

Amendment 1—On page 1, strike line 6 and insert:

Section 1. Paragraph (a) of subsection (4) of section 20.315, Florida Statutes, is amended, paragraph (c) is added to said subsection, subsection (5) of said section is amended, present subsection (7) is renumbered as subsection (8) and amended, present subsections (8) through (11) are renumbered as subsections (9) through (12), respectively, present subsection (12) is renumbered as subsection (13) and amended, present subsections (13) through (20) are renumbered as subsections (14) through (21), respectively, and a new subsection (6) is added to said section to read:

20.315 Department of Corrections.—There is created a

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

CS for SB 498 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gersten	Johnson	Plummer
Beard	Girardeau	Kirkpatrick	Scott
Childers, D.	Gordon	Kiser	Thomas
Childers, W. D.	Grant	Langley	Vogt
Crawford	Grizzle	Margolis	Weinstein
Deratany	Hair	Meek	
Dunn	Hill	Myers	
Frank	Jennings	Peterson	

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 as amended HB 1335 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representatives Martin and Logan—

HB 1335—A bill to be entitled An act relating to the Florida Small Cities Community Development Block Grant Program; amending s. 290.044, F.S., revising distribution categories; amending s. 290.046, F.S., transferring the economic development program of the Florida Small Cities Community Development Block Grant Program from the Department of Commerce to the Department of Community Affairs; revising weights assigned competitive selection components and altering the program categories to which local governments may apply for grants; amending s. 290.042, F.S., defining “administrative costs”; amending s. 290.047,

F.S., establishing maximum administrative cost percentages; creating s. 290.0475, F.S., providing for the rejection of grant applications; repealing s. 290.045, F.S., relating to authority for an interagency agreement between the Department of Community Affairs and the Department of Commerce; providing an effective date.

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

On motions by Senator Frank, by unanimous consent, HB 1335 was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Gersten	Johnson	Myers
Beard	Girardeau	Kirkpatrick	Peterson
Childers, D.	Grant	Kiser	Plummer
Childers, W. D.	Grizzle	Langley	Scott
Crawford	Hair	Malchon	Thomas
Dunn	Hill	Margolis	Weinstein
Frank	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Carlucci, Castor, Jenne, Neal

SPECIAL ORDER

Consideration of CS for CS for SB 34 was deferred.

On motion by Senator Crawford, the rules were waived and by two-thirds vote CS for HB 742 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Crawford—

CS for HB 742—A bill to be entitled An act relating to engineering; amending s. 471.003, F.S., exempting certain persons from the registration requirements concerning engineering; amending s. 471.015, F.S., providing criteria for licensure by endorsement; amending s. 471.033, F.S., providing for disciplinary proceedings; providing an effective date.

—a companion measure, was substituted for CS for SB’s 862, 740 and 1241 and read the second time by title. On motion by Senator Crawford, by two-thirds vote CS for HB 742 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Castor, Neal

CS for SB’s 862, 740 and 1241 was laid on the table.

CS for CS for SB 1081—A bill to be entitled An act relating to water management districts; providing a short title; amending s. 373.089, F.S.; prohibiting the sale of lands for a price less than the appraised value; amending s. 373.139, F.S.; providing that certain appraisal reports are exempt from the public records law during certain negotiations; creating s. 373.584, F.S.; providing for issuance of revenue bonds and bond anticipation notes by water management districts; amending s. 373.59, F.S.; authorizing the Department of Environmental Regulation to withhold funds for land purchases under certain conditions; authorizing an appeal process for governing boards; providing for payment of revenue bonds and notes out of specific moneys in the Water Management Lands Trust Fund; providing for distribution of first proceeds in the Water Management Lands Trust Fund in the water management districts;

deleting the state-to-district ratio for funding of districts; abrogating future repeal of s. 373.59, F.S., providing for public hearings which relate to the Water Management Lands Trust Fund; amending s. 201.02, F.S.; providing for an increase in the rate of excise tax on certain documents; abrogating future repeal of section 1 of chapter 81-33, Laws of Florida, which provides for reduction in the tax rate; altering the distribution of taxes collected; distributing a portion of the taxes to the Land Acquisition Trust Fund for specific purposes; deleting the revised schedule of future distributions; providing an effective date.

—was read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—On page 5, line 27, after the period (.) insert: *The governing board shall also provide to the Secretary of the Department of Environmental Regulation a copy of all certified appraisals used to determine the value of the land to be purchased. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of the Department of Environmental Regulation may withhold moneys for any purchase that is not consistent with the five-year plan, the intent of this act or in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to section 373.114, Florida Statutes.*

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

Section 2. Subsection (1) of section 373.089, Florida Statutes, is amended to read:

373.089 Sale of lands.—The governing board of the district may sell lands to which the district has acquired title or to which it may acquire title in the following manner:

(1) Any lands determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands as determined by a certified appraisal obtained no less than 120 days before the sale.

(Renumber subsequent sections.)

Amendment 3—In title, on page 1, lines 2 and 3, strike “environmental protection; providing a short title” and insert: water management districts; providing a short title; amending s. 373.089, F.S.; prohibiting the sale of lands for a price less than the appraised value;

Amendment 4—In title, on page 1, line 9, before “providing” insert: authorizing the Department of Environmental Regulation to withhold funds for land purchases under certain conditions; authorizing an appeal process for governing boards;

On motion by Senator Stuart, by two-thirds vote CS for CS for SB 1081 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

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

Nays—None

Vote after roll call:

Yea—Castor, Fox, Kirkpatrick, Neal

Senator Dunn presiding

SB 661—A bill to be entitled An act relating to weapons and firearms; creating s. 790.225, F.S., prohibiting the sale, display, use, or possession of certain knives or devices; providing that such knives or devices are contraband; providing exceptions; providing a penalty; providing an effective date.

—was taken up with pending Amendment 2, which was withdrawn.

Senator Langley moved the following amendment:

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

Section 1. Section 790.06, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 790.06, F.S., for present text.)

790.06 License to carry concealed weapon or firearm.—

(1) The Secretary of State is authorized to issue licenses to carry concealed weapons or concealed firearms to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of 5 years from the date of issuance. Any person in compliance with the terms of such license may carry a concealed weapon or concealed firearm notwithstanding the provisions of s. 790.01.

(2) The Secretary of State shall issue a license if the applicant:

(a) Is a United States citizen;

(b) Is a resident of the state and has been a resident for 6 months or longer immediately preceding the filing of the application;

(c) Is 21 years of age or older;

(d) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(e) Is not prohibited from possessing a weapon or firearm under s. 790.23;

(f) Is not an unlawful user of, or addicted to, any controlled substances defined in chapter 893;

(g) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been committed as an alcoholic under the provisions of chapter 396 or has been deemed a habitual offender under s. 856.011(3);

(h) Has demonstrated to the Secretary of State through sworn statement that reasonable cause exists for the applicant to be issued a license to carry a concealed weapon or firearm. Reasonable cause shall be demonstrated by written statement of the applicant. It is the intent of this paragraph to provide the legal means of self-defense through licensure for those law-abiding citizens who have a need for self-protection in circumstances where danger of bodily injury may exist.

(i) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Game and Fresh Water Fish Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. Completion of any firearms safety or training course or class available to the general public offered by police, law enforcement, school, junior college, college, or private or public institution or organization or firearms training school;

4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies or any division or subdivision of law enforcement or security enforcement;

5. Presents other evidence of experience with a firearm such as participation in organized shooting competition or military service;

6. Is licensed or has been licensed to carry a firearm in this state or a county or city of this state, unless such license has been revoked for cause;

7. Completion of any firearms training or safety course or class conducted by a private firearms instructor or by any law enforcement officer.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization, or group who conducted or taught said course or class attesting to the completion of the course or class by the applicant or a copy of any document which shows completion of the course or class or evidences participation in firearms competition, shall constitute evidence of qualification under this paragraph.

(j) Has not been adjudicated an incompetent under s. 744.331, unless his competency has been restored by court order under s. 744.464; and

(k) Has not been committed to a mental institution under chapter 394, unless he possesses a certificate from a psychiatrist licensed in this state that he no longer suffers from disability.

(3) The application shall be completed, under oath, on a form promulgated by the Secretary of State and shall include:

(a) The name, address, place and date of birth, race, and occupation of the applicant;

(b) Verification of compliance with criteria contained within subsection (2);

(c) A statement that the applicant has been furnished a copy of this chapter and is knowledgeable of its provisions;

(d) A conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant subjects the applicant to criminal prosecution under s. 837.06.

(4) The applicant shall submit to the Secretary of State:

(a) A completed application as described in subsection (3);

(b) A nonrefundable application fee of \$100 if he has not previously been issued a statewide license, or a nonrefundable application fee of \$25 for renewal of a statewide license; and

(c) A full set of fingerprints of the applicant administered by a law enforcement officer of this state.

(5)(a) The Secretary of State, upon receipt of the items listed in subsection (4), shall forward the full set of fingerprints of the applicant to the Department of Law Enforcement for the state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045 and forward a copy of the application to the sheriff of the applicant's county of residence.

(b) The sheriff of the applicant's county of residence may investigate the applicant to determine the truthfulness and correctness of the application. If such an investigation is conducted, he shall report his findings to the Secretary of State within 60 days from the date he receives the copy of the application.

(c) The Secretary of State shall, within 90 days of the date of receipt of the items listed in subsection (4):

1. Issue the license; or

2. Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (2). If the Secretary of State denies the application, he shall notify the applicant in writing, stating the ground for denial and informing the applicant of any right to hearing pursuant to chapter 120.

(6) A license issued under this section shall be automatically revoked if the licensee becomes ineligible under the criteria set forth in subsection (2).

(7) No license issued pursuant to this section shall authorize any person to carry a concealed weapon or firearm into any place of nuisance as defined in s. 823.05; any detention facility, prison, or jail; any courthouse, courtroom, or polling place; any church; any meeting of the governing body of a county, municipality, or special district; any meeting of the Legislature or a committee thereof; any school, college, or professional athletic event not related to firearms; any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose; any elementary or secondary school facility; or any college or university facility, unless the licensee is a registered student or faculty member of such college or university.

(8) Notwithstanding any other provision of this act, each person who is duly licensed to carry a concealed weapon or firearm on the effective date of this act shall be entitled to carry a concealed weapon or firearm under the provisions of this section until such time as his license expires, at which time he shall comply with the provisions of this section, as if he had never before been authorized to carry a concealed weapon or firearm.

(9) All moneys collected pursuant to this section shall be deposited in the Division of Licensing Trust Fund and shall be used to administer the provisions of this section.

(Renumber subsequent sections.)

Senator Frank moved the following amendment to Amendment 3 which failed:

Amendment 3A—On page 1, line 19, strike "5 years" and insert: one year

Senator Meek moved the following amendment to Amendment 3 which failed:

Amendment 3B—On page 6, line 16, insert:

(10) Notwithstanding the provisions of this section, county governments may adopt local regulations regarding the licensure of concealed weapons that are more stringent or extensive than state law. Said regulations must be adopted by ordinance at a regular meeting of the county governing body. Prior to adoption, the local regulations must be approved by the Florida Department of Law Enforcement as to the county's capacity to administer the local program. County governments that have adopted local regulations may require fees for initial or renewal applications in excess of those as provided in section 790.06(4). Upon adoption, a copy of said ordinance shall be delivered to the secretary of state within ten days.

Senator Jenne moved the following amendment to Amendment 3 which was adopted:

Amendment 3C—On page 1, line 19, strike "5 years" and insert: three years

Further consideration of SB 661 was deferred.

The hour of 11:00 a.m. having arrived, the Senate proceeded to consideration of—

CS for CS for SB 1194—A bill to be entitled An act relating to transportation; amending s. 288.063, F.S.; cross-referencing the definition of transportation facility to a definition in ch. 334, F.S.; amending s. 332.006, F.S.; authorizing the Department of Transportation to provide matching moneys to airport sponsors; amending s. 332.004, F.S.; amending the definition of an eligible agency; amending s. 332.007, F.S.; providing for funding with respect to the expansion of certain existing airports; amending s. 334.03, F.S.; amending the definition of a 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. 335.04, F.S.; providing that local governmental entities must maintain roads in accordance with approved federal guidelines; amending s. 335.09, F.S.; directing the Department of Transportation to erect and maintain a uniform system of traffic control devices; amending s. 335.14, F.S.; providing that computerized traffic systems and traffic control devices used solely for purposes of traffic control and surveillance are exempted from the provisions of ch. 282 and s. 287.073, F.S.; 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 claims for additional compensation shall be arbitrated after acceptance of the project; providing for an honorarium for members of the State Arbitration Board; providing for the payment of a fee by the party requesting arbitration; 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; creating s. 337.408, F.S.; requiring bus bench and transit shelter set back; 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; repealing s. 335.02(3), (4), F.S., as amended, relating to purchase of rights-of-way; providing an effective date.

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 1392 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Transportation and Representative Pajcic and others—

CS for HB 1392—A bill to be entitled An act relating to transportation; creating the "Transportation Reform, Accountability and Cooperation Act of 1985"; amending s. 20.23, F.S., providing legislative intent; creating a Florida Transportation Commission as the head of the department; providing for decentralization; creating s. 334.040, F.S., providing for the functions of the Florida Transportation Commission; creating s. 334.041, F.S., providing for the membership and terms of the commission; creating s. 334.042, F.S., providing for commission meetings, quorums and minutes; creating s. 334.043, F.S., providing for an executive director; providing powers and duties; amending s. 334.046, F.S., including an additional program objective with respect to the Department of Transportation; creating s. 335.20, F.S., the "Local Government Transportation Assistance Act"; providing legislative intent; providing for financial assistance to local governments for certain transportation needs; providing for screening of applications; providing for eligible expenses; providing for criteria for ranking applications; providing a distribution formula; providing a funding ratio; amending s. 336.025, F.S., increasing the time period that the local option gas tax is imposed; creating s. 338.251, F.S., creating a Toll Facilities Revolving Trust Fund and providing its uses; providing restrictions; providing for rules; amending s. 28.24, F.S., providing for a service charge by the clerk of the circuit court; amending s. 73.071, F.S., relating to compensation by the jury in eminent domain actions; amending s. 73.092, F.S., relating to attorney's fees; amending s. 74.041, F.S., relating to proceedings of the court; amending s. 74.051, F.S., relating to hearings on the order of taking; amending s. 207.002, F.S., excluding governmentally owned and operated vehicles from the definition of Commercial Motor Vehicle; amending s. 207.004, F.S., relating to registration of motor carriers; amending s. 319.23, F.S., exempting certain vehicles from registration requirements; amending s. 320.01, F.S., defining "International Registration Plan" and "apportionable vehicle" for the purpose of the Florida Transportation Code; amending s. 320.0104, F.S., providing legislative intent; amending s. 320.02, F.S., relating to motor vehicle registration for certain vehicles; amending s. 320.03, F.S., providing that the Department of Highway Safety and Motor Vehicles shall register apportioned motor vehicles under the International Registration Plan; amending s. 320.06, F.S., providing for the issuance of license plates to certain vehicles with apportioned registration; amending s. 320.0705, F.S., exempting certain apportioned vehicles from semiannual registration or renewal; amending s. 320.0706, F.S., including trucks of a certain net weight among those vehicles required to display a front license plate; creating s. 320.0715, F.S., providing for registration of certain commercial vehicles under the International Registration Plan; providing for trip permits and temporary permits; providing fees; amending s. 320.08, F.S., providing for license taxes with respect to certain vehicles; amending s. 320.14, F.S., exempting certain truck-tractors from the fractional license tax; amending s. 320.15, F.S., exempting certain vehicles from provisions relating to refund of license tax; amending s. 320.39, F.S., authorizing the Department of Highway Safety and Motor Vehicles to negotiate and consummate reciprocal agreements; amending s. 207.007, F.S., eliminating a penalty with respect to the operation of commercial motor vehicles; amending s. 207.023, F.S., providing a civil penalty with respect to the required display of certain permits; amending s. 316.545, F.S.; providing penalties for commercial vehicles operating with an expired registration or no registration; providing that certain commercial vehicles shall be deemed to be violating the overloading provisions of the State Uniform Traffic Control Law; providing civil penalties with respect to commercial vehicles operated in violation of the registration of motor carriers law; providing that the Department of Transportation may issue certain permits and collect fees; providing for disposition of fees; providing for review of penalties and fees; amending s. 316.605, F.S., providing for the licensing of certain trucks; providing penalties with respect to violation of registration requirements for certain commercial vehicles; amending s. 318.14, F.S., requiring proof of payment of delinquent fees with respect

to certain noncriminal traffic infractions; amending s. 320.07, F.S., providing a delinquent fee schedule for the registration of motor vehicles; amending s. 324.042, F.S., providing a cross reference; amending s. 324.26, F.S., providing liability insurance requirements for commercial motor vehicles; providing for proof of compliance to be submitted prior to registration of such vehicles; amending s. 316.302, F.S., correcting a cross reference; providing for enforcement; providing for rules; amending s. 212.62, F.S.; providing that the tax per gallon for any year shall not be less than that for the previous year; amending s. 338.01, F.S., allowing establishments for serving motor vehicle users on the right-of-way of limited access facilities controlled by transportation or expressway authorities; creating s. 338.165, F.S., authorizing continuation and increase of tolls on certain revenue-producing projects; specifying uses of toll revenues; amending s. 320.20, F.S., providing for the distribution of delinquent fees; deleting the requirement that \$25 million per year of motor vehicle license tax revenues be deposited in the ACI Trust Fund; abolishing the ACI Trust Fund and providing for the disposition of remaining assets; amending s. 339.08, F.S., providing for disposition of funds in the ACI Trust Fund; repealing ss. 335.035(3) and 339.081(3), F.S., eliminating reference to the ACI Trust Fund; amending s. 338.221, F.S., relating to definitions of "turnpike project" and "turnpike improvements"; amending s. 338.223, F.S., relating to proposed turnpike projects; amending s. 338.227, F.S., relating to turnpike revenue bonds; amending s. 338.232, F.S., relating to continuation of tolls for turnpike improvements; amending s. 316.650, F.S.; directing the Department of Highway Safety and Motor Vehicles to prepare affidavit of compliance forms with respect to certain traffic violations; amending s. 318.18, F.S.; providing a \$25 fine for all violations of s. 316.610, F.S.; providing for a reduced fine where the defect is corrected; amending s. 322.27, F.S.; providing for points with respect to certain traffic violations relating to operating a motor vehicle in an unsafe condition or which is not properly equipped; providing for no points where defects are corrected; creating s. 316.6105, F.S., providing a procedure for disposition of fines collected with respect to violations involving the operation of a motor vehicle in unsafe conditions or without required equipment; 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 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 severability; amending s. 348.755, F.S.; authorizing the Orlando-Orange County Expressway Authority to negotiate the sale of bonds under certain circumstances; authorizing the authority to issue bonds for facilities under Article VII, s. 11(c) of the State Constitution; amending s. 120.53, F.S.; providing that the formal written protest shall include particular parts; providing for model rules; providing for expedited hearing; providing an appropriation; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Gordon, by two-thirds vote CS for HB 1392, a companion measure, was substituted for CS for CS for SB 1194 and by two-thirds vote read the second time by title.

Senator Gordon moved the following amendment:

Amendment 1—On page 8, line 9, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 288.063, Florida Statutes, 1984 Supplement, is amended to read:

288.063 Contracts for transportation projects.—

(3) With respect to any contract executed pursuant to this section, the term "transportation project" means a *transportation facility* ~~road~~ as defined in s. 334.03(24) 334.03(17) which is necessary in the judgment of the Division of Economic Development to facilitate the economic development and growth of the state.

Section 2. Subsection (9) of section 332.006, Florida Statutes, 1984 Supplement, is amended to read:

332.006 Duties and responsibilities of the Department of Transportation.—The Department of Transportation shall, within the resources provided pursuant to chapter 216:

(9) Support the development of land located within the boundaries of airports for the purpose of industrial or other uses compatible with airport operations with the objective of assisting airports in this state to become fiscally self-supporting. Such assistance may include *providing advancing* state moneys on a matching basis to airport sponsors for capital improvements, including, but not limited to, fixed-base operation facilities, parking areas, and industrial park utility systems.

Section 3. Subsection (6) of section 332.004, Florida Statutes, 1984 Supplement, is amended to read:

332.004 Definitions of terms used in ss. 332.003-332.007.—As used in ss. 332.003-332.007, the term:

(6) "Eligible agency" means ~~an agency of the state~~, a political subdivision of the state, or an authority which owns or seeks to develop a public-use airport.

Section 4. Paragraph (a) of subsection (5) of section 332.007, Florida Statutes, 1984 Supplement, is amended to read:

332.007 Administration and financing of aviation and airport development programs and projects; state plan.—

(5) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible public airport and aviation projects in accordance with the following rates:

(a) The department may fund up to 50 percent of the nonfederal share of the costs of any eligible project, except that state fund participation may not exceed 12.5 percent of the total project cost in any nonfederally funded project which has a total project cost of \$1,000,000 or more. The participation by the department in any federally assisted eligible project may not exceed 12.5 percent of the total project cost; except that such participation may be up to 25 percent of the total project cost for a capital project in a non-revenue-producing portion of a terminal facility when federal participation is limited to 50 percent, and except that the department may initially fund up to 75 percent of the cost of land acquisition for a new airport or expansion of an existing airport which, in 1984, had annual *enplanements in excess of \$1 million*, and shall be reimbursed to the normal project share when federal funds become available or within 10 years after the date of acquisition, whichever is earlier.

Section 5. Subsection (2) of section 334.03, Florida Statutes, 1984 Supplement, is amended to read:

334.03 Definitions of words and phrases.—The following words and phrases when used in this code have, unless the context clearly indicates otherwise, the following meanings:

(2) "Bridge."—A structure, including supports, erected over a depression or an obstruction, such as water or a highway or railway, and having a track or passageway for carrying traffic as defined in chapter 316 or other moving loads.

Section 6. Section 334.14, Florida Statutes, 1984 Supplement, is amended to read:

334.14 Employees of department who are required to be engineers.—

(1) At a minimum, each of the following employees of the department must be a professional engineer registered under chapter 471:

(a) The State Transportation Engineer and each district engineer.

(b)1. The head of the division, or equivalent unit, of the department that is responsible for the design of transportation facilities.

2. The head of each bureau, or equivalent unit, of the department that is directly responsible for the design of transportation facilities.

3. Any person who is employed or assigned by any such unit to be in responsible charge of an engineering project designed by the unit, regardless of whether such person is employed in the central office or in a field office.

(c)1. The head of the division, or equivalent unit, of the department that is responsible for the construction of transportation facilities.

2. The head of each bureau, or equivalent unit, of the department that is directly responsible for construction and for materials testing and research.

3. Any area or resident engineer who is in responsible charge of an engineering construction project.

(d)1. The head of each bureau, or equivalent unit, of the department that is directly responsible for traffic operations and the maintenance of transportation facilities.

2. The senior maintenance engineer assigned to a field office.

3. The senior maintenance engineers in charge of the various area maintenance yards assigned to the field units.

(2) As used in this section, the term "responsible charge" means the rendering of engineering judgment and decisions in the development of technical policy and programs or the direct control and personal supervision of work performed by himself or by others over whom the person holds supervisory authority.

(3) Any person holding the position of resident engineer of construction or senior maintenance engineer of a field unit on July 1, 1984 or the position of designer as identified in subparagraph (1)(b)3. on July 1, 1985, is not subject to the engineering registration requirement. However, when such person vacates his position, his replacement must comply with that requirement.

(4) The department shall employ a district engineer for each transportation district whose duties shall be fixed by the department and who shall be responsible for the efficient operation and administration of that district.

(5) In addition to the requirement for engineering registration in subsection (1), the department, in filling the positions described in this section, shall place emphasis on proven management ability and experience.

Section 7. Subsection (3) of section 335.04, Florida Statutes, 1984 Supplement, is amended to read:

335.04 Functional classification of roads; designation of state and local responsibilities.—

(3) Local governmental entities shall sign an agreement with the department which requires them to maintain in accordance with ~~approved written federal guidelines standards~~ any road or portion thereof under their respective jurisdiction which was constructed with federal assistance and is located on a federal-aid system.

Section 8. Section 335.09, Florida Statutes, 1984 Supplement, is amended to read:

335.09 *Uniform erection and maintenance of traffic control devices and directional signs; uniform sign system.*—The department shall erect and maintain a uniform system of signs, signals, markings, and other traffic control devices for the regulation, control, guidance, and protection of traffic, ~~including signs indicating the distance between cities and towns, historical points of interest, and the numbers assigned to each road on the State Highway System.~~ Such sign system shall conform to the

department's uniform system of traffic control devices as adopted pursuant to s. 316.0745 by the American Association of State Highway and Transportation Officials.

Section 9. Subsection (3) is added to section 335.14, Florida Statutes, 1984 Supplement, to read:

335.14 Traffic control devices on State Highway System or State Park Road System; speed limit signs; exemption for computerized traffic systems and control devices.—

(3) Computerized traffic systems and control devices which are used solely for the purpose of motor vehicle traffic control and surveillance shall be exempted from the provisions of chapter 282 and s. 287.073.

Section 10. Subsection (5) is added to section 336.045, Florida Statutes, 1984 Supplement, to read:

336.045 Uniform minimum standards for design, construction, and maintenance; advisory committees.—

(5) Curb ramps which are required by subsections (1) and (3) to be provided at all intersections of curbs and sidewalks on public streets and roads shall be constructed in conformance with the Minimum Guidelines and Requirements for Accessible Design published by the United States Architectural and Transportation Barriers Compliance Board. The provisions of this subsection are not applicable to curb ramps constructed prior to July 1, 1985.

Section 11. Section 336.046, Florida Statutes, is created to read:

336.046 Regulation of bus benches and transit shelters within rights-of-way.—Any bus bench or transit shelter located on a sidewalk within the rights-of-way of any road on the county road system shall be located so as to leave at least 36 inches clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

Section 12. Subsection (1) of section 337.02, Florida Statutes, 1984 Supplement, is amended to read:

337.02 Purchases by department subject to competitive bids; advertisement; emergency purchases; bid specifications.—

(1) Except as provided herein, purchase by the department of commodities, including the advertising and awarding of competitive bids, shall be governed by chapters 283 and 287, or rules adopted by the Department of General Services pursuant thereto. However, the provisions of s. 287.062 notwithstanding, the department may purchase parts and repairs valued at \$5,000 or less without receiving competitive bids for the repair of mobile road maintenance equipment, marine vessels, permanent vehicle scales, and mechanical and electrical equipment for movable bridges, toll facilities including the Florida Turnpike, treatment plants for water and sewage, and major heating and cooling systems. No purchase of materials, machinery, tools, equipment, or supplies in excess of \$5,000 shall be made by the department unless made upon competitive bids received, after advertising therefor in a newspaper of general circulation at least once a week for no less than 2 consecutive weeks prior to the date on which bids are to be received. The department may, at its discretion, award a contract to the lowest responsible bidder, or it may reject all bids and proceed to readvertise.

Section 13. Section 337.185, Florida Statutes, 1984 Supplement, is amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt, peaceful, and just settlement of claims for additional compensation conflicts and disputes arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." Every contractual claim or claims in an aggregate amount up to \$100,000 per contract that cannot be resolved conflict or dispute valued at or under \$100,000, arising in the performance of a construction contract, whether initiated by the department or the contractor, shall be arbitrated by the board after acceptance of the project by the department. A court of law may not consider the settlement of such a claim conflict until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall

be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. Each member shall serve a 2-year term, but a member may not serve more than three consecutive terms. The board shall elect a chairman each term who shall be the administrator of the board and custodian of its records.

(3) A hearing may be requested by the department or by a contractor who has a dispute with the department which, under the rules of the board, may be the subject of arbitration. The board shall conduct the hearing within 45 days of the request. The party requesting the board's consideration shall give notice of the hearing to each member. If the board finds that a third party is necessary to resolve the dispute, the board may vote to dismiss the claim, which may thereafter be pursued in a court of law. The board shall have jurisdiction to hear matters concerning \$100,000 or less per contract.

(4) All members shall be necessary to conduct a meeting. Upon being called into session, the board shall promptly proceed to a determination of the issue or issues in dispute.

(5) When a valid contract is in effect defining the rights, duties, and liabilities of the parties with respect to any matter in dispute, the board shall have power only to determine the proper interpretation and application of the contract provisions which are involved. Any investigation made by less than the whole membership of the board shall be by authority of a written directive by the chairman, and such investigation shall be summarized in writing and considered by the board as part of the record of its proceedings.

(6) The board shall hand down its order within 60 days after it is called into session. If all three members of the board do not agree, the order of the majority will constitute the order of the board.

(7) The members of the board shall receive no compensation for the performance of their duties hereunder, but, except for the chairman, may be paid an honorarium of up to \$100 per day for each day that the board is in session they shall be reimbursed for expenses as provided in s. 112.061, when they attend a meeting or perform a service in conformity with the requirements of this section. If an alternate member is needed, such member may be paid an honorarium of up to reimbursed an additional \$100 for each hearing in which he participates. The chairman may receive an honorarium for his service as administrator of the board of up to \$125 per day for each day that the board is in session and for each day that he is engaged in activities related to meetings of the board. The board shall allocate \$3,000 annually for clerical and other administrative services per day for expenses. All such expenses shall be shared equally by the parties to the hearing.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed \$500 per claim, to cover the cost of administration and compensation of the board.

(9) The board in its order may apportion the fee set out in subsection (8) and the cost of recording and preparing a transcript of the hearing among the parties in accordance with the board's finding of liability.

Section 14. Subsection (2) of section 337.407, Florida Statutes, 1984 Supplement, is amended to read:

337.407 Regulation of signs and lights within rights-of-way.—

(2)(a) The provisions of subsection (1) do not apply to benches or transit shelters, or advertising on benches and shelters, on the right-of-way of any municipal, county, or state road, except a limited-access highway, which benches or shelters have been erected for the comfort or convenience of the general public, or at designated stops on official bus routes; provided written authorization permission has been secured by a qualified private supplier or suppliers of such service from the appropriate city or county government local governmental entity and. Such benches or transit shelters may do not interfere with right-of-way preservation and maintenance.

(b) The provisions of subsection (1) do not apply to waste disposal receptacles of less than 110 gallons in capacity, or advertising on such receptacles, erected or placed on the right-of-way of any municipal, county, or state road, except a limited-access highway; provided written authorization permission has been given to a qualified private utility

supplier or suppliers of such service by the appropriate city or county government local governmental entity. Such receptacles may not interfere with right-of-way preservation and maintenance.

(c) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property.

(d) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local governmental entity consistent with the provisions of this section.

Section 15. Section 337.408, Florida Statutes, is created to read:

337.408 Regulation of bus benches and transit shelters within rights-of-way.—Any bus bench or transit shelter located on a sidewalk within the rights-of-way of any road on the state highway system shall be located so as to leave at least 36 inches clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

Section 16. Subsection (1) of section 339.0805, Florida Statutes, 1984 Supplement, is amended to read:

339.0805 State Transportation Trust Fund; specified percentage to be expended with small businesses owned by socially and economically disadvantaged persons; construction management development program; bond guarantee program.—

(1) Except to the extent that the head of the department determines otherwise, not less than 10 percent of the amounts expended from the State Transportation Trust Fund shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by s. 8(d) of the Small Business Act (15 U.S.C. s. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto. In fulfilling this mandate, the department shall utilize every means available to it, including, but not limited to, goals and set-asides for competitive bidding and contracting only by, between, and among those firms which are certified by the department as socially and economically disadvantaged business enterprises and which are prequalified as may be appropriate. It is the policy of the state to meaningfully assist socially and economically disadvantaged business enterprises through a program that will provide for the development of skills through business management training, as well as financial assistance in the form of bond guarantees, to primarily remedy the effects of past economic disparity. Such competitive bids sealed proposals may be the result of joint ventures between small business concerns which are owned and controlled by socially and economically disadvantaged individuals and other subcontractors.

Section 17. Subsection (1) of section 339.125, Florida Statutes, 1984 Supplement, is amended to read:

339.125 Covenants to complete on revenue-producing projects.—

(1) The department may advance use available funds for the preparation of preliminary engineering plans with valid cost estimates, which plans and estimates shall be completed prior to the issuance of any bonds on all revenue-producing transportation projects. However, the department shall be reimbursed for the costs incurred for such preparation from the proceeds of the bond issue.

Section 18. Subsection (8) of section 339.135, Florida Statutes, 1984 Supplement, is amended to read:

339.135 Budgets; preparation, adoption, execution, and amendment.

(8) EXECUTION OF THE BUDGET.—

(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from

the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year.

(b) In the operation of the State Transportation Trust Fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance (which shall include cash on deposit with the treasury and short-term investments of the department) equivalent to not less than 5 percent of the unpaid balance of all State Transportation Trust Fund obligations at the close of such quarter. In the event that this cash position is not maintained, no further contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(c) Unless otherwise provided in the General Appropriations Act, any unexpended balance remaining at the end of the fiscal year in the appropriations to the department for special categories, aid to local governments, and lump sums for projects which are part of the multiyear work program, and for which contracts have been executed or bids have been let, may be certified forward as fixed capital outlay under the provisions of s. 216.301(2), (3) until these funds have been expended. The amount certified forward may shall include contingency allowances for asphalt and petroleum product escalation clauses and; contract overages, and so forth, which allowances shall be separately identified in the certification detail. These contingency amounts shall be incorporated in the certification for each specific category, but when a category has an excess and another category has a deficiency, the Executive Office of the Governor is authorized to transfer the excess to the deficient account.

Section 19. Subsections (1) and (4) of section 125.0165, Florida Statutes, are amended to read:

125.0165 Discretionary sales tax; adoption; application of revenue.—

(1) Subject to the provisions of this section and pursuant to the provisions of s. 212.055, the governing authority in each charter county which adopted a charter prior to June 1, 1976, is authorized to levy a discretionary additional 1-percent tax on all 3-percent or 5-percent taxable transactions under the provisions of chapter 212 for the purposes of development, construction, equipment, maintenance, operation, supportive services including a county wide bus system, and related costs of a fixed guideway rapid transit system. However, the sales amount above \$1,000 of any one transaction shall not be taxable, and the discretionary tax shall not apply to the sale of motor fuel as defined in s. 212.02(21) and special fuel as defined in s. 212.02(22).

(4) Revenues from the discretionary 1-percent tax shall be deposited in the rapid transit trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services including a county wide bus system, and related costs of a fixed guideway rapid transit system.

Section 20. Paragraph (a) of subsection (1) of section 335.065, Florida Statutes, 1984 Supplement, is amended to read:

335.065 Bicycle and pedestrian ways along state roads and transportation facilities.—

(1)(a) Bicycle and pedestrian ways shall be given full consideration in the planning and development of transportation facilities, including the incorporation of such ways into state, regional, and local transportation plans and programs. Bicycle and pedestrian ways shall be established in conjunction with the construction, reconstruction, or other change of any state transportation facility, and special emphasis shall be given to arterial and collector highway projects within urbanized areas, emerging urbanized areas, and areas adjacent to urbanized areas where significant population growth is expected to occur within the next 10 years projects in or within 5 miles of an urban area.

Section 21. Subsections (3) and (4) of section 335.02, Florida Statutes, as amended by chapter 84-309, Laws of Florida, are hereby repealed.

Section 22. This act shall take effect upon becoming law, except that sections 47 and 48 shall take effect October 1, 1985.

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

Amendment 1A—On page 3, lines 17-31; on page 4, lines 1-31; and on page 5, lines 1-10, strike all of said lines and insert:

Section 6. Section 20.23, Florida Statutes, 1984 Supplement, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation. It is the intent of the Legislature that the Department of Transportation be a decentralized agency. The central office shall formulate policy and shall establish the department's rules, procedures, guidelines, and standards. There shall be allocated to the central office the minimum resources necessary to ensure the efficiency, effectiveness, and quality of the department's performance of its statutory responsibilities. The primary responsibility for the implementation of the department's transportation programs shall be delegated to the regions, and sufficient authority shall be placed in each region to ensure adequate control of the resources commensurate with the delegated responsibility.

(1) The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

(3) The secretary shall appoint an assistant secretary who shall possess qualifications similar to those for the secretary and who shall act in the absence of the secretary. The assistant secretary shall be directly responsible to the secretary and shall perform such duties as are assigned to him by the secretary. The assistant secretary shall serve at the pleasure of the secretary.

(4) The secretary shall appoint a Deputy Assistant Secretary for Program Development and Support, a Deputy Assistant Secretary for Technical Policy and Engineering Services, a Deputy Assistant Secretary for Operations Administration, and a Deputy Assistant Secretary for each of the regional offices. Each deputy assistant secretary shall be an experienced administrator who by a combination of education and experience shall clearly possess a broad knowledge of the functions performed by the divisions or units under his supervision. They shall serve at the pleasure of the secretary and shall be directly responsible to the person designated by the secretary.

(a) The Deputy Assistant Secretary for Program Development and Support shall be responsible for, and have line authority over, the Division of Administration, the Division of Planning and Programming, and the Division of Financial Management.

(b) The Deputy Assistant Secretary for Operations Administration shall be responsible for, and have line authority over, the Division of Public Transportation Operations and the Division of Transportation Facility Operations.

(c) The Deputy Assistant Secretary for Technical Policy and Engineering Services shall be responsible for, and have line authority over, the Division of Technical Policy and Standards and the Division of Research and Engineering Services.

(5) In addition to his other duties the secretary shall be responsible for assuring that all programs of the department comply with federal and state laws and regulations.

(6)(4) The following divisions of the Department of Transportation are established:

- (a) Division of Administration.
- (b) Division of Technical Policy and Standards ~~Construction~~.
- (c) Division of Research and Engineering Services ~~Maintenance~~.
- (d) Division of Planning and Programming.

(e) Division of Transportation Facility Operations ~~Preconstruction and Design~~.

(f) Division of Public Transportation Operations.

(g) Division of Financial Management.

(7)(5) The responsibility for the establishment and modifications of the department's policies, procedures, guidelines, and standards shall be vested in the secretary and shall be performed in the department's central office. The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the heads of the department's regional offices. The secretary shall allocate a minimum amount of resources to the central office commensurate with ensuring efficiency, effectiveness, and quality in the overall management of the department's activities. The department may perform in a single location only those production-related functions which it can document are accomplished more cost effectively in that location. The field operations of the department shall be organized into seven regional offices each headed by a deputy assistant secretary. Specific authority shall be vested in those positions to ensure adequate control of field resources commensurate with this responsibility. In addition to the regional offices the department may, subject to legislative approval, establish satellite transportation offices in urban areas. Such satellite offices shall be established in at least the following cities: Fort Myers, Jacksonville, Orlando, Pensacola, West Palm Beach, and Melbourne. ~~The operations of the department shall be organized into a minimum of six districts.~~

(8) Notwithstanding the provisions of s. 110.205, the Department of Administration is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 110.205(2)(1).

(9) The Department of Transportation shall allocate resources to the regions prior to July 31 of each year. The allocation and all subsequent amendments shall be reported promptly to the Executive Office of the Governor and the Legislative Appropriations and Transportation Committees. The secretary shall require the deputy assistant secretary of each regional office to submit a monthly report on the status of his budget which shall indicate, by major budget category within each budget entity, the monthly expenditure, the cumulative expenditures to date and the remaining balance of the regional allocation. A copy of such reports shall be submitted to the President of the Senate and the Speaker of the House of Representatives on a monthly basis.

(10) The department is authorized to contract with local governmental entities and with the private sector to the maximum extent possible for the performance of the department's transportation responsibilities where it can be documented that such entities can perform the activities more cost effectively.

Section 7. Section 334.046, Florida Statutes, 1984 Supplement, is amended to read:

334.046 Department program objectives.—

(1) The program objectives of the department for the purpose of enhancing public safety and providing for a comprehensive transportation system, particularly in the urban areas, are:

(a) To complete the Florida interstate system.

(b) To meet the annual needs for resurfacing of the State Highway System, including repair and replacement of bridges on the system and to provide routine and uniform maintenance of the State Highway System.

(c) To reduce congestion on the state transportation system, the generation of pollutants, and fuel consumption by:

1. Reducing deficient lane miles through new construction and expansion of existing facilities;
2. Constructing intersection improvements, grade separations, and other traffic operation improvements;
3. Participating in the development of toll roads; and
4. Promoting all forms of public transit, with particular emphasis on f;(3)the development of fixed-guideway systems through joint development and funding by the public and private sectors.

~~(d) To provide routine and uniform maintenance of the State Highway System.~~

(2) These program objectives shall be accomplished in the most cost-effective manner.

(3)(2) The department in its budget request shall report as to how its request complies with the program objectives set forth in subsection (1) and as to how commitments from the prior fiscal year and the projection of the current fiscal year comply with those same program objectives.

Section 8. Section 334.14, Florida Statutes, 1984 Supplement, is amended to read:

334.14 Employees of department who are required to be engineers.—

(1) At a minimum, each of the following employees of the department must be a professional engineer registered under chapter 471:

(a) The Deputy Assistant Secretary for Operations Administration, Deputy Assistant Secretary for Technical Policy and Engineering Services, ~~State Transportation Engineer~~ and the deputy assistant secretary for each region, except that in lieu of engineering registration the deputy assistant secretary for each region may hold an advanced degree in an appropriate related discipline ~~each district engineer~~.

(b)1. The heads ~~head~~ of the divisions ~~division~~, or equivalent units ~~unit~~, of the department that are is responsible for the design of transportation facilities and for research and engineering services.

2. The head of each bureau, or equivalent unit, of the department that is directly responsible for the design of transportation facilities.

3. Any person who is employed or assigned by any such unit to be in responsible charge of an engineering project designed by the unit, regardless of whether such person is employed in the central office or in a field office.

(c)1. The head of the division, or equivalent unit, of the department that is responsible for the construction of transportation facilities.

2. The head of each bureau, or equivalent unit, of the department that is directly responsible for construction and for materials testing and research.

3. Any area or resident engineer who is in responsible charge of an engineering construction project.

(d)1. The head of each bureau, or equivalent unit, of the department that is directly responsible for traffic operations and the maintenance of transportation facilities.

2. The senior maintenance engineer assigned to a field office.

3. The senior maintenance engineers in charge of the various area maintenance yards assigned to the field units.

(2) As used in this section, the term "responsible charge" means the rendering of engineering judgment and decisions in the development of technical policy and programs or the direct control and personal supervision of work performed by himself or by others over whom the person holds supervisory authority.

(3) Any person holding the position of resident engineer of construction or senior maintenance engineer of a field unit on July 1, 1984 or the position of designer as identified in subparagraph (1)(b)3. on July 1, 1985, is not subject to the engineering registration requirement. However, when such person vacates his position, his replacement must comply with that requirement.

(4) The department shall employ a district engineer for each transportation district whose duties shall be fixed by the department and who shall be responsible for the efficient operation and administration of that district.

(5) In addition to the requirement for engineering registration in subsection (1), the department, in filling the positions described in this section, shall place emphasis on proven management ability and experience.

Section 9. Subsections (1) and (3) of section 334.19, Florida Statutes, 1984 Supplement, are amended to read:

334.19 Employment of comptroller and internal auditor; duties; comptroller's bond; financial records and accounts.—

(1)(a) The department shall employ a comptroller *who shall be the chief financial officer for the department whose special duty it is to examine into and supervise the methods of bookkeeping and accounting of the department and all similar matters relating to its management. He shall be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost accounting system and who either holds a license to practice public accounting in this state pursuant to chapter 473 or holds an advanced degree in an appropriate related discipline. The licensing and education requirements shall not apply to the person holding the position of comptroller on the effective date of this act but shall apply to any person who succeeds him. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller shall be responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost accounting system to properly identify, segregate, allocate, and report department costs. He shall supervise and direct the department's budget preparation and all financial projections, specifically including projections of revenues, expenditures, and cash requirements. The comptroller shall certify all comparative cost studies which examine the cost effectiveness and feasibility of contracting for services and operations performed by the department. The certification shall state that the study was prepared in accordance with generally accepted cost accounting standards applied in a consistent manner using valid and accurate cost data. The comptroller shall report to the head of the department or his designee, except that the designee may not hold a position below that of the Deputy Assistant Secretary for Program Development and Support.*

(b) The comptroller shall be required to give bond in the amount of \$100,000, payable to the Governor and his successors in office, to be approved by the Department of Banking and Finance and conditioned upon the faithful performance of his duties. The premiums of such bond shall be paid from the funds for the maintenance of the department.

(3) The comptroller shall ~~act under the general supervision and control of the department and shall~~ perform such other related duties as may be designated by the department.

Section 10. Subsection (2) of section 334.22, Florida Statutes, 1984 Supplement, is amended to read:

334.22 Annual reports of department.—

(2) The department shall also file with the Governor not later than 60 days prior to such meeting of each regular session of the Legislature a report covering the operation of the department for the preceding fiscal year, which report shall include *an assessment of program impact and cost-effectiveness, including a summary statement of the financial operations of the department and any other fiscal information that the Governor may request.*

(Renumber subsequent sections.)

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

Amendment 1B—On page 16, between lines 14 and 15, insert:

Section 20. Part VI of chapter 163, Florida Statutes, consisting of ss. 163.801, 163.802, 163.803, 163.804, 163.805, 163.806, 163.807, 163.8075, 163.808, 163.809, 163.81, 163.811, 163.812, 163.813, 163.814, 163.815, 163.816, 163.817, 163.818, and 163.819, is created to read:

163.801 Short title.—This act shall be known and may be cited as the Metropolitan Transportation Authority Act.

163.802 Intent and purposes.—It is the finding of the Legislature that the powers conferred by this part are for public uses and purposes for which public funds may be expended, and the necessity in the public interest for the provisions of this part is hereby declared as a matter of legislative determination.

163.803 Definitions.—As used in this act:

(1) "Regional ground transportation system" means the following in the regional ground transportation area established under this part:

(a) Bus systems;

(b) The state highway system as defined in s. 334.03;

(c) That portion of the county road system made up of all urban minor arterials not in the state highway system.

(d) Those roads subject to an agreement between the authority and another agent or unit of government as provided in s. 163.806.

(2) "Authority" means a metropolitan transportation authority created pursuant to this part.

(3) "Member" means a member of the authority pursuant to s. 163.804.

(4) "Regional ground transportation area" means that area the boundaries of which are identical to the boundaries of the political subdivisions or other legal entities which constitute the authority.

(5) "Metropolitan planning organization" means an entity defined in s. 339.175 which is eligible for attributed Urban System funds in accordance with Title 23, United States Code and which is composed entirely of counties which have adopted a 4 cent gas tax pursuant to s. 336.025. For purposes of this part, the term includes all of a county any portion of which is within such entity.

(6) "Regional ground transportation plan" means the plan adopted pursuant to s. 163.805.

(7) "Department" means the Department of Transportation.

163.804 Creation of metropolitan transportation authorities; membership; appointments; executive director.—

(1) In each metropolitan planning organization, there is hereby created a local governmental body as a public body corporate and politic to be known as the "Metropolitan Transportation Authority." Each such authority is constituted as a public instrumentality for the purposes of implementing a regional ground transportation plan, and the exercise by an authority of the powers conferred in this part shall be deemed and held to be the performance of an essential public purpose and function. No authority shall transact any business or exercise any power hereunder until and unless the governing boards of two or more contiguous counties in such a metropolitan planning organization, of which one of such counties is the most populous county in the metropolitan planning organization, by proper resolution shall declare that there is a need for an authority to function in such metropolitan planning organization or unless by law, enacted simultaneous with or subsequent to this act, there is declared to be a need for such an authority to function. If a metropolitan planning organization is composed of only one county, the authority shall not transact any business or exercise any power hereunder until and unless the governing board of such county by proper resolution declares that there is a need for an authority to function in such metropolitan planning organization or unless by law, enacted simultaneous with or subsequent to this act, there is declared to be a need for such an authority to function.

(2) Upon the adoption of the resolution or resolutions declaring a need for an authority, a copy of such resolution or resolutions shall be filed with the Secretary of State and copies of said resolution or resolutions shall be sent by certified mail to the chairman of the governing board of each county in the affected metropolitan planning organization, to the chief elected official of the most populous municipality in the most populous county in the metropolitan planning organization and to the Governor. Upon the enactment of a law declaring a need for an authority, a copy of said law shall be sent by certified mail by the Secretary of State to the chairman of the governing board of each county in the affected metropolitan planning organization, to the chief elected official of the most populous municipality in the most populous county in the metropolitan planning organization and to the Governor.

(3) Upon receipt of a copy of the resolutions or the law pursuant to subsection (2), the members of the authority shall be appointed as follows:

(a) Four members who are residents of the most populous county in the metropolitan planning organization; one of whom shall be the chairman of the governing board of such county or his designee who shall be a member of the governing board, one of whom shall be the chief elected official of the most populous municipality in such county, and two of whom shall be appointed by the Governor from among three persons recommended for each position by the governing board of the county.

(b) Three members who are residents of the second most populous county in the metropolitan planning organization; one of whom shall be the chairman of the governing board of said county or his designee who shall be a member of the governing board, and two of whom shall be appointed by the Governor from among three persons recommended for each position by the governing board of the county.

(c) Two members who are residents of each additional county in the metropolitan planning organization; one of whom shall be the chairman of the governing board of such county or his designee who shall be a member of the governing board, and one of whom shall be appointed by the Governor from among three persons recommended by the governing board of the county.

(4) If there is only one county in the metropolitan planning organization and upon receipt of the copy of the resolution or law pursuant to subsection (2), there shall be five members of the authority of which one shall be the chairman of the governing board of the county, or his designee, who is a member of the county governing board; one of whom shall be the chief elected official of the most populous municipality in said county, or his designee, who is a member of the municipality governing board; and three of whom shall be appointed by the Governor from among three persons recommended for each position by the governing board of said county.

(5) In making the initial appointments pursuant to subsection (3), the Governor shall appoint one member who shall serve for 1 year, one member who shall serve for 2 years, one member who shall serve for 3 years and the remaining members who shall serve for 4 years. In making the initial appointments pursuant to subsection (4), the Governor shall appoint one member who shall serve for 2 years, one member who shall serve for 3 years and one member who shall serve for 4 years. The governing board of the county shall recommend three nominees for each vacancy on the authority from such county that is to be appointed by the Governor. The governing board of the county shall submit the recommendations to the Governor within 30 days of the receipt of a copy of the resolution, resolutions or law pursuant to subsection (2) by the chairman of the governing board of the county, within 30 days after a vacancy occurs for any reason other than the expiration of a term, or 60 days prior to the date a term on the authority from such county is to begin. The Governor shall fill a vacancy occurring on the authority by appointment of one of the persons recommended by the governing board of the county in which the member must reside within 30 days after the receipt of said recommendations. If the governing board of a county fails to recommend three nominees within the time period specified herein, the Governor shall appoint a person to fill the vacancy on the authority from said county notwithstanding the failure of the governing board to recommend nominees to the Governor. If the Governor has not made the appointment to fill a vacancy occurring on the authority from a county within the time period specified herein, the governing body of said county shall appoint within 30 days thereafter one person from the names previously recommended to the Governor to fill the vacancy from said county. None of the persons recommended by the governing board of a county to the Governor shall be elected officials or members of an expressway authority created in chapter 348 or the transit authority created in chapter 349. All members of the authority appointed by the Governor shall be subject to confirmation by the Senate.

(6) The authority shall annually elect one of the members of the authority who was appointed by the Governor as chairman and one of such members as vice chairman and may also appoint a secretary who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

(7) The secretary shall keep a record of the proceedings of the authority and shall be custodian of all books and records of the authority and of its official seal.

(8) A majority of the authority shall constitute a quorum and the affirmative vote of a majority of the members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the authority. A vacancy shall be filled for the unexpired portion of a term in the same manner as the vacant position was initially filled. The members of the authority from any county failing to ratify the regional ground transportation plan, pursuant to s. 163.805(7) shall cease to be members of the authority on the failure of such county to ratify the plan and the total membership of the authority shall be reduced accordingly, except that, if only the most populous

county in the metropolitan planning organization approves that regional ground transportation plan pursuant to s. 163.805(1), the membership of the authority shall be increased by one additional member appointed by the Governor from among three persons recommended by the governing board of said county.

(9) The members of the authority shall serve without compensation but shall be entitled to receive allowances for travel and per diem expenses pursuant to s. 112.061.

(10) The secretary of the department, or his designee, shall be a non-voting, ex-officio member of the authority.

(11) A member of the authority may be removed from office for the reasons and in the manner provided for municipal officials pursuant to s. 112.51. Any vacancy so created shall be filled as provided herein.

(12) The authority may employ an executive director, who shall be a person of recognized ability and experience, to serve at the pleasure of the authority. The executive director may employ such employees as may be necessary for the proper administration of the duties and functions of the authority and may determine the qualifications of such persons; however, the authority shall approve such positions and fix compensation for such employees. The authority may contract for the services of attorneys, engineers, consultants, and agents for any purpose of the authority, including engineering, architectural design, management, feasibility, transportation planning, and other studies concerning the design of facilities and the acquisition, construction, extension, operation, maintenance, regulation, consolidation, and financing of regional ground transportation systems by the authority.

(13) The authority members shall be subject to the Code of Ethics for Public Officers and Employees as set forth in part III, chapter 112 and also subject to the requirements of the Public Records Law and Open Meetings Law in chapters 119 and 286, respectively.

163.805 Regional ground transportation plans.—

(1) Within 1 month of the appointment of the members of the authority by the Governor, the authority shall meet and begin preparing a regional ground transportation plan. Not later than 6 months after the appointment of members of the authority by the Governor, the authority shall submit a proposed regional ground transportation plan to the governing board of each county and municipality in the metropolitan planning organization and to the metropolitan planning organization for review and recommendations. Not later than 8 months after the appointment of the members of the authority by the Governor, the authority shall adopt a regional ground transportation plan and submit said plan to the governing board of each county in the metropolitan planning organization. Before adopting the regional ground transportation plan, the authority shall give consideration to any recommendations by the governing board of the counties and municipalities in the metropolitan planning organization and by the metropolitan planning organization and, where practicable, shall incorporate such recommendations into the plan. The regional ground transportation plan shall be adopted by an affirmative vote of a majority of the authority plus one additional member.

(2) The plan shall set forth the anticipated amount and the source of the revenues to be derived by the authority for the 5 years following ratification of the plan by the voters of the regional ground transportation area; and a list, in the order of priority, of the proposed uses of revenue by the authority by specific project or special use as the same are authorized in s. 163.807. The plan shall include the approximate cost or expense allocation for each specific project or special use and a map of the approximate location of each specific project or use, if appropriate. After ratification of the plan by the voters of the metropolitan planning organization, the plan shall not have any project or plans amended prior to public hearings and an affirmative vote of a majority of the authority plus one additional member.

(3) In developing a regional ground transportation plan, the authority shall develop and publish estimates of the revenues to be collected in each county that is a member of the authority. Said plan shall also detail the amounts to be expended in each such county. No less than 80 percent of the amount collected in each county shall be expended for projects or uses in such county.

(4) As a part of the plan, the authority shall include a statement conforming to the requirements of s. 101.161, detailing the specific projects and uses that are to be financed by the revenues of the authority as provided in this act and the sources of such revenues to the authority.

(5) The authority shall designate a Tuesday, not less than 45 days nor more than 60 days after the adoption of the plan as specified in subsection (1), on which a referendum shall be held to determine if the plan is to be implemented. The governing body of each county in the metropolitan planning organization shall cause the statement required to appear on the ballot in subsection (6) to be advertised pursuant to s. 100.342 as it is to appear on the ballot.

(6) The plan shall be consistent with the State Comprehensive Plan and all regional policy plans that apply to the member counties.

(7) The ballot for such referendum shall consist of the following:

(a) The statement required to be included in the plan pursuant to subsection (4).

(b) Immediately following said statement, the words:

“These projects are to be paid for with the revenues from up to an additional 4 cents per gallon fuel tax and/or up to 1 mill of additional ad valorem taxes.”

shall be included as a separate paragraph in type identical to that used to print the statement required in subsection (4) on the ballot.

(c) Immediately following the language required by paragraphs (a) and (b), the following question shall be placed on the ballot:

“Do you favor the ratification of the regional ground transportation plan and approve the levy of the fuel and/or ad valorem taxes to finance implementation of the plan?

Yes—For the regional transportation plan.

No—Against the regional transportation plan.”

(8) If the regional ground transportation plan is approved by a majority of those qualified electors of each county in the metropolitan planning organization voting in the referendum set by the authority in subsection (5), the plan shall be deemed to have been ratified and shall be implemented by the authority and the taxes permitted to be used by the authority pursuant to ss. 163.8075 and 336.026 shall be imposed. If the regional ground transportation plan is approved by a majority of those qualified electors voting in the referendum set by the authority in subsection (5) in two or more contiguous counties in the metropolitan planning organization, two of which counties are the two most populous counties in the metropolitan planning organization, the portion of the plan relating to said counties shall be deemed to have been ratified and shall be implemented by the authority and the taxes permitted to be used by the authority pursuant to ss. 163.8075 and 336.026 shall be imposed. If the regional ground transportation plan is approved by a majority of those qualified electors voting in the referendum set by the authority in subsection (5) in the most populous county in the metropolitan planning organization, the portion of the plan relating to said county shall be deemed to have been ratified and shall be implemented by the authority and the taxes permitted to be used by the authority pursuant to ss. 163.8075 and 336.026 shall be imposed. If the regional ground transportation plan is approved by a majority of the qualified electors voting in the referendum set by the authority in subsection (5) in the most populous county in the metropolitan planning organization, the portion of the plan relating to said county shall be deemed to have been ratified and shall be implemented by the authority and the taxes permitted to be used by the authority pursuant to s. 163.8075 and s. 336.026 shall be imposed.

(9) The regional ground transportation plan shall not be deemed to have been ratified in:

(a) Any county in which a majority of the qualified electors in such county voting in the referendum set by the authority in subsection (5) have not approved the plan; or

(b) In the entire metropolitan planning organization if a majority of the qualified electors of the various counties in the metropolitan planning organization have approved the plan in any combination of counties other than as specified herein

and such plan shall not be implemented and no taxes authorized for use by the authority shall be imposed. No revenues of the authority shall be expended in any county in which the regional ground transportation plan is not ratified.

163.806 Purposes of metropolitan transportation authorities.—

(1) The authority may expend its funds for improvements to the ground transportation system, either for the total cost of such improvements or to match funds from other public or private agencies. However, none of the revenues from the taxes authorized for use by the authority in ss. 163.8075 and 336.026 shall be used to finance a bus system. The authority may enter into joint participation agreements with public or private agencies to provide funds for such improvements. These agreements shall define the roles and responsibilities of each party in the planning, design, construction, operation, maintenance, and funding of such improvements.

(2) The authority may utilize transportation impact fees related to the regional ground transportation system pursuant to an interlocal agreement.

(3) The authority shall have no jurisdiction over roads other than those that are a part of the regional ground transportation system unless the authority and the appropriate agency or unit of government agree that the authority shall assume additional jurisdiction.

(4) The authority shall be deemed a special tax district and may levy, pursuant to the referendum as provided in this act, a motor fuel and special fuels tax and an ad valorem tax, as provided in this act.

(5) The regional ground transportation systems and facilities operating in and under authority of this act are exempt from any of the regulatory provisions of chapter 350.

163.807 Powers and duties.—The authority, after ratification of the plan pursuant to s. 163.805, may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(1) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(2) To adopt, use, and alter at will a corporate seal.

(3) To exchange, acquire, purchase, hold, lease as a lessee, and use any property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by the authority.

(4) To contract for the operation of any regional ground transportation system. In awarding a contract, the authority shall consider, but is not limited to, the following:

(a) The qualification of each applicant;

(b) The level of service;

(c) The efficiency, cost, and anticipated revenue;

(d) The construction, operation, and management plan;

(e) The financial ability to provide reliable service; and

(f) The impacts on other transportation modes, including the ability to interface with other transportation modes and facilities.

(5) To fix, alter, charge, and establish rates, fares, taxes, and other charges for the services and facilities within the area, which rates, fares, fees, and charges shall be equitable and just.

(6) To acquire and operate, or provide for the operation of, regional ground transportation systems, public or private, within the area, the acquisition of such systems to be by negotiation and agreement between the authority and the owner of the system to be acquired. In the event of the acquisition of a publicly owned transportation system by the authority, the local government, whether created by interlocal agreement or not, from whom it is acquired shall be required to continue to provide funding for such system to the authority at a level that is not less than the public funding level for such system in the fiscal year prior to such acquisition by the authority adjusted annually by multiplying the quotient of the consumer price index plus one by the amount of the prior year funding level. Such amount shall annually be paid to the authority by such local government on a mutually agreed upon date. However, none of the revenues from the taxes authorized for use by the authority in ss. 163.8075 and 336.026 shall be used to finance a bus system.

(7) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(8) To enter into management contracts with any person or persons for the management of a regional ground transportation system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions, as shall be deemed advisable by the authority.

(9) Without limitation, to borrow money and issue evidence of indebtedness including the issuance of bonds, whether on original issue or refunding, and to accept gifts or grants or loans of money or other property and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, or any other public body of the state.

(10) To have the power of eminent domain, including the procedural powers granted under chapter 73 and chapter 74, to obtain title to real property necessary to accomplish the purposes of this part and the powers of eminent domain granted to the department by s. 337.27(2) and (3), subject to the procedures thereof, and the right of entry onto property pursuant to s. 337.274. Unless an appropriate permit is received, the powers of eminent domain granted by this subsection shall not be exercised to acquire lands or waters which require a permit for construction pursuant to chapter 403.

(11) To fix, alter, change, levy, establish, and collect rates, fares, taxes, including, but not limited to, a special motor fuel tax not to exceed 4 cents per gallon and an ad valorem tax on real and personal property not to exceed 1 mill annually; which rates, fares, taxes, fees, and charges shall be equitable and just and that are deemed necessary for the authority's purpose. The authority shall not levy any special motor fuel tax or levy any ad valorem tax unless a comprehensive regional ground transportation plan is ratified pursuant to s. 163.805. No special motor fuel tax or ad valorem tax shall be imposed except pursuant to a regional ground transportation plan adopted by a majority-two-thirds vote of the membership of the authority and ratified by the qualified electors pursuant to s. 163.805(7). In addition to the rights of the authority to collect rates, fees, and taxes as provided in this act, the authority shall have the additional and further power to fix, alter, charge, levy, establish and collect tolls, the use of which shall be restricted to finance all or part of the cost of construction, and to pay all or part of the operation and maintenance of toll roads or approaches thereto.

(12) To receive and expend gasoline tax or property tax receipts or contributions obtained from the state, or from the county or counties or municipalities within the authority's jurisdiction.

(13) To develop a method, formula, arrangement, or master plan to equitably provide for, allocate, and finance the authority's capital, operating, and maintenance costs, including, but not limited to, payments of reserve funds authorized by law, and payments of principal and interest on obligations of indebtedness.

(14) To prescribe the manner in which strict budgeting and accountability of all funds shall be provided for, and the type of and manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and submitted to the governing board of each county and municipality in the regional transportation area. The authority shall prepare an annual budget and shall forward a copy of such budget to the governing body of each county and municipality in the regional ground transportation area. The budget of the authority shall be presented and adopted at a public hearing called by the authority for such purposes.

(15) To hire employees, and furnish their compensation, benefits, and other employment accommodations.

(16) To enter into and make leases, as either lessee or lessor, in order to carry out the right to lease as set forth in this part.

(17) To enter into and make lease-purchase agreements with the department.

(18) To pledge or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of gasoline tax funds of any county within the regional ground transportation area received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department as security for all or any of the obligations of the authority.

(19) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this act or any other law.

(20) To prescribe and adopt necessary rules consistent with the provisions of this act.

163.8075 Levy of ad valorem taxes by authority.—The exercise of the powers granted to metropolitan transportation authorities is declared to be a public purpose. The authority is authorized to, and may levy, ad valorem taxes in an amount not to exceed 1 mill annually for the purposes of this act in any county in a metropolitan planning organization that has ratified the regional ground transportation plan by referendum pursuant to s. 163.805. The proceeds of such ad valorem tax shall be used by the authority to implement the regional ground transportation plan and may, if requested by an expressway authority created by general law in the metropolitan planning organization, be used for expressway projects for which plans have been presented by the expressway authority to and approved by the authority.

163.808 Bonds of the authority.—

(1)(a) The bonds of the authority issued pursuant to the provisions of this part, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof and may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates not in excess of those authorized by general law, fixed, variable, deep discount, or zero coupon, which may be fixed or may change at such time or times in accordance with a specified formula or method of determination, be in such denominations, be in such form, either coupon or fully registered, shall carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, with or without premium, contain such options or rights to tender bonds or notes for purchase or redemption, and be entitled to such priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority including the county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced or lithographed thereon, as such resolution or resolutions may provide.

(b) Said bonds shall be sold at public or private sale at such price or prices as the authority shall determine to be in its best interest. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(2) In any resolution, trust indenture or other security of the authority agreement authorizing or relating to the issuance of any bonds or notes, the authority, in order to secure the payment of such bonds or notes and in addition to its other powers, shall have powers by provisions therein which shall constitute covenants by the authority and contracts with the holders of such bonds or notes:

(a) To pledge all or any part of its rents, fees, tolls, revenues or receipts to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of any bonds;

(b) To pledge any lease or other agreement or the rents or other revenues thereunder and the proceeds thereof;

(c) To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired;

(d) To covenant against pledging all or any part of its rents, fees, tolls, revenues or receipts or its leases or agreements or rents or other revenues thereunder or the proceeds thereof, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on any of the foregoing;

(e) To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind;

(f) To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;

(g) To covenant as to the issuance of additional bonds or notes or as to the limitations on the issuance of additional bonds or notes and on the incurring of other debts by it;

(h) To covenant as to the payment of the principal of or interest on the bond or notes, or any other obligations, as to the sources and methods of such payment, as to the rank or priority of any such bonds, notes or obligations with respect to any lien or security as to the acceleration of the maturity of any such bonds, notes or obligations;

(i) To provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(j) To covenant against extending the time for the payment of bonds or notes or interest thereon;

(k) To covenant as to the redemption or repurchase of bonds or notes and privileges of tender exchange thereof for other bonds or notes of the authority;

(l) To covenant as to the rates of toll and other charges to be established and charged, the amount to be raised each year or other period of time by tolls or other revenues and as to the use and disposition to be made thereof;

(m) To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes, reserves or other purposes and as to the use, investment, and disposition of the moneys held in such funds;

(n) To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(o) To covenant as to the construction, improvement, operation or maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

(p) To provide for the release of property, leases or other agreements or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage;

(q) To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes and other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

(r) To vest in a trustee paying agent or other fiduciary within or without the state such property, rights, powers, and duties in trust as the authority may determine, including the right to foreclose any mortgage, and to limit the rights, duties, and powers of such trustee;

(s) To execute all mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

(t) To pay the costs or expenses incident to the enforcement of such bonds or notes or of the provisions of such resolution or of any covenant or agreement of the authority with the holders of its bonds or notes;

(u) To limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes; and

(v) To make covenants other than in addition to the covenants herein expressly authorized, of like or different character, and to make such covenant to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

(3) The authority may employ fiscal agents as is provided by this part or the State Board of Administration may upon request of the authority act as fiscal agent for the authority in the issuance of any bonds which

may be issued pursuant to this part, and the State Board of Administration may upon request of the authority take over the management, control, administration, custody and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this part. The authority may enter into any deeds of trust, indentures or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals or other charges or receipts of the authority, including all or any portion of the county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, thereunder. Such deed of trust, indenture or other agreement may contain such provisions as are customary in such instruments, or, as the authority may authorize, including but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair and lease of, or lease-purchase agreement and the duties of the authority and others including the department, with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of same.

(e) To allow recovery of the authority's cost of issuance from bond proceeds.

(4) All bonds issued by or on behalf of the authority are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

(5) The authority shall have the power to purchase bonds or notes out of any funds available therefor. The authority may hold, cancel or resell such bonds or notes subject to and in accordance with agreements with holders of its bonds and notes.

(6) The authority in connection with the authorization of bonds or notes to be issued and sold from time to time may delegate to such officer or agent of the authority as the authority selects the power to determine the time and manner of sale, public or private, the maturities and rate or rates of interest which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; provided, however, that the amounts and maturities of, and the interest rate or rates on said bonds shall be within the limits prescribed by the authority in its resolution delegating to said officer or agent the power to authorize the sale and issuance of said bonds or notes.

(7) The rights and remedies of the bondholders shall be as provided in the resolution authorizing the issuance of the bonds.

163.809 Remedies of the bondholders.—

(1) The rights and the remedies herein conferred upon or granted to the bondholders shall be in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds, or by a deed of trust, indenture or other agreement under which the bonds may be issued or secured. In the event that the authority shall default in the payment of the principal of or interest on any of the bonds issued pursuant to the provisions of this part after such principal of or interest on said bonds shall have become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or in the event that the authority shall fail or refuse to comply with the provisions of this part or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding shall be entitled as of right to the appointment of a trustee to represent such bondholders for the purposes hereof; provided, however, that such holders of 25 percent in aggregate principal amount of the bonds then outstanding shall have first given notice of their intention to appoint a trustee, to the authority. Such notice shall be deemed to have been given if given in writing, and deposited in a securely sealed postpaid wrapper, mailed at a regularly maintained United States post-office box or station and addressed, to the chairman of the authority.

(2) Such trustee, and any trustee under any deed of trust, indenture or other agreement, may, and upon written request of the holders of 25 percent, or such other percentages as may be specified in any deed of trust, indenture or other agreement aforesaid, in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in his or its own name:

(a) By mandamus or other suit, action or proceeding at law, or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect and charge rates, taxes, fees, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues or receipts of the authority to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.

(b) Bring suit upon the bonds.

(c) By action or suit in equity require the authority to account as if it were the trustee of an express trust for the bondholders.

(d) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

(3) Any trustee when appointed as aforesaid, or acting under a deed of trust, indenture or other agreement, and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may take possession of the taxes, rates, fees, rentals, or other revenues, charges or receipts from which are, or may be, applicable to the payment of the bonds so in default, and collect and receive all taxes, rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee, and said receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any taxes, rates, fees, rentals, or other charges, revenues or receipts, derived from such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) Nothing in this section or any other section of this part shall authorize any receiver appointed pursuant hereto for the purpose, to sell, assign, mortgage or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. No holder of bonds on the authority nor any trustee, shall ever have the right in any suit, action or proceeding at law or in equity, to compel a receiver, nor shall any receiver be authorized or any court be empowered to direct the receiver to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the authority.

163.810 Department may be appointed agent of authority for construction.—The department may be appointed by said authority as its agent for the purpose of constructing improvements and extensions to the regional ground transportation system. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts and instruments relating thereto and shall request the department to do such construction work including the planning, surveying and actual construction of the completion, extensions, and improvements to the regional ground transportation system and shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor and the department shall thereupon be authorized, empowered and directed to proceed with such construction and to use the said funds for such purpose in the same manner that it is now authorized to use the funds otherwise provided by law for its use in construction of roads and bridges.

163.811 Acquisition of lands and property.—

(1) For the purposes of this law the authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary for any of the purposes of this part. The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(2) All property rights acquired under the provisions of this law shall be in fee simple.

(3) In connection with the acquisition of property or property rights as herein provided, the authority may in its discretion acquire an entire lot, block, or tract of land, if by so doing the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

(4) The authority shall also have the powers of eminent domain granted to the department by s. 337.27(2) and (3), subject to the procedures thereof, and the right of entry onto property pursuant to s. 337.274. Unless an appropriate permit is received, the powers of eminent domain granted by this subsection shall not be exercised to acquire lands or waters which require a permit for construction pursuant to chapter 403.

163.812 Lease-purchase agreements.—

(1) In order to effectuate the purposes of this act and as authorized in this section, the authority and the Department of Transportation may enter into lease-purchase agreements relating to and covering toll roads of the authority.

(2) Such lease-purchase agreements may provide for the leasing of toll roads by the authority as lessor to the department as lessee, shall prescribe the term of such lease and the rentals to be paid thereunder and shall provide that upon the completion of the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute to the leased property shall be transferred in accordance with law by the authority, to the state and the authority shall deliver to the department such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

(3) Such lease-purchase agreement may include such other provisions, agreements and covenants as the authority and the department deem advisable or required including, but not limited to, provisions as to the bonds to be issued under, and for the purposes of, this part, the completion, extension, improvement, operation and maintenance of the toll roads of the authority and the expenses and cost of operation of said authority, the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities thereof, the application of federal or state grants or aid which may be made or given to assist the authority in the completion, extension, improvement, operation and maintenance of said roads of the authority, which the authority is hereby authorized to accept and apply to such purposes, the enforcement of payment and collection of rentals and any other terms, provisions or covenants necessary, incidental or appurtenant in the making of and full performance under such lease-purchase agreement.

(4) The department as lessee under such lease-purchase agreement, is hereby authorized to pay as rentals thereunder any rates, fees, charges, funds, moneys, receipts or income accruing to the department from the operation of the toll roads of the authority and the county gasoline tax funds and may also pay as rentals any appropriations received by the department pursuant to any act of the Legislature of the state heretofore or hereafter enacted; provided, however, that nothing herein nor in such lease-purchase agreement is intended to nor shall this part or such lease-purchase agreement require the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.

(5) No pledge of said county gasoline tax funds as rentals under such lease-purchase agreement shall be made without the consent of the county evidenced by a resolution duly adopted by the board of county commissioners of such county at a public hearing held pursuant to due notice. The resolution, among other things, shall provide that any excess of said pledged gasoline tax funds which is not required for debt service or reserves for such debt service for any bonds issued by the authority shall be returned annually to the department for distribution to county as provided by law.

(6) The department shall have power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal and replacement of the system, and any part of the cost of completing the system to the extent that the proceeds of bonds issued therefor are insufficient, from sources other than the revenues derived from the operation of the system and the county gasoline tax funds.

(7) The leased toll roads shall be a part of the state road system and the department is hereby authorized, upon the request of the authority, to expend out of any funds available for the purpose such moneys, and

to use such of its engineering and other forces, as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost and other preliminary engineering and other studies; provided, however, that the aggregate amount of moneys expended for such purposes by the department shall not exceed the sum of \$750,000.

163.813 Refinancing of existing bonds.—Notwithstanding any of the provisions of this act, each project, building or facility which has been financed by the issuance of bonds or other evidence of indebtedness under the provisions of chapter 348, Part IV, and any refinancing thereof is hereby approved as provided for in Article VII, s. 11(e) of the State Constitution.

163.814 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is hereby given and granted any county, municipality, drainage district, road and bridge district, school district or any other political subdivision, board, commission or individual in, or of, the state to make and enter into with the authority, contracts, leases, conveyances, or other agreements within the provisions and purposes of this part. The authority is hereby expressly authorized to make and enter into contracts, leases, conveyances and other agreements with any political subdivision, agency or instrumentality of the state and any and all federal agencies, corporations and individuals, for the purpose of carrying out the provisions of this part.

163.815 Covenant of the state.—The state does hereby pledge to, and agree with, any person, firm or corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights hereby vested in the authority until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to, and agree with, the United States and any federal agency that, in the event that any federal agency shall construct or contribute any funds for the completion, extension or improvement of the regional ground transportation system, or any part or portion thereof, the state will not alter or limit the rights and powers of the authority in any manner which shall be inconsistent with the continued operation of the regional ground transportation system or the completion, extension or improvement thereof, or which shall be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this chapter and the purposes of the United States in the completion, extension or improvement of the regional ground transportation system, or any part or portion thereof.

163.816 Eligibility for investments and security.—Any bonds or other obligations issued pursuant to this part shall be and constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal and other public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal or other public funds, notwithstanding the provisions of any other law or laws to the contrary.

163.817 Exemption from taxation.—The effectuation of the authorized purposes of the authority created under this part is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and since such authority performs essential governmental functions in effectuating such purposes, such authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges at any time received by it, and the bonds issued by the authority, their transfer and the income therefrom, including any profits made on the sale thereof shall at all times be free from taxation of any kind by the state, or by any political subdivision, or taxing agency or instrumentality thereof. The exemption granted by this section is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by any corporation.

163.818 Conflict with local transportation agencies.—

(1) Upon ratification of the regional ground transportation plan and within 1 year following the first meeting of the authority all land transportation agencies, not created by general law, within the regional ground transportation area shall transfer their rights, powers, property, and obli-

gations for ground transportation systems to the authority, including, but not limited to, their equipment, structures, land, thoroughfares, bond indebtedness, lease and lease-purchase agreements, and other contracts; provided that at the conclusion of the 1-year period, and pursuant to this part, no county or municipality within the regional ground transportation area may be a part of more than one metropolitan transportation authority. The provisions of this subsection shall not apply to the Jacksonville Transportation Authority.

(2) Upon approval of the regional ground transportation plan by the electors, the authority may succeed to the rights, purposes, property, leases, contract obligations, covenants, responsibilities, commitments, and bonded indebtedness of any regional transportation authority, transit authority, or expressway authority created in accordance with chapter 348, which authorities are within the regional ground transportation area. Nothing contained in this part shall limit, alter, or impair the rights vested in the holders of bonds issued by such transportation, transit or expressway authority. With respect to expressway authorities, the transfer provided for in this subsection may occur only on the petition of the expressway authority to be absorbed into the metropolitan transportation authority and upon an affirmative vote of a majority of the authority plus one additional member. The provisions of this subsection shall not apply to the Jacksonville Transportation Authority.

(3) An authority created pursuant to this act shall have no jurisdictional authority over the State Highway System or the County Road System in each member county.

163.819 Conflict with other statutes.—If this part conflicts with an existing provision of law relating to the authority of local governments to regulate regional land transportation within the municipal and county areas within the authority's jurisdiction, the provisions of this act shall govern, notwithstanding any other provision related to land transportation contained in chapter 163 or in any local or special act, or in any county or municipal ordinance. An authority created pursuant to this act shall have no jurisdictional authority over the State Highway System or the County Road System in each member county.

Section 21. Subsection (2) of section 163.340, Florida Statutes, 1984 Supplement, is amended to read:

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

(2) "Public body" or "taxing authority" means the state or any county, municipality, authority, special district as defined in s. 165.031(5), or other public body of the state, except a school district, library district, *metropolitan transportation authority*, water management district created under s. 373.069, a special district which levies ad valorem taxes on taxable real property in more than one county, or a special district the sole available source of revenue of which is ad valorem taxes at the time an ordinance is adopted pursuant to s. 163.387. The exclusion of a library district from the definition of "public body" or "taxing authority" does not apply in any jurisdiction where the community redevelopment agency validated bonds as of April 30, 1984.

Section 22. Section 336.026, Florida Statutes, is created to read:

336.026 Metropolitan transportation system; levy of local option gas tax on motor fuel and special fuel.—

(1)(a) In addition to other taxes allowed by law, including the 4 cent local option gas tax on motor fuel and special fuel and s. 336.025, there may be imposed as provided herein a 1-cent, 2-cent, 3-cent, or 4-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a regional ground transportation area as defined in s. 163.803(4) and taxed under the provisions of chapter 206.

(b) The tax shall be imposed effective 60 days after the first day of the month following the referendum ratifying the regional ground transportation plan pursuant to s. 163.805. The tax shall only be collected in those counties in a regional ground transportation area, as defined in s. 163.803(4), which have ratified the regional ground transportation plan adopted by the metropolitan transportation authority pursuant to s. 163.805.

(c) Metropolitan transportation authorities shall utilize moneys received pursuant to this section only as authorized in the Metropolitan Transportation Authority Act.

(2)(a) The tax shall be collected in the same manner as all other gas taxes pursuant to chapter 206 and shall be distributed monthly. The tax collected by the Department of Revenue pursuant to this section shall be transferred to the Local Option Gas Tax Trust Fund, which fund is created for distribution to the Metropolitan Transportation Authority in the regional ground transportation area in which the tax was collected and which fund is subject to the service charge imposed in chapter 215. The department has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax and shall promulgate such rules as may be necessary for the enforcement of this section. The sections of chapter 206, including, but not limited to, those sections relating to timely filing of reports and tax collected, suits for collection of unpaid taxes, department warrants for collection of unpaid taxes, penalties, interest, retention of records, inspection of records, liens on property, foreclosure, and enforcement and collection also apply to the tax authorized in this section.

(b) The provisions for refund provided in ss. 206.625 and 206.64 are not applicable to such tax levied by any authority. The provisions for refund in s. 212.67(1)(a) and (e) apply to such tax, and the refund shall be administered in accordance with the provisions of s. 212.67. However, the amount refunded shall be deducted from moneys in the Local Option Gas Tax Trust Fund otherwise distributed to the authority in the regional ground transportation area in which the tax is levied.

(3) Prior to the effective date of any tax under this section, the authority shall provide the Department of Revenue with the amount of the tax levied and imposed under this section pursuant to the regional ground transportation plan approved in the referendum required by s. 163.805.

Section 23. There is hereby declared to be a need for a metropolitan transportation authority for the metropolitan planning organization composed of Orange, Osceola, and Seminole counties pursuant to s. 163.804(1), Florida Statutes.

Section 24. For the purpose of providing initial funding for the authority to develop a regional ground transportation plan, the counties within the metropolitan planning organization shall on October 1, after the enactment of the resolutions or law required in subsection (1), transfer \$200,000 to the authority. The portion of such amount to be transferred by each county shall be an amount which equals the same proportion of \$200,000 as the population of the county bears to the total population within the regional ground transportation area. The populations of each county shall be determined from the most recent "Florida Estimates of Population" as published by the Bureau of Economic and Business Research of the University of Florida. Within one year of the ratification of the regional ground transportation plan pursuant to s. 163.805, the authority shall repay the amount transferred to the authority by each county within the metropolitan planning organization.

Section 25. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent section.)

Senator Hair presiding

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

Amendment 1C—On page 16, between lines 14 and 15, insert:

Section 32. Section 337.16, Florida Statutes, 1984 Supplement, is amended to read:

337.16 Disqualification of delinquent contractors from bidding; suspension and revocation of certificates of qualification; grounds; hearing.

(1) A contractor shall not be qualified to bid when an investigation by the department discloses that such contractor is delinquent on a previously awarded contract, and in such case his certificate of qualification shall be suspended or revoked.

(a) A contractor is delinquent when unsatisfactory progress is being made on a construction project or when the allowed contract time has expired and the contract work is not complete. Unsatisfactory progress shall be determined in accordance with the contract provisions.

(b) The department shall inform the contractor in writing of its intent to deny, *suspend*, or revoke his certificate of qualification to bid on work let by the department for *delinquency* and *inform him* of his right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days of the receipt of the notice of intent, the department shall notify the contractor of the time, date, and place of the hearing, which shall be held within 30 days of receipt of the request for the hearing. ~~The recommended order shall be issued within 15 days after the hearing. The certificate of qualification shall be suspended for the number of days that it is administratively determined that the contractor was delinquent even if the delinquency is cured during the pendency of the hearing proceedings.~~

(c) Any contractor whose certificate of qualification is suspended or revoked for delinquency shall also be disapproved as a subcontractor during the period of suspension or revocation.

(d) In addition to the period of suspension required in paragraph (b), the department shall deny or revoke the certificate of qualification of such contractor in accordance with the following schedule: If a contractor has been suspended twice within an 18-month period, the period of revocation shall be 2 months; if such contractor has been suspended twice within a 24-month period, the period of revocation shall be 3 months; and, if such contractor has been suspended 3 times within a 30-month period, the period of suspension shall be 4 months. The department shall inform the contractor in writing of its intent to deny or revoke his certificate of qualification to bid on work let by the department and inform him of his right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt of the request for the hearing. Upon a determination that the contractor's certificate of qualification had been suspended for delinquency, it shall deny or revoke the certificate of the contractor as provided in this paragraph.

(e)(e) Such suspension or revocation shall not affect the contractor's obligations under any preexisting contract.

(2) For reasons other than delinquency in progress, the department, for good cause, may suspend for a specified period of time or revoke any certificate of qualification. Good cause includes, but is not limited to, circumstances in which a contractor or his official representative:

(a) Makes or submits to the department false, deceptive, or fraudulent statements or materials in any bid proposal to the department or any application for a certificate of qualification or in any administrative or judicial proceeding;

(b) Becomes insolvent or is the subject of a bankruptcy petition;

(c) Fails to comply with contract requirements, in terms of payment or performance record, or to timely furnish contract documents as required by the contract or by any state or federal statute or regulation; or

(d) Wrongfully employs or otherwise provides compensation to any employee or officer of the department, or willfully offers an employee or officer of the department any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

(e) Is an affiliate of a contractor whose certificate of qualification has been suspended or revoked, and the affiliate is dependent upon such contractor for personnel, equipment, bonding capacity, or finances.

Section 33. The provisions of section 32 of this act are applicable to contracts for which bids are received on or after September 1, 1985

Section 34. Subsection (3) of section 337.18, Florida Statutes, 1984 Supplement, is amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(3)(a) If the department determines and adequately documents that the timely completion of any project is essential to the public health, safety, or welfare, the contract for such project may provide for an incentive payment payable to the contractor for early completion of the project or critical phases of the work and for additional damages to be assessed against the contractor for the completion of the project or critical phases of the work in excess of the time specified. All contracts containing such provisions shall be approved by the Secretary of Transportation or his

designee. The amount of such incentive payment or such additional damages shall be established in the contract but shall not exceed \$10,000 \$2,000 per calendar day for a maximum period of 60 100 days. Any liquidated damages provided for under subsection (2) and any additional damages provided for under this subsection shall be payable to the department upon a default because of the contractor's failure to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department.

(b) The department shall adopt rules to implement this subsection. Such rules shall include procedures and criteria for the selection of projects on which incentive payments and additional damages may be provided for by contract.

(Renumber subsequent section.)

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

Amendment 1D—On page 60, strike all of lines 7-14 and insert:

Section 47. Paragraph (e) is added to subsection (2) of section 339.08, Florida Statutes, 1984 Supplement, to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(2) Such rules shall provide that the use of such moneys be restricted to the following purposes:

(e) To reimburse counties or municipalities for expenditures on the State Highway System as authorized by s. 339.12(4) upon legislative approval.

Section 48. Subsections (3), (4), and (6) of section 339.12, Florida Statutes, 1984 Supplement, are amended to read:

339.12 Aid and contributions by governmental entities for construction or maintenance of roads in State Highway System; federal aid.—

(3) In case any such aid or contribution is given or made by any county or any municipality or special road and bridge district, such aid or contribution shall be used by the department only in the construction or maintenance of such state roads in the county, municipality, or special road and bridge district as are designated and agreed upon by the department and the officials of such county, municipality, or special road and bridge district.

(4) Upon accepting the contribution of road bond proceeds, the department shall enter into agreements with the commissioners of the county, the governing body of the municipality, or the trustees of the special road and bridge district in which such road bonds have been voted by the people, for the construction of the roads and bridges in accordance with specifications agreed upon between the department and the commissioners of such county, the governing body of the municipality, or the trustees of such district. The department shall receive from such county or municipality, in consideration thereof, the net proceeds of the sale of the bonds so voted, after deducting expenses and the commission on the sale and administration of such bonds. The department in no instance is to receive from such county or municipality an amount in excess of the actual cost of the construction of such state roads. By specific provision in the written agreement between the department and the governing body of the county or municipality, the department may agree to reimburse the county or municipality for the full amount of the bond, or time warrants or cash proceeds used on projects in the State Highway System, if such projects are not revenue-producing, are contained in the department's current 5-year construction plan, and are funded wholly with nonfederal funds, and if reimbursement to the county or municipality is made in the year the project was scheduled to be constructed from nonfederal funds allocated to that project. The department shall not commit state funds for reimbursement of such projects on the State Highway System without legislative approval.

(6) The federal-aid money obtained under subsection (5) shall first be applied to the completion of the roads for which the bonds have been voted, if the money from the bonds is not sufficient therefor; and any residue shall be expended in the construction of any state road that the department and the commissioners of the county or the governing body of the municipality may agree upon.

Senator D. Childers moved the following amendment to Amendment 1 which failed:

Amendment 1E—On page 16, between lines 17 and 18, insert:

Section 22. (1) Notwithstanding the provisions of s. 341.303(4)(d), F.S., the Department of Transportation shall continue operation of the Silver Palm Train until July 1, 1986.

(2) In order to increase the use of the Silver Palm Train, the Department of Transportation shall advertise and otherwise publicize the existence of, the schedules, and the advantages of traveling on it, as well as taking any other steps necessary to encourage travelers to use such train.

(3) There is hereby appropriated from the State Transportation Trust Fund to the Department of Transportation the sum of \$1,400,000 to fund the operation of the Silver Palm Train until July 1, 1986.

(Renumber subsequent section.)

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

Amendment 1F—On page 33, line 12, insert:

Section 35. Subsection (9) of section 320.02, Florida Statutes, 1984 Supplement, is amended to read:

320.02 Registration required; application for registration; forms.—

(9) ~~Before~~ A motor vehicle which has not been manufactured in accordance with the federal Clean Air Act and the federal Motor Vehicle Safety Act:

(a) ~~Shall not can~~ be sold to a consumer or ~~and~~ titled and registered in this state, ~~until it is modified to meet or exceed the minimum compliance standards of those acts.~~ The motor vehicle must either be certified by way of a release of the bond required by ~~the United States Customs Service or the United States Department of Transportation and the United States Environmental Protection Agency upon entry of the vehicle into this country and posted with the United States Customs Service, or the motor vehicle dealer, in the case of a dealer sale, or the owner, in the case of a private or casual sale, together with the shop making the required modifications shall certify and warrant that such modifications have been made and that application for certification from the appropriate federal agencies has been made. A copy of the application for certification shall accompany the application for title and registration. The proof of ownership required in titling and registering a vehicle shall be in the English language or a translation shall be attached thereto to be in compliance with these federal standards.~~ A vehicle which is registered pursuant to this subsection shall not be titled as a new motor vehicle.

(b) *By titling and registering vehicles in accordance with this subsection, the department in no way warrants that proper modifications have been made.*

On motion by Senator Jenne, time of adjournment was extended until completion of CS for HB 1392.

The President presiding

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

Amendment 1G—On Amendment 1A (Div.—on page 4, lines 14-19, strike the sentence.)

Senators Peterson, Crawford, Kiser and W. D. Childers offered the following amendment to Amendment 1 which was moved by Senator Crawford and adopted:

Amendment 1H—On page 95, between lines 24 and 25, insert:

Section 36. (1) It is the intent of the Legislature to encourage a local ethanol industry that will generate economic activity, create a significant number of new jobs, attract other industry, and eventually provide a market for indigenous Florida products. The Legislature has determined that extending motor fuel supplies through a local ethanol industry that utilizes renewable resources serves a public purpose, and therefore establishes the Ethanol Fuel Production Incentive Fund.

(2) As used in this section:

(a) "Eligible entity" means any business that owns and operates a facility that was constructed for the sole purpose of grinding or otherwise processing, fermenting, or distilling agricultural products or other renewable resources to produce ethanol as its primary product.

(b) "Ethanol" means an ethyl alcohol that has a purity of at least 99%.

(c) "Department" means the Department of Revenue.

(3) An eligible entity must have an annual production capacity of at least 2 million gallons and no more than 15 million gallons per year, and must be located within this state on the effective date of this act, or must begin construction in this state within 2 years following the passage of this act.

Section 37. The administrative control of the fund and the responsibility therein is vested in the department.

Section 38. To obtain a grant from the fund, an eligible entity must apply to the department for certification. In its application, the eligible entity must list its location, the number of people employed, the number of gallons the eligible entity estimates it will produce in the insuring year, and any other information that the department deems necessary. Certification must be renewed annually.

Section 39. Grants from the fund to eligible entities shall be computed at a rate of 4 cents per blended gallon from July 1, 1985 through December 31, 1992.

Section 40. Once an eligible entity has been certified, it may apply to the department on the first of each month for a grant from the fund. Such grant shall be based on the number of gallons the eligible entity anticipates it will produce in the ensuing month. The department shall cause all approved grants for a particular month to be paid by the 15th of that month and shall base the amount paid upon the estimate provided by the eligible entity. Each month the department shall check the actual amount of ethanol produced during the preceding month by the eligible entity and determine if the grant paid to each eligible entity during the month was equal to the amount it was entitled to receive. If the department determines that the amount an eligible entity received was in excess of or less than the amount it was actually entitled to receive, the department shall adjust the next payment to the eligible entity so that the amount of the shortfall or excess is eliminated.

Section 41. The sum of \$500,000 is appropriated from the Gas Tax Collection Trust Fund to the Ethanol Fuel Production Incentive Fund for the fiscal year that begins July 1, 1985. Beginning July 1, 1985, when a wholesaler or distributor of motor fuel certifies the number of gallons of gasohol blended to the department, they shall designate those gallons produced with ethanol purchased from an eligible entity. The department shall then cause the tax remitted by the wholesaler or distributor on each blended gallon made with ethanol from an eligible entity to be deposited into the fund.

Section 42. The sum of \$150,000 is appropriated from the Gas Tax Collection Trust Fund to the Institute of Food and Agricultural Services at the University of Florida to conduct further research of Florida alcohol commercialization.

Section 43. This act is repealed January 1, 1993.

Section 44. Section 212.63, Florida Statutes, 1984 Supplement is hereby repealed.

Section 45. Paragraphs (f) and (g) of subsection (1) of section 212.67, Florida Statutes, 1984 Supplement are hereby repealed.

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

Amendment 1I—On page 38, between lines 24 and 25, insert:

Section 31. Notwithstanding any other provision of law, any county within a metropolitan planning organization may contract with the transportation authority in that metropolitan planning organization for such authority to do in such county anything that the authority is empowered to do.

Amendment 1 as amended was adopted.

Senator Gordon moved the following amendment:

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 transportation; amending s. 288.063, F.S.; cross-referencing the definition of transportation facility to a definition in ch. 334, F.S.; amending s. 332.006, F.S.; authorizing the Department of Transportation to provide

matching moneys to airport sponsors; amending s. 332.004, F.S.; amending the definition of an eligible agency; amending s. 332.007, F.S.; providing for funding with respect to the expansion of certain existing airports; amending s. 334.03, F.S.; amending the definition of a 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. 335.04, F.S.; providing that local governmental entities must maintain roads in accordance with approved federal guidelines; amending s. 335.09, F.S.; directing the Department of Transportation to erect and maintain a uniform system of traffic control devices; amending s. 335.14, F.S.; providing that computerized traffic systems and traffic control devices used solely for purposes of traffic control and surveillance are exempted from the provisions of ch. 282 and s. 287.073, F.S.; 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 claims for additional compensation shall be arbitrated after acceptance of the project; providing for an honorarium for members of the State Arbitration Board; providing for the payment of a fee by the party requesting arbitration; 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; creating s. 337.408, F.S.; requiring bus bench and transit shelter set back; 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; amending s. 125.0165, F.S.; permitting application of discretionary sales tax revenue to a countywide bus system; amending s. 335.065, F.S.; requiring special emphasis in the planning of bicycle and pedestrian ways in conjunction with state transportation facilities in urban and emerging urban areas; repealing s. 335.02(3), (4), F.S., as amended, relating to purchase of rights-of-way; providing an effective date.

Senators Peterson, Crawford, Kiser and W. D. Childers offered the following amendment to Amendment 2 which was moved by Senator Crawford and adopted:

Amendment 2A—In title, on page 8, line 5, after "appropriation;" insert: providing legislative intent; providing definition; establishes the Ethanol Fuel Production Incentive Fund; providing an appropriation to such fund; providing for deposits of certain motor fuel taxes into the fund; providing for grants from the fund; providing procedures and criteria for such grants; providing for administration by the Department of Revenue; providing an appropriation for research on alcohol commercialization; repealing s. 212.63, F.S., 1984 Supplement, relating to exempting gasohol from part of the special fuel tax; repealing s. 212.67(1)(f),(g), F.S., 1984 Supplement, relating to refunds to distributors for taxes paid on gasohol; providing for future repeal;

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

Amendment 2B—In title, on page 3, line 17, after the semicolon (;) insert: amending s. 337.16, F.S.; providing for the suspension or revocation of a contractor's certificate of qualification for delinquency; providing for notice of suspension or revocation and a right to a hearing; providing for a period of suspension; providing for disapproval as a subcontractor during the period of suspension; providing for revocation of a certificate of qualification for multiple suspensions; providing for a hearing; providing for revocation of a certificate of qualification for certain affiliates of a contractor whose certificate has been suspended or revoked; providing that provisions of the act are applicable to future contracts; amending s. 337.18, F.S.; requiring that certain contracts which provide for incentive payments to the contractor for early completion or for additional damages for late completion be approved by the Secretary of Transportation or his designee; increasing the maximum daily amount of such incentives or damages; reducing the number of days for which such incentives may be paid or damages charged; providing for the adoption of rules;

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

Amendment 2C—In title, on page 6, line 5, after the semicolon (;) insert: amending s. 339.08, F.S.; authorizing the use of moneys in the State Transportation Trust Fund for certain purposes; amending s. 339.12, F.S.; providing for participation by municipalities in road building and maintenance projects under certain circumstances; authorizing the Department of Transportation to reimburse counties and municipalities for the amount of certain proceeds used to construct state roads;

Senators Gordon and Stuart offered the following amendment to Amendment 2 which was moved by Senator Gordon and adopted:

Amendment 2D—In title, on page 3, line 17, after the semicolon (;) insert: 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 an appropriation; providing for severability;

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

Amendment 2E—In title, on page 1, strike all of lines 25-28 and insert: the definition of a bridge; amending s. 20.23, F.S.; establishing ten deputy assistant secretary positions within the Department of Transportation; establishing certain divisions of the department; establishing the responsibilities of the central office and regions; establishing satellite offices; providing generally for allocation and control of resources, including allocation of resources to the regions; providing for senior management positions; providing for reporting of allocations, budget entities, and expenditures; providing for contracting for transportation responsibilities; amending s. 334.046, F.S.; providing that program objectives of the department be accomplished in the most cost-effective manner; amending s. 334.14, F.S.; providing that certain employees of the department be registered professional engineers; providing that the requirement for engineering registration does not apply to the incumbents of certain positions; amending s. 334.19, F.S.; providing qualifications and duties of the comptroller; amending s. 334.22, F.S.; providing the annual report of the department include an assessment of program impact and cost-effectiveness; amending s.

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

Amendment 2F—On page 2, line 4, after the semicolon (;) insert: allowing any county in a metropolitan planning organization to contract with certain transportation authorities as specified;

Amendment 2 as amended was adopted.

On motion by Senator Gordon, by two-thirds vote CS for HB 1392 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—3

Dunn	Grant	Langley
------	-------	---------

Vote after roll call:

Yea—Thurman

CS for CS for SB 1194 was laid on the table.

On motions by Senator Neal, the rules were waived and by two-thirds vote Senate Bills 342, 1086, 1234, 349, 1266, 394 and CS for SB 1049 were withdrawn from the Committee on Appropriations.

On motion by Senator Jenne, the rules were waived and by two-thirds vote HB 1365 was withdrawn from the Committee on Commerce.

On motions by Senator Jenne, the rules were waived and by two-thirds vote SB 357 and CS for SB 1186 were withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Jenne, the rules were waived and by two-thirds vote CS for HB 722 was withdrawn from the Committee on Natural Resources and Conservation.

On motions by Senator Jenne, by two-thirds vote CS for SB 1320, CS for SB 1049, CS for HB 722, SB 193 and SB 5 were placed at the end of the special order calendar.

On motion by Senator Jenne, the Senate recessed at 12:12 p.m. to reconvene at 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:15 p.m. A quorum present—31:

Mr. President	Fox	Jennings	Neal
Barron	Frank	Kirkpatrick	Peterson
Beard	Girardeau	Kiser	Scott
Carlucci	Gordon	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Mann	Thurman
Childers, W. D.	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

On motion by Senator Jenne, the rules were waived and consideration of Messages from the House of Representatives was scheduled for 3:30 p.m. today following CS for SB 673.

On motions by Senator Jenne, the rules were waived and consideration of SB 661 was scheduled for 2:00 p.m., May 30, and by two-thirds vote debate was limited to two minutes per side.

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 amended Senate Amendments 1 and 2, concurred in same as amended and passed CS for HB 287, as further amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

CS for HB 287—A bill to be entitled An act relating to growth management; creating the Growth Management Act of 1985; amending s. 380.031, F.S.; revising a definition; amending s. 380.032, F.S., relating to powers of state land planning agency; providing for state and regional planning agency rules with respect to developments of regional impact; amending s. 380.06, F.S., relating to developments of regional impact; providing for statewide guidelines and standards and specifying thresh-

olds applicable thereto; providing application; providing for threshold variations; providing that a developer may be required to obtain a binding letter of interpretation under certain circumstances; authorizing local governments to petition that development in an adjacent jurisdiction obtain a binding letter; providing for expiration; revising exemptions; requiring certain notification with respect to claims to vested rights; providing expiration dates with respect thereto; specifying when a developer required to undergo development of regional impact review may undertake development; specifying effect on state and regional permits; providing for applications for development approval; providing for consideration of related local government comprehensive plan amendments; authorizing preliminary development agreements and certain subthreshold development; revising provisions relating to downtown development authorities and area-wide developments; authorizing conceptual agency review by certain permitting agencies in conjunction with development of regional impact review; removing provisions which establish an optional coordinated review process; revising criteria for developments located within or outside areas of critical state concern; revising requirements for local government issuance of a development order; providing criteria for development orders that require certain contributions by developers; providing for certain credits and other related provisions for developers required to make contributions; imposing conditions on development orders that require developer contributions; requiring certain commitments by local governments; providing for substantial deviations from approved developments; removing certain publication of notice requirements; creating s. 380.0651, F.S.; providing statewide guidelines and standards; creating s. 380.065, F.S.; authorizing certification of local governments to conduct review of developments of regional impact under certain circumstances; amending s. 380.07, F.S.; providing requirements with respect to certain appeals to the Florida Land and Water Adjudicatory Commission; amending s. 380.11, F.S.; revising power of state land planning agency with respect to administrative remedies; amending s. 403.524, F.S.; correcting references; creating s. 380.061, F.S.; creating the Florida's Quality Developments program; providing requirements for such designation; providing that designated projects are exempt from development of regional impact review; providing for appeal to a Quality Developments Review Board; amending s. 161.021, F.S.; providing definitions with respect to beach and shore preservation; amending s. 161.053, F.S., relating to coastal construction and excavation; providing for hearings; providing for the adoption and reestablishment of coastal construction control lines; restricting permitting authority for certain structures seaward of a designated erosion line; revising penalty provisions; revising exemptions and provisions relating to purchase of land; amending s. 161.0535, F.S.; revising provisions relating to the fee schedule for permits; amending s. 161.054, F.S.; revising administrative penalty and liability provisions; creating ss. 161.52-161.58, F.S., the "Coastal Zone Protection Act of 1985"; providing legislative intent; providing definitions; providing requirements with respect to the expenditure of state funds in coastal building zones and barrier islands; providing requirements for construction within the coastal building zone and barrier islands; providing for local enforcement; providing requirements with respect to vehicular traffic on coastal beaches; authorizing certain fees; providing penalties; creating s. 380.26, F.S.; providing for establishment of coastal building zones for certain counties; creating s. 380.27, F.S.; creating an Interagency Management Committee and providing duties with respect to coastal issues and problems; amending s. 403.813, F.S., relating to permits issued at district centers; specifying that certain exemptions do not affect the requirements of chapter 161; revising ss. 163.3161-163.3211, F.S., the Local Government Comprehensive Planning Act of 1975; revising the short title and definitions; deleting application of act to special districts; requiring preparation or amendment of comprehensive plans by counties and municipalities; requiring submission to state and regional planning agencies; providing deadlines for establishment of planning agency and preparation of plan by newly established municipalities; requiring preparation of plan by regional planning agency under certain circumstances and providing for compensation; providing application to Reedy Creek Improvement District; repealing s. 163.3171(4), F.S., relating to said district; deleting requirement of passage of ordinance of intent to exercise authority under the act; revising provisions relating to designation of local planning agencies and appropriations of funds therefor; specifying responsibilities of such agencies; revising required elements of the comprehensive plan; requiring certain water needs assessments; deleting certain requirements for adoption of coastal elements; providing for criteria for review of plan elements; repealing s. 163.3177(7)(e), F.S., relating to an optional public services and facilities element; creating s. 163.3178, F.S.; providing for contents of coastal management elements of comprehensive plans; providing that certain port-related activities are not developments of

regional impact; revising requirements relating to adoption of comprehensive plans and submission to specified agencies; providing duties of state, regional and local land planning agencies; providing for appeal and hearings; providing for ineligibility for certain funding and for effect on certain permits and land conveyances; providing for ineligibility for specified grants and revenue sharing; providing that local governments may be required to submit land development regulations; revising procedures for, and providing restrictions on, amendment of comprehensive plans; requiring submission of current plans to the state land planning agency by a specified date; providing for updating plans on file; revising procedures for amendment of plans based on periodic evaluation reports; providing for conforming land development regulations to adopted plans; specifying status of prior plans; creating s. 163.3202, F.S.; providing requirements with respect to land development regulations; revising provisions relating to cooperation by other agencies, technical advisory committees, and conflicts with other statutes; creating s. 163.3215, F.S.; providing for enforcement; providing for actions for injunctive or other relief; providing procedures; authorizing certain sanctions; repealing ss. 163.160-163.315, F.S., relating to county and municipal planning, zoning, and subdivision regulation, and providing legislative intent with respect to such repeal; amending s. 171.062, F.S., relating to municipal annexation; revising provisions which restrict changes in density; amending s. 235.193, F.S.; providing requirements with respect to planning location of educational facilities; amending s. 186.507, F.S.; providing for establishment of regional data bases by regional planning councils; creating a committee for the study of substate district boundaries and providing for reports; providing an appropriation to the Department of Community Affairs for the study of undeveloped platted lands and antiquated subdivisions; directing that changes in terminology in the Florida Statutes be made; providing effective dates.

Amendment 1 to Senate Amendment 1—On page 1, line 11, strike everything through page 151, line 6 and insert:

Section 1. Subsection (1) of section 163.3161, Florida Statutes, is amended to read:

163.3161 Short title; intent and purpose.—

(1) This *part act* shall be known and may be cited as the “Local Government Comprehensive Planning and Land Development Regulation Act of 1975.”

Section 2. Present subsections (1), (2), and (11) of section 163.3164, Florida Statutes, are amended and renumbered as subsections (2), (3), and (12), respectively, present subsections (3) through (10) and (12) through (19) are renumbered as subsections (4) through (11) and (13) through (20), respectively, and new subsections (1), (21), (22), and (23) are added to said section to read:

163.3164 Definitions.—As used in this act:

(1) “Administration Commission” means the Governor and the Cabinet, and for purposes of this chapter the commission shall act on a simple majority vote, except that for purposes of imposing the sanctions provided in s. 163.3184(8), affirmative action shall require the approval of the Governor and at least three other members of the commission.

(2)(1) “Area” or “area of jurisdiction” means the total area qualifying under the provisions of this act, whether this be all of the lands lying within the limits of an incorporated municipality, lands in and adjacent to incorporated municipalities, all unincorporated lands within a county, or areas comprising combinations of the lands in incorporated municipalities and unincorporated areas of counties. ~~In the case of municipalities where reserve areas have been designated for future annexation by law, the term “area” shall include, as being under the jurisdiction of the municipality for the purposes of this act, such unincorporated but designated and reserved lands.~~

(3)(2) “Comprehensive plan” means a plan that meets the requirements of s. 163.3177 and s. 163.3178.

(12)(11) “Local government” means any county or municipality ~~or any special district or local governmental entity established pursuant to law which exercises regulatory authority over, and grants development permits for, land development.~~

(21) “Land development regulation commission” means a commission designated by a local government to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regu-

lations, or amendments thereto, for consistency with the adopted plan and report to the governing body regarding its findings. The responsibilities of the land development regulation commission may be performed by the local planning agency.

(22) “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition shall not apply in s. 163.3213.

(23) “Public facilities” means major capital improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

Section 3. Section 163.3167, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.3167, F.S., for present text.)

163.3167 Scope of act.—

(1) The several incorporated municipalities and counties shall have power and responsibility:

- (a) To plan for their future development and growth.
- (b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with the provisions of this act and in such combinations as their common interests may dictate and require.

(2) Beginning on July 1, 1987 and on or before December 1, 1987 each county, beginning on January 1, 1988 and on or before December 1, 1988 each municipality required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), and beginning on January 1, 1989 and on or before December 1, 1989 each other municipality in this state shall prepare a comprehensive plan of the type and in the manner set out in this act, or amend its existing plan to meet the requirements of this act. The time limits established in this subsection may be extended by the state land planning agency for a period of not longer than 6 months upon application to the state land planning agency by the governing body involved and based on a demonstration that the local government cannot meet the time limits established in this subsection. The state land planning agency shall, prior to July 1, 1986, adopt by rule a schedule of local governments required to submit revised comprehensive plans for review and rules regarding the extension of time.

(3) Each local government shall submit its complete comprehensive plan to the state land planning agency and the appropriate regional planning agency when it completes its amendment or adoption pursuant to subsection (2).

(4) When a local government has not prepared all of the required elements or amended its plan as required by subsection (2), the regional planning agency having responsibility for the area in which the local government lies shall prepare and adopt by rule, pursuant to chapter 120, the missing elements or adopt by rule amendments to the existing plan in accordance with this act by July 1, 1988, or within 1 year after the dates specified or provided in subsection (2) and the state land planning agency review schedule, whichever is later. The regional planning agency shall provide at least 90 days' written notice to any local government whose plan it is required, by this subsection, to prepare prior to initiating the planning process. At least 60 days before the adoption by the regional planning agency of a comprehensive plan or element or portion thereof, pursuant to this subsection, the regional planning agency shall transmit a copy of the proposed comprehensive plan or element or portion thereof to the local government and the state land planning agency for written comment. The state land planning agency shall review and comment on such plan or element or portion thereof in accordance with s. 163.3184(4).

Section 163.3184(5), (6) and (7) shall be applicable to the regional planning agency as if it were a governing body. Existing comprehensive plans shall remain in effect until they are amended pursuant to subsection (2) or this subsection.

(5) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency pursuant to s. 163.3174, and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan shall be deemed controlling until the municipality adopts a comprehensive plan in accord with the provisions of this act. If, upon the expiration of the 3-year time limit, the municipality has not adopted a comprehensive plan, the regional planning agency shall prepare and adopt a comprehensive plan for such municipality.

(6) Any comprehensive plan or element or portion thereof adopted pursuant to the provisions of this act, which but for its adoption after the deadlines established pursuant to previous versions of this act would have been valid, shall be valid.

(7) When a regional planning agency is required to prepare or amend a comprehensive plan or element or portion thereof pursuant to subsections (4) and (5), the regional planning agency and the local government may agree to a method of compensating the regional planning agency for any verifiable, direct costs incurred. If an agreement is not reached within 6 months after the date the regional planning agency assumes planning responsibilities for the local government pursuant to subsections (4) and (5) or by the time the plan, element, or portion thereof is completed, whichever is earlier, the regional planning agency shall file invoices for verifiable, direct costs involved with the governing body. Upon failure to pay such invoices within 90 days, the regional planning agency may, upon filing proper vouchers with the State Comptroller, request payment from the State Comptroller from unencumbered revenue or other tax sharing funds due such local government from the state for work actually performed, and the State Comptroller shall pay such vouchers; however, the amount of such payment shall not exceed 50 percent of such funds due such local government in any 1 year.

(8) A local government that is being requested to pay costs may seek an administrative hearing pursuant to s. 120.57 to challenge the amount of costs and to determine if the statutory prerequisites for payment have been complied with. Final agency action shall be taken by the state land planning agency. Payment shall be withheld as to disputed amounts until proceedings under this subsection have been completed.

(9) Nothing in this act shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order, and development has commenced and is continuing in good faith.

(10) The Reedy Creek Improvement District shall exercise the authority of this part as it applies to municipalities, consistent with the legislative act under which it was established, for the total area under its jurisdiction.

(11) Nothing in this part shall supersede any provision of sections 341.321-341.386.

Section 4. Subsection (4) of section 163.3171, Florida Statutes, is hereby repealed, and subsections (1) and (2) of said section are amended to read:

163.3171 Areas under this act.—

(1) ~~When exercising authority under this act,~~ A municipality shall exercise such authority *under this act* for the total area under its jurisdiction ~~upon the passage of an appropriate ordinance declaring its intent to do so.~~ Unincorporated areas adjacent to incorporated municipalities may be included in the area of municipal jurisdiction for the purposes of this act if the governing bodies of the municipality and the county in which the area is located agree on the boundaries of such additional areas, procedures for joint action in the preparation and adoption of the comprehensive plan, procedures for the administration of land development regulations or the land development code applicable thereto, and the manner of representation on any joint body or instrument that may be created under the joint agreement. Such joint agreement shall be formally stated and approved in appropriate official action by the governing bodies involved.

(2) A county shall exercise authority under this act for the total unincorporated area under its jurisdiction or in such unincorporated areas as are not included in any joint agreement with municipalities established under the provisions of subsection (1). ~~A county shall exercise such additional authority over municipalities within its boundaries under the circumstances and as set out in subsection 163.3167(4). The board of county commissioners shall by ordinance declare its intent to exercise the authority set out in this act.~~ In the case of chartered counties, the county may exercise such ~~additional~~ authority over municipalities or districts within its boundaries as is provided for in its charter.

Section 5. Section 163.3174, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.3174, F.S., for present text.)

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. The governing body may designate itself as the local planning agency pursuant to this subsection. The governing body shall notify the state land planning agency of the establishment of its local planning agency. The local planning agency shall prepare the comprehensive plan after hearings to be held after due public notice and shall make recommendations to the governing body regarding the adoption of such plan or element or portion thereof. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to promulgate and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations to the governing body regarding the adoption of such plan or element or portion thereof. During the preparation of the plan and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with due public notice, on the proposed plan or element or portion thereof. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or any element thereof, but final recommendation of the adoption of such plan to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by s. 163.3191.

(c) When the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission, review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan or element or portion thereof.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

Section 6. Paragraph (i) of subsection (6) and paragraph (e) of subsection (7) of section 163.3177, Florida Statutes, are hereby repealed, and subsection (3) and paragraphs (a), (d), (f), and (g) of subsection (6) of said section are amended, and subsection (9) is added to said section to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)(a) *The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and setting forth:*

1. *A component which outlines principles for construction, extension, or increase in capacity of public facilities as well as a component which outlines principles for correcting existing public facility deficiencies which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.*

2. *Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.*

3. *Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.*

4. *For areas served by septic tanks, soil surveys which indicate the suitability of soils for septic tanks.*

(b) *The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187, except that corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the plan; or the date of construction of any facility enumerated in the capital improvements element may be accomplished by ordinance and shall not be deemed amendments to the local comprehensive plan. All public facilities shall be consistent with the capital improvements element. The economic assumptions on which the plan is based and any amendments thereto shall be analyzed and set out as a part of the plan. Those elements of the comprehensive plan requiring the expenditure of public funds for capital improvements shall carry fiscal proposals relating thereto, including, but not limited to, estimated costs, priority ranking relative to other proposed capital expenditures, and proposed funding sources.*

(6) In addition to the general requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses housing, commercial uses business, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land use plan shall include a statement of the standards to be followed in the control and distribution of population densities and building and structure intensities intensity as recommended for the various portions of the area. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by measurable goals, objectives, and policies. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land, the availability of public services, and the need for redevelopment including the renewal of blighted areas

and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure insure development in accord with the principles and standards of the comprehensive plan and this act. *The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection.*

(d) A conservation element for the conservation, use, development, utilization, and protection of natural resources in the area, including, as the situation may be, air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources. *Local governments shall assess their current, as well as projected, water needs and sources for a 10-year period. This information shall be submitted to the appropriate agencies. The land use map or map series contained in the future land use element shall generally identify and depict the following:*

1. *Existing and planned waterwells and cones of influence where applicable.*
2. *Beaches and shores, including estuarine systems.*
3. *Rivers, bays, lakes, flood plains, and harbors.*
4. *Wetlands.*
5. *Minerals and soils.*

The land uses identified on such maps shall be consistent with applicable state law and rules.

(f) A housing element consisting of standards, plans, and principles to be followed in:

1. *The provision of housing for existing residents and the anticipated population growth of the area.*
2. *The elimination of substandard dwelling conditions.*
3. *The structural and aesthetic improvement of existing housing.*
4. *The provision of adequate sites for future housing, including housing for low-income and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public community facilities as described in paragraphs (6)(e) and (7)(e) and (f).*
5. *Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.*
6. *The formulation of housing implementation programs.*

(g) For those units of local government identified in s. 380.24 lying in part or in whole in the coastal zone as defined by the Coastal Zone Management Act of 1972, 16 U.S.C. s. 1453(a), a coastal management zone protection element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). *The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives, including surveys of existing vegetation types which need to be preserved for natural control of dune and beach erosion and surveys of traditional patterns of public access and use of beach resources, setting out the policies for:*

1. *Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.*
2. *Continued existence of viable optimum populations of all species of wildlife and marine life.*
3. *The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.*
4. *Avoidance of irreversible and irretrievable loss commitments of coastal zone resources.*
5. *Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.*

6. Proposed management and regulatory techniques.
7. *Limitation of public expenditures that subsidize development in high-hazard coastal areas.*
8. *Protection of human life against the effects of natural disasters.*
9. *The orderly development and use of ports identified in s. 403.021(9) to facilitate deep-water commercial navigation and other related activities.*
10. *Preservation, including sensitive adaptive use of historic and archaeological resources.*

~~In addition, at least 60 days before the adoption by a governing body of the coastal zone protection element, the governing body shall transmit a copy of the proposed element to the [Department of Environmental Regulation] or its successor for written comment pursuant to s. 163.3184.~~

(9) *The state land planning agency shall, by February 15, 1986, adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements required by this act. Such rules shall not be subject to rule challenges under s. 120.54(4) or to drawout proceedings under s. 120.54(17). Such rules shall become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the next regular session of the Legislature. In its review the Legislature may reject, modify, or take no action relative to the rules. The agency shall conform the rules to the changes made by the Legislature, or, if no action was taken, the agency rules shall become effective. The rule shall include criteria for determining whether:*

- (a) *Proposed elements are in compliance with the requirements of part II, chapter 163, as amended by this act.*
- (b) *Other elements of the comprehensive plan are related to and consistent with each other.*
- (c) *The local government comprehensive plan elements are consistent with the state comprehensive plan, and the appropriate regional policy plan within 12 months after such plans become effective pursuant to s. 186.508.*
- (d) *Certain bays, estuaries, and harbors that fall under the jurisdiction of more than one local government are managed in a consistent and coordinated manner in the case of local governments required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g).*
- (e) *Proposed elements identify the mechanisms and procedures for monitoring, evaluating and appraising implementation of the plan. Specific measurable objectives are included to provide a basis for evaluating effectiveness as required by s. 163.3191.*
- (f) *Proposed elements contain policies to guide future decisions in a consistent manner.*
- (g) *Proposed elements contain programs and activities to ensure that comprehensive plans are implemented.*
- (h) *Proposed elements identify the need for and the processes and procedures to ensure coordination of all development activities and services with other units of local government, regional planning agencies, water management districts, and state and federal agencies as appropriate.*

The state land planning agency may adopt procedural rules that are consistent with this section and chapter 120 for the review of local government comprehensive plan elements required under this section. The state land planning agency shall provide model plans and ordinances, and upon request, other assistance to local governments in the adoption and implementation of their revised local government comprehensive plan. The review and comment provisions applicable prior to the effective date of this act shall continue in effect until the criteria for review and determination are adopted pursuant to this subsection and the comprehensive plans required by s. 163.3167(2) are due.

Section 7. Section 163.3178, Florida Statutes, is created to read:

163.3178 Coastal management.—

(1) The Legislature recognizes there is significant interest in the resources of the coastal zone of the state. Further, the Legislature recognizes that, in the event of a natural disaster, the state may provide financial assistance to local governments for the reconstruction of roads, sewer systems, and other public facilities. Therefore, it is the intent of the Legislature that local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

- (a) A land use and inventory map of existing coastal uses, wildlife habitat, wetland and other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes to beach and shore resources, historic preservation areas, and other areas of special concern to local government.
- (b) An analysis of the environmental, socioeconomic, and fiscal impact of development and redevelopment proposed in the future land use plan, with required infrastructure to support this development or redevelopment, on the natural and historical resources of the coast and the plans and principles to be used to control development and redevelopment to eliminate or mitigate the adverse impacts on coastal wetlands, living marine resources, barrier islands including beach and dune systems, unique wildlife habitat, historical and archaeological sites, and other fragile coastal resources.
- (c) An analysis of the effects of existing drainage systems and the impact of point source and nonpoint source pollution on estuarine water quality and the plans and principles, including existing state and regional regulatory programs, which shall be used to maintain or upgrade water quality while maintaining sufficient quantities of water flow.
- (d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster including population evacuation which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element, in the event of an impending natural disaster.
- (e) A component which outlines principles for protecting existing beach and dune systems from man-induced erosion and restoring altered beach and dune systems.
- (f) A redevelopment component which outlines the principles which shall be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.
- (g) A shoreline use component which identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities including marinas, along shoreline areas.
- (h) Designation of high hazard coastal areas subject to destruction or severe damage by natural disasters which shall be subject to the provisions of s. 380.27(2).
- (i) A component which outlines principles for providing that financial assurances are made that required public facilities will be in place to meet the demand imposed by the completed development or redevelopment. Such public facilities will be scheduled for phased completion to coincide with demands generated by the development or redevelopment.
- (j) An identification of regulatory and management techniques that the local government plans to adopt or has adopted in order to mitigate the threat to human life and control proposed development and redevelopment in order to protect the coastal environment and give consideration to cumulative impacts.
- (k) A component which includes the comprehensive master plan prepared by each deep-water port listed in s. 403.021(9) which addresses existing port facilities and any proposed expansions, and which adequately addresses the applicable requirements of paragraphs (a)-(k) for areas within the port. Such component shall be submitted to the appropriate local government and shall be integrated with, and shall meet all criteria specified in, the coastal management element.

(3) Expansions to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related in-water harbor

facilities within ports listed in s. 403.021(9) shall not be developments of regional impact where such expansions are consistent with comprehensive master plans that are in compliance with s. 163.3178.

(4) Improvements and maintenance of federal and state highways that have been approved as part of a plan approved pursuant to s. 380.045 or s. 380.05 shall be exempt from the provisions of s. 380.27(2).

Section 8. Subsections (1) and (2) of section 163.3184, Florida Statutes, 1984 Supplement, are amended, present subsection (3) is repealed, present subsections (4) and (7) are amended and renumbered as subsections (12) and (15), present subsections (5) and (6) are renumbered as subsections (13) and (14), respectively, and new subsections (3), (4), (5), (6), (7), (8), (9), (10), and (11) are added to said section to read:

163.3184 Adoption of comprehensive plan or element or portion thereof.—

(1) At least 90 60 days before the adoption by a governing body of a comprehensive plan or element or portion thereof, or before the adoption of an amendment to a previously adopted comprehensive plan or element or portion thereof, the governing body shall:

(a) Transmit 5 copies a copy of the proposed comprehensive plan or element or portion thereof to the state land planning agency for written comment.

~~(b) Transmit a copy of the proposed comprehensive plan or element or portion thereof to the regional planning agency having responsibility over the area for written comment.~~

~~(c) If it is a municipality or a unit of local government under s. 163.3171(4), transmit a copy of the proposed comprehensive plan or element or portion thereof to the local planning agency of the county for written comment or, if there is no county land planning agency, to the clerk of the circuit court or the administrative officer of the county commission.~~

~~(b)(d)~~ Transmit a copy of the proposed comprehensive plan or element or portion thereof to any other unit of local government or governmental agency in the state that has filed with the governing body a request for copies of all proposed comprehensive plans or elements or portions thereof.

~~(c)(e)~~ Determine that the local planning agency has held a public hearing on the proposed plan or element or portion thereof with due public notice.

The governing body shall transmit 5 copies of the proposed plan to the state land planning agency, and shall not transmit elements or portions thereof at various times. In the case of comprehensive plan amendments, the governing body may submit only the elements amended. The state land planning agency shall transmit a copy of the proposed plan or element to various agencies and governments, as appropriate, for response, including, but not limited to, the Department of Environmental Regulation, the Department of Natural Resources, the regional planning council, and the appropriate county. The state land planning agency shall have 5 working days to transmit the plan or elements. The agencies and governments shall provide comments to the state land planning agency within 30 days after receipt of the plan or elements. The state land planning agency shall have responsibility for plan review, coordination, and transmitting comments to the governing body responsible for the proposed plan.

(2) Within 30 60 days, or any longer period to which the governing body has agreed, after the state land planning agency a local government has transmitted a proposed comprehensive plan or element or portion thereof to the regional state land planning agency, the regional state land planning agency shall submit in writing its comments on the proposed comprehensive plan or element or portion thereof, together with the comments of any other regional state agencies to which the regional state land planning agency may have referred the plan. The regional state land planning agency shall specify any objections and may make recommendations for modifications. The review of the regional state land planning agency shall be primarily in the context of: the relationship and effect, under chapter 23, of the locally submitted plan or element or portion thereof to or on any regional policy the comprehensive plan developed pursuant to s. 186.507 or element or portion thereof; the relationship and effect of the local plan or element or portion thereof to or on adopted rules for areas of critical state concern; and the impact of the locally submitted plan or element or portion thereof on the lawful responsibility of

state agencies. A regional planning agency shall not, however, review and comment on a comprehensive plan it prepared itself unless the plan has been changed by the local government subsequent to the preparation of the plan by the regional planning agency. ~~If the state land planning agency transmits objections to the proposed comprehensive plan or element or portion thereof, the governing body shall transmit a written statement in reply thereto within 4 weeks. The governing body shall take no action to adopt the comprehensive plan or element or portion thereof until 2 weeks have elapsed following the transmittal of the governing body's letter of reply. The written materials of the state land planning agency and the governing body required by this subsection shall become a permanent part of the public record in the matter.~~

~~(3) The procedure of subsection (2) shall apply to review by the regional planning agency. The time sequence of subsections (2) and (3) shall run concurrently upon appropriate transmittal. Review by the regional planning agency shall be primarily in the context of the relationship and effect of the locally submitted plan or element or portion thereof to or on any regional comprehensive plan.~~

(3) As used in subsections (3)-(11):

(a) "Affected person" includes the affected local government, persons owning property or residing or owning or operating a business within the boundaries of the local government whose plan is the subject of the review, and adjoining local governments who can demonstrate that adoption of the plan as proposed would produce substantial impacts on the increased need for publicly funded infrastructure, or substantially impact on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, to qualify under this definition, shall also have submitted objections, oral or written, during the local government review and adoption proceedings.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, and 163.3191 and the rules adopted pursuant to those sections.

(4) The state land planning agency shall review each local government's adopted comprehensive plan, element, or amendment to determine if it is in compliance. After the review of the local comprehensive plan, element, or amendment and the determination of the local government that its action is in compliance, the state land planning agency shall issue, through a senior administrator other than the secretary, as specified in the agency's procedural rules, a notice of intent to find that the local action is in compliance or not in compliance. A notice of intent shall be issued by publication of notice in the manner required by s. 163.3184(15)(c) and by mailing a copy to the local government and persons who request notice.

(5)(a) If the state land planning agency issues a notice of intent to find the local plan initially submitted or the plan subsequently submitted pursuant to s. 163.3191 in compliance, the local government shall adopt the plan, and any affected person, within 21 days after the adoption, may file a petition with the agency pursuant to s. 120.57. In this proceeding the local plan shall be determined to be in compliance if the local government's determination of compliance is fairly debatable.

(b) The hearing shall be conducted by a hearing officer from the Division of Administrative Hearings who shall hold the hearing in the affected local jurisdiction and submit a recommended order to the state land planning agency. After review of the recommended order the state land planning agency shall issue a final order if the agency determines that the plan is in compliance. If, after review of the recommended order, the state land planning agency believes that the plan is not in compliance, the agency shall submit the recommended order to the Administration Commission for final agency action.

(6)(a) After consulting with the local government, if the state land planning agency determines preliminarily that the plan, element, or amendment is not in compliance, it shall transmit to the local government specific objections and recommendations for amendment to bring the plan, element, or amendment into compliance. The local government shall hold a public hearing on the proposed changes and shall reject them, adopt them as proposed, or adopt, through the comprehensive plan amendment process required by s. 163.3187, another plan, element, or amendment which satisfies the stated objections. Each local government shall submit a copy of the revised plan, element, or amendment to the state land planning agency immediately upon approval of the revisions.

(b) The state land planning agency shall review the revised plan, element, or amendment in the same manner as set forth in paragraph (a). If the state land planning agency determines that the plan, element, or amendment is still not in compliance and it has complied with paragraph (a) and participated in the public hearing at the request of the local government, it shall, within 90 days after receipt of the adopted revised plan, element, or amendment, issue its notice of intent.

(7)(a) If the state land planning agency issues a notice of intent to determine that the local comprehensive plan, element, or amendment is not in compliance, the notice of intent shall be forwarded to the Division of Administrative Hearings which shall conduct a proceeding under s. 120.57. The parties to this proceeding shall be the state land planning agency, the affected local government, and any affected person who may intervene.

(b) The hearing officer assigned by the division shall conduct a hearing in the affected local jurisdiction and submit a recommended order to the Administration Commission for final agency action. The local government's determination that the local plan, element, or amendment is in compliance is presumed to be correct. The local government's determination must be sustained unless it is shown by a preponderance of the evidence that the local plan, element, or amendment is not in compliance. Further, the local government's determination that elements of its plans are related to and consistent with each other must be sustained if the determination is fairly debatable.

(8)(a) If the Administration Commission finds that the plan, element, or amendment is not in compliance, the commission shall specify remedial actions required by the local government to bring the comprehensive plan, element, or amendment into compliance. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, and water and sewer systems in those local governments which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.
2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.
3. Revenue sharing pursuant to s. 206.60, 210.20, and 218.61 and part I of chapter 212, to the extent not pledged to pay back bonds.

(b) If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the Department of Natural Resources considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty or submerged lands until the element is brought into compliance.

(9) The signature of an attorney or party constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(10) The proceedings under this section shall be the sole proceeding or action for a determination of whether a local government's plan, element, or amendment is in compliance.

(11) The state land planning agency shall notify each local government whether its plan, element, or amendment is in compliance not later than 3 months after it receives the plan, element, or amendment.

(12)(4) The procedure of subsection (2) shall apply to review by the county land planning agency. The time sequence of subsections (2) and (12)(4) shall run concurrently upon appropriate transmittal. Review by the county land planning agency shall be primarily in the context of the relationship and effect of the locally submitted plan or element or portion thereof to or on any county comprehensive plan or element or portion thereof.

(15)(7)(a) The procedure for adoption of a comprehensive plan or element or portion thereof, ~~except for the future land use plan element~~, shall be by not less than a majority of the total membership of the governing body, in the a manner prescribed by this subsection law. Each local government shall adopt the comprehensive plan or element or portion thereof by ordinance.

(b) ~~The procedure for adoption of the future land use element or portion thereof which involves less than 5 percent of the total land area of the local government unit shall be by not less than a majority of the total membership of the governing body, in the following manner:~~

1. ~~The governing body shall direct the clerk of the governing body to notify by mail each real property owner the use of whose land the governmental agency will restrict or limit by enactment of the proposal and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposal as it affects that property owner and shall set a time and place for one or more public hearings on such proposal. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during regular business hours of the office of the clerk of the governing body.~~

2. ~~The governing body shall hold a public hearing on the proposal and may, upon the conclusion of the hearing, adopt the proposal.~~

(e) ~~The procedure for adoption of the future land use plan element or portion thereof which involves 5 percent or more of the total land area of the local government unit shall be by not less than a majority of the total membership of the governing body, in the following manner:~~

(b)1. The local governing body shall hold at least two advertised public hearings on the proposed comprehensive plan, plan element, or plan amendment proposal. At the option of the governing body, one of the public hearings may be held by the local planning agency. Both hearings shall be held after 5 p.m. on a weekday, and the first shall be held approximately 7 days after the day that the first advertisement is published. The second hearing shall be held approximately 2 weeks after the first hearing and shall be advertised approximately 5 days prior to the public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

(c)2. ~~If the proposed comprehensive plan, plan element, or plan amendment changes the permitted uses of land or changes land-use categories, the required advertisements shall be no less than one-quarter page in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published less than 5 days a week. The advertisement shall be in the following form:~~

NOTICE OF CHANGE REGULATION OF LAND USE

The . . . (name of local governmental unit) . . . proposes to ~~change regulate~~ the use of land within the area shown in the map in this advertisement.

A public hearing on the proposal will be held on . . . (date and time) . . . at . . . (meeting place) . . .

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.

3. ~~In lieu of publishing the advertisements set out in this paragraph, the local governmental unit may mail a notice to each person owning real property within the area covered by the proposal. Such notice shall clearly explain the proposal and shall notify the person of the time, place, and location of both public hearings.~~

Section 9. Section 163.3187, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.3187, F.S., for present text.)

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except, in the case of an emergency, comprehensive plan amendments may be made more often than twice during the calendar year if the additional plan amendment receives the approval of all of the members of the governing body. "Emergency" means any occurrence or threat thereof whether accidental or natural, caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or public funds. Additionally, any local government comprehensive plan amendments directly related to a proposed development of regional impact may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in this section and applicable local ordinances, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan. Nothing in this subsection shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact. The procedure for amendment of an adopted comprehensive plan or element or portion thereof shall be as for the original adoption of the comprehensive plan or element or portion thereof set forth in s. 163.3184. Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177(2). Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments.

(2) Each governing body shall transmit to the state land planning agency a current copy of its comprehensive plan not later than December 1, 1985. Each governing body shall also transmit copies of any amendments it adopts to its comprehensive plan so as to continually update the plans on file with the state land planning agency.

Section 10. Section 163.3191, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.3191, F.S., for present text.)

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) The planning program shall be a continuous and ongoing process. The local planning agency shall prepare periodic reports on the comprehensive plan, which shall be sent to the governing body at least once every 5 years after the adoption of the comprehensive plan or element or portion thereof. Reports may be transmitted at lesser intervals as may be required or upon request of the governing body. It is the intent of this act that adopted comprehensive plans be periodically updated through the evaluation and appraisal report.

(2) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan or element or portion thereof and shall contain appropriate statements (using words, maps, illustrations, or other forms) related to:

(a) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area.

(b) The condition of each element in the comprehensive plan at the time of adoption and at date of report.

(c) The comprehensive plan objectives as compared with actual results at date of report.

(d) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(3) The report shall also suggest changes needed to update the comprehensive plan or elements or portions thereof, including reformulated objectives, policies, and standards.

(4) The governing body shall adopt, or adopt with changes, the report or portions thereof. The governing body shall amend its comprehensive plan based on the recommendations contained in the adopted evaluation and appraisal report and pursuant to the procedures in s. 163.3187.

Amendments to the plan and the adoption of the report may be simultaneous. When amendments to the plan do not occur simultaneously with the adoption of the evaluation and appraisal report, the report shall contain a schedule for adoption of proposed amendments within 1 year after the report is adopted. The report and a complete copy of the comprehensive plan as it is amended as a result of the report shall be transmitted to the state land planning agency, to the regional agency having responsibility over the area, and, for municipalities, to the county planning agency.

(5) A local government whose evaluation and appraisal report is due prior to the date that its revised plan is due pursuant to s. 163.3167(2) may notify the state land planning agency that it shall complete its evaluation and appraisal report in accordance with this section at the time specified or provided for submission of a revised comprehensive plan in compliance with this part. Upon such notification, the state land planning agency shall extend any due dates established pursuant to subsection (1).

Section 11. Subsections (1) and (2) of section 163.3194, Florida Statutes, are amended, subsections (3) and (4) are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, to read:

163.3194 Legal status of comprehensive plan.—

(1)(a) After a comprehensive plan or element or portion thereof has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(b) All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan or element or portion thereof shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan or element or portion thereof to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan or element or portion thereof and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan or element or portion thereof shall govern any action taken in regard to an application for a development order.

(2)(a) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation zoning commission created pursuant to local ordinance, or to both, under the authority of s. 163.183 for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(b) ~~For purposes of this subsection, "land development regulations" or "regulations for the development of land" include any local government zoning, subdivision, building and construction, or other regulations controlling the development of land. The various types of local government regulations or laws dealing with the development of land within a jurisdiction may be combined in their totality in a single document known as the "land development code" of the jurisdiction.~~

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a 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 if it meets all other criteria enumerated by the local government.

Section 12. Section 163.3197, Florida Statutes, is amended to read:

163.3197 Legal status of prior comprehensive plan.—Where, prior to the adoption of a revised plan pursuant to s. 163.3167(2) the effective date of this act, a local government had adopted a comprehensive plan or element or portion thereof, such adopted plan or element or portion thereof shall have such force and effect as it had at the date of adoption and until appropriate action is taken to adopt a new comprehensive plan or element or portion thereof is adopted by or for such local government pursuant to the provisions of as required by this act. The prior adopted plan or element or portion thereof may be the basis for meeting the requirement of comprehensive plan adoption set out in this act, provided all requirements of this act are met.

Section 13. Section 163.3201, Florida Statutes, is amended to read:

163.3201 Relationship of comprehensive plan to exercise of land development regulatory authority.—It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of regulations for the development of land or the adoption and enforcement by a governing body of a land development code, as defined in s. 163.3194(2)(b), for an area shall be based on, related to, and a means of implementation for an adopted comprehensive plan as required by this act.

Section 14. Section 163.3202, Florida Statutes, is created to read:

163.3202 Land development regulations.—

(1) Within 1 year after submission of its revised comprehensive plan for review pursuant to s. 163.3167(2), each county, each municipality required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), and each other municipality in this state shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall as a minimum:

- (a) Regulate the subdivision of land;
- (b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space;
- (c) Provide for protection of potable water wellfields;
- (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan;
- (f) Regulate signage;
- (g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. No development order or permit may be issued which results in a reduction in level of services for the affected public facilities below the level of services provided in the comprehensive plan of the local government.
- (h) Ensure safe and convenient on-site traffic flow, considering needed vehicle parking.

(3) This section shall be construed to encourage the use of innovative land development regulations which include provisions such as transfer of development rights, incentive and inclusionary zoning, planned-unit development, impact fees, and performance zoning. These and all other such regulations shall be combined and compiled into a single land development code for the jurisdiction. A general zoning code shall not be required if a local government's adopted land development regulations meet the requirements of this section.

(4) The state land planning agency may require a local government to submit one or more land development regulations, if it has reasonable grounds to believe that a local government has totally failed to adopt any one or more of the land development regulations required by this section. If the state land planning agency determines after review and consultation with local government that the local government has failed to adopt regulations required by this section, it may institute an action in circuit court to require adoption of these regulations. This action shall not review compliance of adopted regulations with this section or consistency with locally adopted plans.

(5) The state land planning agency shall adopt rules by February 15, 1987, for review of land development regulations pursuant to this subsection. These rules shall not be subject to a rule challenge under s. 120.54(4) or to a drawout proceeding under s. 120.54(17). Such rules shall become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the next regular session of the Legislature. In its review the Legislature may reject, modify, or take no action relative to the rules. The agency shall conform the rules to the changes made by the Legislature, or, if no action was taken, the agency rules may become effective.

Section 15. Section 163.3213, Florida Statutes, is created to read:

163.3213 Administrative review of land development regulations.—

(1) It is the intent of the Legislature that substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

(2) As used in this section:

(a) "Substantially affected person" means a substantially affected person as provided pursuant to chapter 120.

(b) "Land development regulation" means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation, or any other regulation concerning the development of land. This term shall include a general zoning code, but shall not include a zoning map or an action which results in zoning or rezoning of land or any building construction standard adopted pursuant to and in compliance with the provisions of chapter 553.

(3) After the deadline specified in s. 163.3202 for each local government to adopt land development regulations, a substantially affected person, within 12 months after final adoption of the land development regulation, may challenge a land development regulation on the basis that it is inconsistent with the local comprehensive plan. As a condition precedent to the institution of a proceeding pursuant to subsection (4), such affected person shall file a petition with the local government whose land development regulation is the subject of the petition outlining the facts on which the petition is based and the reasons that the substantially affected person considers the land development regulation to be inconsistent with the local comprehensive plan. The local government receiving the petition shall have 30 days after the receipt of the petition to respond. Thereafter, the substantially affected person may petition the state land planning agency not later than 30 days after the local government has responded or at the expiration of the 30-day period which the local government has to respond. The local government and the petitioning substantially affected person may by agreement extend the 30-day time period within which the local government has to respond. The petition to the state land planning agency shall contain the facts and reasons outlined in the prior petition to the local government.

(4) The state land planning agency shall notify the local government of its receipt of a petition and shall give the local government and the petitioning substantially affected person an opportunity to present written or oral testimony on the issue and shall conduct any investigations of the matter that it deems necessary. These proceedings shall be informal and shall not include any hearings pursuant to s. 120.57(1). Not later than 60 days nor earlier than 30 days after receiving the petition, the state land planning agency shall issue its written decision on the issue of whether the land development regulation is consistent with the local comprehensive plan, giving the grounds for its decision. The state land planning agency shall send a copy of its decision to the local government and the petitioning substantially affected person.

(5)(a) If the state land planning agency determines that the regulation is consistent with the local comprehensive plan, the substantially affected person who filed the original petition with the local government may, within 21 days, request a hearing from the Division of Administrative Hearings, and a hearing officer shall hold a hearing in the affected jurisdiction no earlier than 30 days after the state land planning agency renders its decision pursuant to subsection (4). The parties to a hearing held pursuant to this paragraph shall be the petitioning substantially affected person, any intervenor, the state land planning agency, and the local government. The adoption of a land development regulation by a local government is legislative in nature and shall not be found to be inconsistent with the local plan if it is fairly debatable that it is consistent with the plan. The hearing shall be held pursuant to s. 120.57(1), except that the order of the hearing officer shall be a final order and shall be appealable pursuant to s. 120.68.

(b) If the state land planning agency determines that the regulation is inconsistent with the local comprehensive plan, the state land planning agency shall, within 21 days, request a hearing from the Division of Administrative Hearings, and a hearing officer shall hold a hearing in the affected jurisdiction not earlier than 30 days after the state land planning agency renders its decision pursuant to subsection (4). The parties to a hearing held pursuant to this paragraph shall be the petitioning substantially affected person, the local government, any intervenor, and the state land planning agency. The adoption of a land development regulation by a local government is legislative in nature and shall not be found to be inconsistent with the local plan if it is fairly debatable that it is consistent with the plan. The hearing shall be held pursuant to s. 120.57(1), except that the order of the hearing officer shall be the final order and shall be appealable pursuant to s. 120.68.

(6) If the hearing officer in his order finds the land development regulation to be inconsistent with the local comprehensive plan, the order will be submitted to the Administration Commission. An appeal pursuant to s. 120.68 may not be taken until the Administration Commission acts pursuant to this subsection. The Administration Commission shall hold a hearing no earlier than 30 days or later than 60 days after the hearing officer renders his final order. The sole issue before the Administration Commission shall be the extent to which any of the sanctions described in s. 163.3184(8)(a) or (b) shall be applicable to the local government whose land development regulation has been found to be inconsistent with its comprehensive plan. If a land development regulation is not challenged within 12 months, it shall be deemed to be consistent with the adopted local plan.

(7) An administrative proceeding under this section shall be the sole proceeding available to challenge the consistency of a land development regulation with a comprehensive plan adopted under this part.

(8) The signature of an attorney or party constitutes a certificate that he has read the petition, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a petition, motion, or other paper is signed in violation of these requirements, the administrative hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the petition, motion, or other paper, including a reasonable attorney's fee.

(9) Initiation of administrative review of determination of inconsistency of a land development regulation pursuant to this section shall not affect the validity of the regulation or a development order issued pursuant to the regulation.

Section 16. Section 163.3204, Florida Statutes, is amended to read:

163.3204 Cooperation by state and regional agencies.—The *Department of Community Affairs* ~~Division of Resource Management of the Department of Natural Resources or its successor~~ and any ad hoc working groups appointed by the *department division* and all state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government and ~~technical advisory committees~~ in the preparation and adoption of comprehensive plans or elements or portions thereof and of local land development regulations.

Section 17. Section 163.3211, Florida Statutes, is amended to read:

163.3211 Conflict with other statutes.—Where this act may be in conflict with any other provision or provisions of law relating to local governments having authority to regulate the development of land, the provisions of this act shall govern unless the provisions of this act are met or exceeded by other provision or provisions of law relating to local government, including land development regulations adopted pursuant to chapter 125 or chapter 166. Nothing in this act is intended to withdraw or diminish any legal powers or responsibilities of state agencies or change any requirement of existing law that local regulations comply with state standards or rules.

Section 18. Section 163.3215, Florida Statutes, is created to read:

163.3215 Standing to enforce local comprehensive plans through development orders.—

(1) Any aggrieved or adversely affected party may maintain an action for injunctive or other relief against any local government to prevent such local government from taking any action on a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property that is not consistent with the comprehensive plan adopted under this part.

(2) "Aggrieved or adversely affected party" means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

(3)(a) No suit may be maintained under this section challenging the approval or denial of a zoning, rezoning, planned unit development, variance, special exception, conditional use, or other development order granted prior to the effective date of this section or applied for prior to July 1, 1985.

(b) Suit under this section shall be the sole action available to challenge the consistency of a development order with a comprehensive plan adopted under this part.

(4) As a condition precedent to the institution of an action pursuant to this section, the complaining party shall first file a verified complaint with the local government whose actions are complained of setting forth the facts upon which the complaint is based and the relief sought by the complaining party. The verified complaint shall be filed no later than 30 days after the alleged inconsistent action has been taken. The local government receiving the complaint shall respond within 30 days after receipt of the complaint. Thereafter, the complaining party may institute the action authorized in this section. However, the action shall be instituted no later than 30 days after the expiration of the 30-day period which the local government has to take appropriate action. Failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the actions complained of.

(5) Venue in any cases brought under this section shall lie in the county or counties where the actions or inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any action under this section, no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8) In any suit under this section, the Department of Legal Affairs may intervene to represent the interests of the state.

Section 19. Sections 163.160, 163.165, 163.170, 163.175, 163.180, 163.183, 163.185, 163.190, 163.195, 163.200, 163.205, 163.210, 163.215, 163.220, 163.225, 163.230, 163.235, 163.240, 163.245, 163.250, 163.255, 163.260, 163.265, 163.270, 163.275, 163.280, 163.285, 163.290, 163.295, 163.300, 163.305, 163.310, 163.315, and 163.3207, Florida Statutes, are hereby repealed.

Section 20. It is the intent of the Legislature that the repeal of the sections 163.160 through 163.315, Florida Statutes, by this act shall not be interpreted to limit or restrict the powers of municipal or county officials, but shall be interpreted as a recognition of their broad statutory and constitutional powers to plan for and regulate the use of land. It is, further, the intent of the Legislature to reconfirm that sections 163.3161 through 163.3215, Florida Statutes, have provided and do provide the necessary statutory direction and basis for municipal and county officials to carry out their comprehensive planning and land development regulation powers, duties, and responsibilities.

Section 21. Paragraph (d) is added to subsection (7) of section 163.01, Florida Statutes, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(d) Notwithstanding the provisions of paragraph (c), any separate legal entity, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties, created pursuant to the provisions of this section, may, for the purpose of financing or refinancing any capital projects, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of part I of chapter 159 and, in the case of counties, part I of chapter 125, and, in the case of municipalities, part II of chapter 166, notwithstanding any limitations provided above, shall be fully applicable to such entity. Any entity so created may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06 in Leon County and in each county where the public agencies which were initially a party to the agreement are located.

Section 22. Subsection (2) of section 171.062, Florida Statutes, is amended to read:

171.062 Effects of annexations or contractions.—

(2) If the area annexed was subject to a county land use plan and county zoning or subdivision regulations, said regulations shall remain in full force and effect until the area is rezoned by the municipality to comply with its comprehensive plan otherwise provided by law. However, a municipal governing body shall not be authorized to increase, and is expressly prohibited from increasing, or decrease the density allowed under such county plan and regulations for a period of 2 years from the effective date of the annexation unless approval of such increase is granted by the governing body of the county.

Section 23. Section 186.508, Florida Statutes, 1984 Supplement, is amended to read:

186.508 Comprehensive regional policy plan adoption; consistency with state comprehensive plan.—

(4) Within 18 months of the adoption of the state comprehensive plan, each regional planning council shall submit to the Executive Office of the Governor its proposed comprehensive regional policy plan. The Executive Office of the Governor, or its designee, shall review the proposed comprehensive regional policy plan for consistency with the adopted state comprehensive plan and shall, within 90 days, return the proposed comprehensive regional policy plan to the council, together with any revisions recommended by the Governor. The rules adopting the regional policy plan shall not be subject to rule challenge under s. 120.54(4) or to drawout proceedings under s. 120.54(17). Such rules shall become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the next regular session of the Legislature. In its review the Legislature may reject, modify, or take no action relative to the adopted rules. The regional planning council shall conform the rules to the changes made by the Legislature, or, if no action was taken, the rules may become effective.

(2) ~~The regional planning council shall, within 60 days of the return of its proposed comprehensive regional policy plan, initiate rulemaking to adopt the comprehensive regional policy plan, incorporating all revisions recommended by the Governor, or shall petition the Florida Land and Water Adjudicatory Commission to resolve any disputes regarding the consistency of the comprehensive regional policy plan or the revisions recommended by the Governor with the state comprehensive plan. The Florida Land and Water Adjudicatory Commission shall resolve all such disputes within 60 days of initiation.~~

(3) ~~If the Executive Office of the Governor rejects the regional policy plan, the regional planning council shall submit a revised plan for the region within 6 months. The Executive Office of the Governor shall state the reasons for rejecting the regional policy plan. If the regional planning council fails to resubmit its plan for the region within 6 months, the state land planning agency shall develop a regional policy plan and submit the plan to the Florida Land and Water Adjudicatory Commission. The commission shall adopt the plan by rule for the region, with any necessary amendments, after allowing a reasonable opportunity for public comment.~~

(4) ~~The Florida Land and Water Adjudicatory Commission, on its own motion by a majority vote of all its members or on the petition of the Executive Office of the Governor, shall require any regional planning council to submit its comprehensive regional policy plan or any rule or program implementing such plan to the commission for review for consistency with the state comprehensive plan.~~

(5) ~~The Florida Land and Water Adjudicatory Commission shall order any regional planning council to amend each portion of a comprehensive regional policy plan found to be inconsistent with the state comprehensive plan or shall amend the appropriate portions of the state comprehensive plan to achieve consistency with the comprehensive regional policy plan.~~

Section 24. (1) There is hereby created a committee for the study of substate district boundaries to consist of 16 members. The Governor shall appoint 12 members and shall include among the members appointed a representative of the regional planning councils; a representative of the Department of Environmental Regulation; a representative of the Department of Transportation; a representative of the water management districts; a representative of municipal governments; a representative of county governments; a representative of independent special districts; a representative of the state land planning agency; and a representative of the Governor's Office of Planning and Budgeting. The President of the Senate shall appoint two Senate members and the Speaker of the House of Representatives shall appoint two House members. The committee shall elect a chairman from among its legislator members and a vice-chairman and other such officers as is necessary. Members shall serve without compensation, but shall be reimbursed for all necessary expenses in the performance of their duties, including travel. The committee shall continue in existence until its duties are terminated, but no later than June 30, 1987. The Executive Office of the Governor shall cooperate with and provide assistance to the committee and shall provide administrative and clerical services as may be necessary for the operation of the committee.

(2) The committee shall thoroughly review the current system of substate districts which are being used to divide the state for administrative, jurisdictional, planning, or other purposes, including the geographic boundaries of the following: water management districts, regional planning councils, and substate districts of the executive departments. The committee shall also thoroughly review the process of designating geographic boundaries of such substate districts to determine whether the current geographic boundaries and the system for designating them promotes efficient service delivery, coordinated planning, and cooperative agency functioning. The committee shall solicit comments and positions from and consider the responses of any governmental entity the boundaries or substate districts of which may be affected by the committee's recommendations.

(3) The committee shall prepare and submit to the Governor and the Legislature no later than February 1, 1986, an initial report which shall contain a thorough review of existing substate districts and such recommendations as are appropriate. The committee shall prepare and submit to the Governor and the Legislature no later than December 31, 1986, a final report which shall contain specific recommendations for executive and legislative implementation. In preparing its reports, the committee shall consider the following:

(a) Executive department and agency rules relating to establishing substate districts, district offices, and branch offices.

(b) The role and importance of substate districts in state and agency planning activities, in coordination of interagency programs, in data collection, and in the efficient delivery of services to clients and others.

(c) Advantages of implementing a statewide system of substate districts with coterminous jurisdictional boundaries for related state or agency programs and functions.

The report shall also contain such other findings and recommendations relating to substate districts, including recommendations relating to needed changes in current statutes or administrative rules, as the committee chooses to make.

(4) The committee shall employ an executive director and may employ other staff as needed to carry out its functions. All state agencies are hereby authorized and directed to cooperate to the fullest extent possible with the committee.

Section 25. Subsections (1) and (4) of section 235.193, Florida Statutes, are amended to read:

235.193 Coordination of planning with local governing bodies.—

(1) It is hereby declared to be the policy of this state to require the coordination of planning between the school boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are coordinated in time and place with plans for residential development, concurrently with other necessary services. Such planning shall include the consideration of allowing students to attend the school located nearest their homes when a new housing development is constructed near a county boundary and it is more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. *Such planning shall also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment, and the efficient use of infrastructure, and to discourage uncontrolled urban sprawl.*

(4) The local governing body is empowered to reject development plans when public school facilities made necessary by the proposed development are not available in the area which is proposed for development or are not planned to be constructed in such area concurrently with the development. *The general location of public educational facilities shall also be consistent with the capital improvements plan found in the comprehensive plan of the appropriate local governing body developed pursuant to s. 163.3177(3) and in accordance with s. 163.3194(1).*

Section 26. Paragraph (a) of subsection (2) of section 163.360, Florida Statutes, 1984 Supplement, is amended to read:

163.360 Community redevelopment plans.—

(2) The community redevelopment plan shall:

(a) Conform to the comprehensive plan for the county or municipality as prepared by the local planning agency under the Local Government Comprehensive Planning and Land Development Regulation Act of 1975.

Section 27. Subsection (3) of section 190.004, Florida Statutes, 1984 Supplement, is amended to read:

190.004 Preemption; sole authority.—

(3) The creation of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land-development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act of 1975. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

Section 28. Paragraph (a) of subsection (1) of section 190.005, Florida Statutes, 1984 Supplement, is amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the Florida Land and Water Adjudicatory Commission. The petition shall contain:

1. A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

2. The written consent to the establishment of the district by the owner or owners of 100 percent of the real property to be included in the district or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of 100 percent of the real property to be included in the district.

3. A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in s. 190.006.

4. The proposed name of the district.

5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

6. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but shall not be binding and may be subject to change.

7. A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the applicable general-purpose local government in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act of 1975.

8. An economic impact statement in accordance with the requirements of s. 120.54(2).

Section 29. Paragraph (h) of subsection (6) of section 193.501, Florida Statutes, 1984 Supplement, is amended to read:

193.501 Assessment of environmentally endangered lands or lands used for outdoor recreational or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted.—

(6) The following terms whenever used as referred to in this section have the following meanings unless a different meaning is clearly indicated by the context:

(h) "Qualified as environmentally endangered" means land which has unique ecological characteristics, rare or limited combinations of geological formations, or features of a rare or limited nature constituting habitat suitable for fish, plants, or wildlife, and which, if subject to a development moratorium or one or more conservation easements or development restrictions appropriate to retaining such land or water areas predominantly in their natural state, would be consistent with the conservation, recreation and open space, and, if applicable, coastal protection elements of the comprehensive plan adopted by formal action of the local governing body pursuant to s. 163.3161, the Local Government Comprehensive Planning and Land Development Regulation Act of 1975; or land subject to regulation by the Department of Environmental Regulation and defined as submerged lands in regulations adopted pursuant to s. 403.817.

Section 30. Subsection (12) of section 339.175, Florida Statutes, 1984 Supplement, is amended to read:

339.175 Transportation planning organization.—

(12) There shall be a written agreement between each M.P.O. and the department clearly establishing a cooperative relationship essential to accomplish the transportation planning requirements of the applicable federal regulations, this section, and other controlling state statutes, including ~~ss. 163.3161-163.3211~~, the Local Government Comprehensive Planning and Land Development Regulation Act. This agreement shall clearly define the procedures for cooperatively carrying out the continuing, cooperative, and comprehensive transportation planning process for the urbanized area.

Section 31. Paragraph (b) of subsection (3) of section 378.011, Florida Statutes, is amended to read:

378.011 Land Use Advisory Committee.—

(3) The duties of the Land Use Advisory Committee shall be:

(b) To develop a general reclamation plan for lands mined or disturbed by the severance of phosphate rock which are not subject to mandatory reclamation under part II of chapter 211, which plan shall not be inconsistent with local government plans prepared pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act of 1975, and which plan shall be developed utilizing the standards set forth in s. 211.32(1)(a). If, however, the application of the standards set forth in s. 211.32(1)(a) would unnecessarily reverse the natural development of certain lands, which in their present state enhance the overall environmental quality of the area, the committee may recommend in the general reclamation plan that exceptions to the standards set forth in s. 211.32(1)(a) be granted for said lands.

Section 32. Subsection (1) of section 378.021, Florida Statutes, is amended to read:

378.021 Master reclamation plan.—

(1) The Department of Natural Resources shall adopt by rule, as expeditiously as possible upon receipt of the report of the Land Use Advisory Committee, a master reclamation plan to provide guidelines for the reclamation of lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, which lands are not subject to mandatory reclamation under part II of chapter 211. In developing said master reclamation plan, the Department of Natural Resources shall conduct an onsite evaluation of all lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, which lands are not subject to mandatory reclamation under part II of chapter 211, and shall consider the report and plan prepared by the Land Use Advisory Committee under s. 378.011. The master reclamation plan adopted by the Department of Natural Resources shall be consistent with local government plans prepared pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act of 1975.

Section 33. Section 161.053, Florida Statutes, is amended to read:

161.053 Coastal construction and excavation; regulation on county basis.—

(1) The Legislature finds and declares that the beaches in this state and the coastal barrier dunes adjacent to such beaches, by their nature, are subject to frequent and severe fluctuations and represent one of the

most valuable natural resources of Florida and that it is in the public interest to preserve and protect them from imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, and endanger adjacent property and the beach-dune system. In furtherance of these findings, it is the intent of the Legislature to provide that the department establish coastal construction control lines on a county basis along the sand beaches of the state fronting on the Atlantic Ocean or the Gulf of Mexico. Such lines shall be established so as to define that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions. However, the department may establish a segment or segments of a coastal construction control line further landward than the impact zone of a 100-year storm surge, provided such segment or segments do not extend beyond the landward toe of the coastal barrier dune structure that intercepts the 100-year storm surge. Such segment or segments shall not be established if adequate dune protection is provided by a state-approved dune management plan. Special siting and design considerations shall be necessary seaward of established coastal construction control lines to ensure the protection of the beach-dune system, proposed or existing structures, and adjacent properties.

(2) Coastal construction control lines shall be established by the department only after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion. No such line shall be set until a public hearing has been held *in* ~~for~~ each affected county area involved. After the department has given consideration to the results of such public hearing, it shall, after considering ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, set and establish a coastal construction control line and cause such line to be duly recorded in the public records of any county and municipality affected and shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be considered necessary. *However, no coastal construction control line shall be set until a public hearing has been held by the Governor and Cabinet and the affected persons have an opportunity to appear. The hearing shall constitute a public hearing and shall satisfy all requirements for a public hearing pursuant to s. 120.54(3). The hearing shall be noticed in the Florida Administrative Weekly in the same manner as a rule. Any coastal construction control line adopted pursuant to this section shall not be subject to a s. 120.54(4) rule challenge or a s. 120.54(17) drawout proceeding, but once adopted shall be subject to a s. 120.56 invalidity challenge. The rule shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13).* Upon the establishment, approval, and recordation of such control line or lines, no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof; make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward thereof except as hereinafter provided. Control lines established under the provisions of this section shall be subject to review at the discretion of the department after consideration of hydrographic and topographic data which indicates shoreline changes that render established coastal construction control lines to be ineffective for the purposes of this act or at the written request of officials of affected counties or municipalities. Any riparian upland owner who feels that such line as established is unduly restrictive or prevents a legitimate use of his property shall be granted a review of the line upon written request. After such review, the department shall decide if a change in the control line as established is justified and shall so notify the person or persons making the request. The decision of the department shall be subject to judicial review as provided in chapter 120.

(3) *It is the intent of the Legislature that any coastal construction control line that has not been updated since June 30, 1980, shall be considered a critical priority for reestablishment by the department. In keeping with this intent, the department shall notify the Legislature if all such lines cannot be reestablished by June 30, 1989, so that the Legislature may subsequently consider interim lines of jurisdiction for the remaining counties.*

(4)(3) Any coastal county or coastal municipality may establish coastal construction zoning and building codes in lieu of the provisions of this section, provided such zones and codes are approved by the department as being adequate to protect the shoreline from erosion and safeguard adjacent structures. Exceptions to locally established coastal construction zoning and building codes shall not be granted unless previously approved by the department. It is the intent of this subsection to provide for local administration of established coastal construction control lines through approved zoning and building codes where desired by local interests and where such local interests have, in the judgment of the department, sufficient funds and personnel to adequately administer the program. Should the department determine at any time that the program is inadequately administered, the department shall have authority to revoke the authority granted to the county or municipality.

(5)(4) Except in those areas where local zoning and building codes have been established pursuant to subsection (4) (3), a permit to alter, excavate, or construct on property seaward of established coastal construction control lines may be granted by the department as follows:

(a) The department may authorize an excavation or erection of a structure at any coastal location as described in subsection (1) upon receipt of an application from a property and/or riparian owner and upon the consideration of facts and circumstances, including adequate engineering data concerning shoreline stability and storm tides related to shoreline topography, design features of the proposed structures or activities, and potential impacts of the location of such structures or activities including potential cumulative effects of any proposed structures or activities upon such beach-dune system, which, in the opinion of the department, clearly justify such a permit.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if the existing structures have not been unduly affected by erosion, a proposed structure may, at the discretion of the department, be permitted along such line on written authorization from the department if such structure is also approved by the department. However, the department shall not contravene setback requirements or zoning or building codes established by a county or municipality which are equal to, or more strict than, those requirements provided herein.

(c) The department may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting sea turtles and hatchlings and their habitat pursuant to s. 370.12 and to native salt-resistant vegetation and endangered plant communities.

(6)(a) *As used in this subsection:*

1. "Frontal dune" means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

2. "Seasonal high-water line" means the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water.

(b) After October 1, 1985, and notwithstanding any other provision of this part, the department, or a local government to which the department has delegated permitting authority pursuant to subsections (4) and (15), shall not issue any permit for any structure, other than a coastal or shore protection structure, minor structure, or pier, meeting the requirements of this part, or other than intake and discharge structures for a facility sited pursuant to part II of chapter 403, which is proposed for a location which, based on the department's projections of erosion in the area, will be seaward of the seasonal high-water line within 30 years after the date of application for such permit. The procedures for determining such erosion shall be established by rule. In determining the area which will be seaward of the seasonal high-water line in 30 years, the department shall not include any areas landward of a coastal construction control line.

(c) Where the application of paragraph (b) would preclude the construction of a structure, the department may issue a permit for a single-family dwelling for the parcel so long as:

1. The parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds before the effective date of this section;

2. The owner of the parcel for which the single-family dwelling is proposed does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed;

3. The proposed single-family dwelling is located landward of the frontal dune structure; and

4. The proposed single-family dwelling will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune.

(d) In determining the land areas which will be below the seasonal high-water line within 30 years after the permit application date, the department shall consider the impact on the erosion rates of an existing beach renourishment or restoration project or a beach renourishment or restoration project for which all funding arrangements have been made and all permits have been issued at the time the application is submitted. The department shall consider each year there is sand seaward of the erosion control line that no erosion took place that year. However, the seaward extent of the beach renourishment or restoration project beyond the erosion control line shall not be considered in determining the applicable erosion rates. Nothing in this subsection shall prohibit the department from requiring structures to meet criteria established in subsection (1), subsection (2), or subsection (5) or to be further landward than required by this subsection based on the criteria established in subsection (1), subsection (2), or subsection (5).

(e) The department shall annually report to the Legislature the status of this program, including any changes to the previously adopted procedures for determining erosion projections.

(7)(5) Any coastal structure erected, or excavation created, in violation of the provisions of this section is hereby declared to be a public nuisance; and such structure shall be forthwith removed or such excavation shall be forthwith refilled after written notice by the department directing such removal or filling. In the event the structure is not removed or the excavation refilled within a reasonable time as directed, the department may remove such structure or fill such excavation at its own expense; and the costs thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located.

(8)(6) Any person, firm, corporation, or agent thereof who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; except that a person driving any vehicle on, over, or across any sand dune and damaging or causing to be damaged such sand dune or the vegetation growing thereon in violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person, firm, corporation, or agent thereof shall be deemed guilty of a separate offense for each day month during any portion of which any violation of this section is committed or continued.

(9)(7) The provisions of this section do not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction prior to the establishment of the coastal construction control line as provided herein, provided such structures may not be materially altered except as provided in subsection (5)(4).

(10)(8) The department may by regulation exempt specifically described portions of the coastline from the provisions of this section when in its judgment such portions of coastline because of their nature are not subject to erosion of a substantially damaging effect to the public.

(11)(9) Pending the establishment of coastal construction control lines as provided herein, the provisions of s. 161.052 shall remain in force. However, upon the establishment of coastal construction control lines, or the establishment of coastal construction zoning and building codes as provided in subsection (4)(3), the provisions of s. 161.052 shall be superseded by the provisions of this section.

(12)(10) The coastal construction control requirements defined in subsection (1) and the requirements of the erosion projections pursuant to subsection (6) do not apply to any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. The department may, however, at its discretion, issue a permit for the repair or rebuilding within the confines of the original foundation of a major

structure pursuant to the provisions of subsection (5). Under no circumstances shall the department permit such repairs or rebuilding that expand the capacity of the original structure seaward of the 30-year erosion projection established pursuant to subsection (6). However, in reviewing applications for rebuilding, the department shall specifically consider changes in shoreline conditions, the availability of other rebuilding options, and the design adequacy of the project sought to be rebuilt. Permits issued under this subsection shall not be considered precedential as to the issuance of subsequent permits. Specifically excluded from this exemption are seawalls or other rigid coastal or shore protection structures and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(13)(14) Concurrent with the establishment of a coastal construction control line and the ongoing administration of this chapter, the executive director of the department shall make recommendations to the Governor and Cabinet as head of the department concerning the purchase of the fee or any lesser interest in any lands seaward of the control line pursuant to the state's *Save our Coast, Conservation and Recreation Lands, or Outdoor Recreation Land acquisition programs as environmentally endangered lands or as outdoor recreation lands*; and, with respect to those control lines established pursuant to this section prior to June 14, 1978, the executive director may make such recommendations.

(14)(12) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located seaward of the line established by the department pursuant to the provisions of this section. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

(15)(13) In keeping with the intent of subsection (4) (3), and at the discretion of the department, authority for permitting certain types of activities which have been defined by the department may be delegated by the department to a coastal county or coastal municipality. Such partial delegation shall be narrowly construed to those particular activities specifically named in the delegation and agreed to by the affected county or municipality; and the delegation may be revoked by the department at any time if it is determined that the delegation is improperly or inadequately administered.

Section 34. Section 161.0535, Florida Statutes, is amended to read:

161.0535 Permits; fees, costs.—The department may establish by rule a fee schedule and may assess fees for the filing, processing, and issuance of permits issued pursuant to s. 161.041 and s. 161.053. The fee schedule shall contain categories of permits based on the varying costs of evaluating applications for different types of proposed construction. The fee schedule shall be based on the actual costs of administering these permitting programs, less the amounts appropriated by the Legislature for such purposes. The department may also assess the applicant for the costs of public notice by publication prior to the consideration of these permit applications.

Section 35. Section 161.054, Florida Statutes, is amended to read:

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, of any person refusing to comply with or willfully violating any of the provisions of s. 161.041, s. 161.052, or s. 161.053 or any rule or order prescribed by the department thereunder shall incur a fine for each offense in an amount up to \$10,000 to be fixed, imposed, and collected by the department. Each day during any portion of which such violation occurs constitutes a separate offense.

(2) Whenever any person, firm, corporation, or governmental agency, or agent thereof, of any person knowingly violates any of the provisions of s. 161.041, s. 161.052, or s. 161.053 so that damage is caused to *seventy lands seaward of mean high water or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon*, such violator shall be liable for such damage. If two or more persons, firms, corporations, or governmental agencies, or their agents, cause damage, and if liability for such damage cannot be apportioned, each violator shall be jointly and severally liable for the damage. If, however, liability for such damage can be apportioned, each violator is liable only for that portion of the damage and subject to that portion of the fine attributable to his violation.

(3) The imposition of a fine or an award of damages pursuant to this section shall create a lien upon the real and personal property of the violator, enforceable by the department as are statutory liens under chapter 85. The proceeds of such fines and awards of damages shall be deposited in the Erosion Control Trust Fund.

(4) Fines imposed by the department or damages awarded shall be of such amount so as to ensure immediate and continued compliance with the provisions of ss. 161.041, 161.052, and 161.053.

Section 36. Sections 161.52, 161.53, 161.54, 161.55, 161.56, 161.57 and 161.58, Florida Statutes, are created to read:

161.52 Short title.—Sections 161.52-161.58 may be cited as the "Coastal Zone Protection Act of 1985."

161.53 Legislative intent.—

(1) The Legislature recognizes that coastal areas play an important role in protecting the ecology and the public health, safety, and welfare of the citizens of the state, that in recent years the coastal areas have been subjected to increasing growth pressures, and that unless these pressures are controlled, the very features which make coastal areas economically, aesthetically, and ecologically rich will be destroyed.

(2) The Legislature further recognizes that coastal areas form the first line of defense for the mainland against both winter storms and hurricanes, that the dunes of coastal areas perform valuable protective functions for public and private property, and that placement of permanent structures in these protective areas may lead to increased risks to life and property and increased costs to the public. Coastal areas often protect lagoons, salt marshes, estuaries, bays, marine habitats, and the mainland from the direct action of ocean waves or storm surges, absorb the forces of oceanic activity on their seaward sides and protect calmer waters and stable shores to their landward sides, and are dynamic geologic systems with topography that is subject to alteration by waves, storm surges, flooding, or littoral currents.

(3) The Legislature further recognizes that these coastal areas are among Florida's most valuable resources and have extremely high recreational and aesthetic value which should be preserved and enhanced. Coastal areas provide a unique habitat for birds, wildlife, marine life, and plant life and protect waters that are vital to the food chain.

(4) The Legislature further recognizes that there is a tremendous cost to the state for postdisaster redevelopment in the coastal areas and that preventive measures should be taken on a continuing basis in order to reduce the harmful consequences of natural and manmade disasters or emergencies.

(5) It is, therefore, the intent of the Legislature that the most sensitive portion of the coastal area shall be managed through the imposition of strict construction standards in order to minimize damage to the natural environment, private property, and life.

161.54 Definitions.—In construing ss. 161.52-161.58:

(1) "Coastal building zone" means the land area from the seasonal high-water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to s. 161.053, and, for those coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Strait of Florida and not included under s. 161.053, a line 3,000 feet landward from the mean high-water line.

(2) "Coastal barrier islands" means geological features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Strait of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

(3) "Beach" means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

(4) "Dune" means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach, and deposited by any natural or artificial mechanism.

(5) "Construction" means the carrying out of any building, clearing, filling, or excavation or the making of any material change in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

(6)(a) "Major structure" means houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.

(b) "Minor structure" means pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

(c) "Nonhabitable major structure" means swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets, and highways; and underground storage tanks.

(d) "Coastal or shore protection structure" means shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

The enumeration of types of structures in this subsection shall not be construed as excluding from the operation of ss. 161.52-161.58 any other structure which by its usage, design, dimensions, or structural configuration would require engineering consideration similar to the listed structures.

(7) "Building support structure" means any structure which supports floor, wall, or column loads, and transmits them to the foundation, including beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles, columns, or footings.

(8) "Breakaway wall" or "frangible wall" means a partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall will fail in a manner such that it dissolves or breaks up into components that will not act as potentially damaging missiles.

(9) "Department" means the Department of Natural Resources.

(10) "State land planning agency" means the Department of Community Affairs.

(11) The "Standard Building Code" means the Standard Building Code as applied to the Florida Keys, except that the wind velocity factor shall be in accordance with s. 161.55(1)(e), or any local building code which has adopted the requirements of s. 161.55 and has been certified by the Board of Building Codes and Standards for compliance.

(12) When used in ss. 161.52-161.58, the terms defined in s. 177.27(1)-(31) shall have the same meaning as provided in said section.

161.55 Requirements for activities or construction within the coastal building zone.—The following requirements shall apply beginning March 1, 1986, to construction within the coastal building zone, and shall be minimum standards for construction in this area:

(1) STRUCTURAL REQUIREMENTS; MAJOR STRUCTURES.—

(a) Major structures shall conform to the Standard Building Code.

(b) Mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards or the Uniform Standards Code ANSI book A-119.1, pursuant to s. 320.823, in addition to the other major structure requirements contained within this section.

(c) Major structures shall also be designed and constructed to resist the anticipated wave, hydrostatic, and hydrodynamic loads accompanying a 100-year storm event.

(d) Major structures shall be securely fastened to their foundations and the foundation adequately braced and anchored in such a manner as to prevent flotation, collapse, or lateral displacement during a 100-year storm event.

(e) Major structures, except those conforming to the standards of paragraph (b), shall also be designed and constructed to withstand a wind velocity of no less than 140 miles per hour up to a height of 30 feet above the average surrounding ground level. Appropriate shape factors shall be applied in accordance with standard building code practice. Internal pressures on internal walls, ceilings, and floors resulting from damaged windows or doors shall also be considered in design.

(f) Major structures shall be elevated in such a manner as to locate the building support structure above the design breaking wave crests or wave uprush as superimposed on the storm surge of a 100-year storm. The storm surge of a 100-year storm shall be the elevation determined by the department either by model studies associated with coastal construction control line establishment or by acceptance of comparable data obtained by the Federal Emergency Management Agency. If a federal base-flood elevation or a department elevation has not been established in an area, the appropriate local government, after consultation with the department, shall establish a base-flood elevation based on the best available scientific and engineering data.

(g) Foundation design and construction of a major structure shall consider all anticipated loads resulting from a 100-year storm event, including wave, hydrostatic, hydrodynamic, and wind loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade.

(h) No substantial walls or partitions shall be constructed below the level of the building support structure of a major structure. This does not preclude stairways; shearwalls perpendicular to the shoreline; shearwalls parallel to the shoreline, which are limited to a maximum of 20 percent of the building length; wind or sand screens constructed of fiber or wire mesh; light, open-lattice partitions with wooden lattice strips not greater than three-quarters of an inch thick and 3 inches wide; elevator shafts; breakaway or frangible walls; or substantial walls constructed above the wave action and storm surge of a 100-year storm event where the building support structure is above the minimum permissible elevation.

(2) STRUCTURAL REQUIREMENTS; MINOR STRUCTURES.—Minor structures need not meet specific structural requirements provided in subsection (1), except such structures shall be designed to produce the minimum adverse impact on the beach and the dune system and adjacent properties and to reduce the potential for water or wind blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure shall not be permitted.

(3) STRUCTURAL REQUIREMENTS; NONHABITABLE MAJOR STRUCTURES.—Nonhabitable major structures need not meet specific structural requirements provided in subsection (1), except such structures shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with any applicable state and local standards not found in this section. All sewage treatment plants and public water supply systems shall be flood proofed to prevent infiltration of surface water from a 100-year storm event. Underground utilities, excluding pad transformers and vaults, shall be flood proofed to prevent infiltration of surface water from a 100-year storm event or shall otherwise be designed so as to function when submerged by such storm event.

(4) LOCATION OF CONSTRUCTION.—Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(5) APPLICATION TO COASTAL BARRIER ISLANDS.—All building requirements applicable to the coastal building zone shall also apply to coastal barrier islands. No areas landward of a line that is 5,000

feet from the coastal construction control line shall be included in the coastal building zone unless the local government elects to include such areas under the requirements of the coastal building zone.

(6) **PUBLIC ACCESS.**—Where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate, or relocate such public accessways so long as the accessways provided by the developer are:

- (a) Of substantially similar quality and convenience to the public;
- (b) Approved by the local government; and
- (c) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to s. 163.3178.

161.56 Establishment of local enforcement.—

(1) Each local government which is required to adopt a building code by s. 553.73 and which has a coastal building zone or some portion of a coastal zone within its territorial boundaries shall adopt, not later than March 1, 1986, as part of its building code, the requirements established in s. 161.55, and such requirements shall be enforced by the local enforcement agency as defined in s. 553.71.

(2) Each local government shall provide evidence to the state land planning agency that they have adopted a building code pursuant to this section. Within 90 days after March 1, 1986, the state land planning agency shall submit to the Administration Commission a list of those local governments which have not submitted such evidence of adoption. The sole issue before the Administration Commission shall be whether or not to impose sanctions pursuant to s. 163.3184(8).

(3) Nothing in ss. 161.52-161.58 shall be construed to limit or abrogate the right and power of the department to require permits or to adopt and enforce standards pursuant to 161.041 or 161.053 for construction seaward of the coastal construction control line or the rights or powers of local governments to enact and enforce setback requirements or zoning or building codes that are as restrictive as, or more restrictive than, the requirements provided in s. 161.55.

161.57 Coastal properties disclosure statement.—

(1) The Legislature finds that it is necessary to ensure that the purchasers of interests in real property located in coastal areas partially or totally seaward of the coastal construction control line as defined in s. 161.053 are fully apprised of the character of the regulation of the real property in such coastal areas, and in particular that such lands are subject to frequent and severe fluctuations.

(2) Unless otherwise waived in writing by the purchaser, at or prior to the closing of any transaction where an interest on real property located either partially or totally seaward of the coastal construction control line as defined in s. 161.053 is being transferred, the seller shall provide to the purchaser an affidavit, or a survey meeting the requirements of chapter 472, delineating the location of the coastal construction control line on the property being transferred.

161.58 Vehicular traffic on coastal beaches.—

(1) Vehicular traffic, except that which is necessary for clean-up, repair, or public safety, and except for authorized local or state dune crossovers, is prohibited on the dunes or native stabilizing vegetation of the dune system of coastal beaches. Except as otherwise provided in this section, any person driving any vehicle on, over, or across any dune or native stabilizing vegetation of the dune system shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Vehicular traffic, except that which is necessary for clean-up, repair, or public safety, or for the purpose of maintaining existing authorized public accessways, is prohibited on coastal beaches. Notwithstanding the provisions of this subsection, the local government with jurisdiction over a coastal beach or part of a coastal beach, by a three-fifths vote of its governing body, may authorize vehicular traffic on all or portions of the beaches under its jurisdiction. Any such local government shall be authorized by a three-fifths vote to charge a reasonable fee for vehicular traffic access. The revenues from any such fees shall be used only for

beach maintenance purposes. Except where authorized by the local government, any person driving any vehicle on, over, or across the beach shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 37. Section 380.26, Florida Statutes, is created to read:

380.26 Establishment of coastal building zone for certain counties.—The coastal building zone for counties not subject to s. 161.053 shall be as described in s. 161.54(1), after a public hearing is held in the affected county by the state land planning agency or its designee. The state land planning agency shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be necessary.

Section 38. Section 380.27, Florida Statutes, is created to read:

380.27 Coastal infrastructure policy.—

(1) No state funds shall be used for the purpose of constructing bridges or causeways to coastal barrier islands as defined in s. 161.54(2) which are not accessible by bridges or causeways on the effective date of this act.

(2) After a local government has an approved coastal management element pursuant to s. 163.3178, no state funds which are unobligated at the time the element is approved shall be expended for the purpose of planning, designing, excavating for, preparing foundations for, or constructing projects which increase the capacity of infrastructure unless such expenditure is consistent with the approved coastal management element.

(3) The state land planning agency shall, by March 1 of each year, prepare and transmit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the state's coastal barrier areas. The report shall assess the effectiveness of the state's coastal barrier area infrastructure policy on growth and development.

Section 39. Paragraphs (e) and (o) of subsection (2) of section 403.813, Florida Statutes, 1984 Supplement, are amended to read:

403.813 Permits issued at district centers; exceptions.—

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

(e) The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations. *However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.*

(o) The construction of private seawalls in waters of the state where such construction is between and adjoins at both ends existing seawalls, follows a continuous and uniform seawall construction line with the existing seawalls, is no more than 150 feet in length, and does not violate existing water quality standards, impede navigation, or affect flood control. *However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.*

Section 40. Paragraphs (a) and (b) of subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(5) **AUTHORIZED USES OF REVENUE.**—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district which approved the ordinance levying and imposing the tax by referendum pursuant to subsection (6). However, these purposes may be implemented through service contracts and leases with persons who maintain and operate adequate existing facilities;

2. To promote and advertise tourism in the State of Florida and nationally and internationally; or

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county; or:

4. To finance beach improvement, maintenance, renourishment, restoration, and erosion control.

(b) In any county in which the electors of the county or the electors of the subcounty special tax district have approved by referendum the ordinance levying and imposing the tourist development tax, the revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in subparagraph (a)1. or up to 50 percent of the revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in subparagraph (a)4.

Section 41. Subsections (10) and (18) of section 380.031, Florida Statutes, are amended to read:

380.031 Definitions.—As used in this chapter:

(10) "Local comprehensive plan" means any or all local comprehensive plans or elements or portions thereof prepared, adopted, or amended pursuant to ~~ss. 163.2161-163.3211~~, the Local Government Comprehensive Planning and Land Development Regulation Act of 1975, as amended.

(18) "State land planning agency" means the *Department of Community Affairs*, and may be referred to in this part as the "department" ~~agency designated by law, or its successor agency, to undertake statewide comprehensive planning.~~

Section 42. Section 380.032, Florida Statutes, is amended to read:

380.032 State land planning agency; powers and duties.—The state land planning agency shall have the power and the duty to:

(1) Exercise general supervision of the administration and enforcement of this act and all rules and regulations promulgated hereunder.

(2)(a) Adopt or modify rules to carry out the intent and purposes of this act. Such rules shall be consistent with the provisions of this act.

(b) Within 20 days following adoption, any substantially affected party may initiate review of any rule adopted by the state land planning agency interpreting the guidelines and standards by filing a request for review with the Administration Commission and serving a copy on the state land planning agency. Filing a request for review shall stay the effectiveness of the rule pending a decision by the Administration Commission. Within 45 days following receipt of a request for review, the commission shall either reject the rule or *approve* ~~adopt~~ the rule, with or without modification.

(3) Enter into agreements with any landowner, developer, or governmental agency as may be necessary to effectuate the provisions and purposes of this act or any rules promulgated hereunder.

Section 43. Section 380.06, Florida Statutes, 1984 Supplement, is amended to read:

380.06 Developments of regional impact.—

(1) DEFINITION.—The term "development of regional impact," as used in this section, means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2) STATEWIDE ADOPTION OF GUIDELINES AND STANDARDS BY ADMINISTRATION COMMISSION.—

(a) The state land planning agency shall recommend to the Administration Commission specific *statewide* guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt *statewide* guidelines and standards to be used in determining whether particular developments shall *undergo development-of-regional-impact review* ~~be presumed to be of regional impact~~. The *statewide guidelines and standards and guidelines* previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless revised pursuant to this section, or *superseded by other provisions of law*. Revisions to the present *statewide guidelines and standards and guidelines*, after adoption by the Administration Commission, shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved by *law by joint resolution* of the Legislature, the revisions to the present *guidelines and standards and guidelines* shall not become effective.

(b) In adopting its guidelines and standards, the Administration Commission shall consider and shall be guided by:

1. The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.

2. The amount of pedestrian or vehicular traffic likely to be generated.

3. The number of persons likely to be residents, employees, or otherwise present.

4. The size of the site to be occupied.

5. The likelihood that additional or subsidiary development will be generated.

6. The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments.

7. The unique qualities of particular areas of the state.

(c) *With regard to the changes in the guidelines and standards authorized pursuant to this act, in determining whether a proposed development must comply with the review requirements of this section, the state land planning agency shall apply the guidelines and standards which were in effect when the developer received authorization to commence development from the local government. If a developer has not received authorization to commence development from the local government prior to the effective date of new or amended guidelines and standards, the new or amended guidelines and standards shall apply.*

(d) *The guidelines and standards shall be applied as follows:*

1. *Fixed thresholds.—*

a. *A development that is at or below 80 percent of all numerical thresholds in the guidelines and standards shall not be required to undergo development-of-regional-impact review.*

b. *A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-of-regional-impact review.*

2. *Rebuttable presumptions.—*

a. *It shall be presumed that a development that is between 80 and 100 percent of a numerical threshold shall not be required to undergo development-of-regional-impact review.*

b. *It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.*

~~(e) Any modifications to the initial guidelines and standards prescribed pursuant to this subsection shall not modify or abridge rights that have vested pursuant to subsection (18) or development of regional impact status determinations acquired through executed agreements or binding letters issued pursuant to this section, upon which the developer has relied and upon the basis of which he has changed his position prior to the effective date of such rules.~~

(3) *VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES AND STANDARDS RECOMMENDATIONS OF MODIFICATIONS BY REGIONAL PLANNING AGENCY.—The state land plan-*

ning agency, a regional planning agency, or a local government may petition the Administration Commission to increase or decrease the numerical thresholds of any statewide guideline and standard. The state land planning agency or the regional planning agency may petition for an increase or decrease for a particular local government's jurisdiction, or a part of a particular jurisdiction. A local government may petition for an increase or decrease within its jurisdiction, or a part of its jurisdiction. A number of requests may be combined in a single petition.

(a) When a petition is filed, the state land planning agency shall have no more than 180 days to prepare and submit to the Administration Commission a report and recommendations on the proposed variation. The report shall evaluate, and the Administration Commission shall consider, the following criteria:

1. Whether the local government has adopted and effectively implemented a comprehensive plan that reflects and implements the goals and objectives of an adopted state comprehensive plan.

2. Any applicable policies in an adopted comprehensive regional policy plan.

3. Whether the local government has adopted and effectively implemented both a comprehensive set of land development regulations, which regulations shall include a planned unit development ordinance, and a capital improvements plan that are consistent with the local government comprehensive plan.

4. Whether the local government has adopted and effectively implemented the authority and the fiscal mechanisms for requiring developers to meet development order conditions.

5. Whether the local government has adopted and effectively implemented and enforced satisfactory development review procedures.

(b) The affected regional planning agency, adjoining local governments, and the local government shall be given a reasonable opportunity to submit recommendations to the Administration Commission regarding any such proposed variations.

(c) The Administration Commission shall have authority to increase or decrease a threshold in the statewide guidelines and standards up to 50 percent above or below the statewide presumptive threshold. The commission may from time to time reconsider changed thresholds and make additional variations as it deems necessary.

(d) The Administration Commission shall adopt rules setting forth the procedures for submission and review of petitions filed pursuant to this subsection.

(e) Variations to guidelines and standards adopted by the Administration Commission under this subsection shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved as submitted by general law, the revisions shall not become effective. ~~Each regional planning agency may recommend to the state land planning agency from time to time modifications to guidelines and standards adopted under subsection (2). Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions regarding modifications to be recommended.~~

(4) BINDING LETTER DETERMINATIONS BY STATE LAND PLANNING AGENCY.—

(a) If any developer is in doubt whether his proposed development must undergo ~~would be a~~ development of regional impact review under the guidelines and standards, whether his rights have vested pursuant to subsection (20) (18), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) (18) would divest such rights, he may request a determination from the state land planning agency.

(b) Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this section, the state land planning agency or local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if:

1. The development is at a presumptive numerical threshold or up to 20 percent above a numerical threshold in the guidelines and standards; or

2. The development is between a presumptive numerical threshold and 20 percent below the numerical threshold, and the local government or the state land planning agency is in doubt as to whether the character or magnitude of the development at the proposed location creates a likelihood that the development will have a substantial effect on the health, safety, or welfare of citizens of more than one county.

(c) Any local government may petition the state land planning agency to require a developer of a development located in an adjacent jurisdiction to obtain a binding letter of interpretation. The petition shall contain facts to support a finding that the development as proposed is a development of regional impact. This paragraph shall not be construed to grant standing to the petitioning local government to initiate an administrative or judicial proceeding pursuant to this chapter.

(d) A request for a binding letter of interpretation shall be in writing and in such form and content as prescribed by the state land planning agency. Within 15 days of receiving an application for a binding letter of interpretation or a supplement to a pending application, the state land planning agency shall determine and notify the applicant whether the information in the application is sufficient to enable the agency to issue a binding letter or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the state land planning agency in writing that the information will not be supplied and the reasons therefor. If the applicant does not respond to the request for additional information within 120 days, the application for a binding letter of interpretation shall be deemed to be withdrawn. Within 35 ~~30~~ days after of acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development. A binding letter of interpretation issued by the state land planning agency shall bind all state, regional, and local agencies, as well as the developer.

(e)~~(b)~~ In determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) (18) would divest such rights, the state land planning agency shall review the proposed change within the context of:

1. Criteria specified in paragraph (19)(b) ~~(17)(b)~~;

2. Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;

3. All rights and obligations arising out of the vested status of such development;

4. Permit conditions or requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and

5. Any regional impacts arising from the proposed change.

(f)~~(e)~~ If a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) (18) would result in reduced regional impacts, the change shall not divest rights to complete the development pursuant to subsection (20) (18).

(g) Every binding letter determining that a proposed development is not a development of regional impact, but not including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:

1. Three years from the effective date of this act for binding letters issued prior to the effective date of this act; or

2. Three years from the date of issuance of binding letters issued on or after the effective date of this act.

(h) The expiration date of a binding letter, established pursuant to paragraph (g), shall begin to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the state land planning agency, the local government of jurisdiction and the developer.

(5) ~~AUTHORIZATION TO DEVELOP CONDITIONS FOR DEVELOPMENT OF REGIONAL IMPACT.—~~A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if:

(a) ~~The land on which the development is proposed is within the jurisdiction of a local government that has adopted subdivision regulations or a zoning ordinance under chapter 163 or under appropriate special or local laws or ordinances and the development has been approved under the requirements of this section; and~~

(b) The land on which the development is proposed is within an area of critical state concern and the development has been approved under the requirements of s. 380.05. ~~or~~

(c) ~~State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development-of-regional-impact review, state or regional permits necessary for the construction or operation of the project that are valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), state or regional agency permits necessary for the construction or operation of the project that are valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-impact review, or after the developer obtains a development order pursuant to this section. The developer has given written notice to the state land planning agency and to any local government having jurisdiction to adopt zoning or subdivision regulations for the area in which the development is proposed and, after 90 days have passed, no zoning or subdivision regulations have been adopted or designation of area of critical state concern issued.~~

~~(6) FILING BY DEVELOPER OF APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.—~~

~~(a) Prior to undertaking any development, a if the development of regional impact is to be located within the jurisdiction of a local government that has adopted a zoning ordinance or subdivision regulations, the developer that is required to undergo development-of-regional-impact review shall file an application for development approval with the appropriate local government having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake a "development of regional impact" as required defined under this section.~~

(b) Any local government comprehensive plan amendments related to a proposed development of regional impact may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in s. 163.3187 and applicable local ordinances, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan. Nothing in this paragraph shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.

~~(7) PREAPPLICATION PROCEDURES CONFERENCE ON PROPOSED DEVELOPMENT; PROCEDURE TO ELIMINATE QUESTION FROM APPLICATION.—~~

(a) Before filing an application for development approval, the developer shall contact the regional planning agency with jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. The regional planning agency shall provide the developer information about the development-of-regional-impact process and the use of preapplication conferences to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development.

(b) The regional planning agency shall establish by rule a procedure by which a developer may enter into binding written agreements with the

regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.

(8) PRELIMINARY DEVELOPMENT AGREEMENTS.—

(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:

1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7), within 45 days after the execution of the agreement.

2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning agency agrees to a different time for good cause shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.

3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area, and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.

4. The preliminary development shall be limited to lands that the state land planning agency agree are suitable for development, and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development, when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.

5. The preliminary development agreement may allow development of more than 25 percent of any applicable threshold only if the developer demonstrates that such development is in the best interest of the state and local government, is essential to the ultimate viability of the proposed total development, and development will not result in material adverse impacts to existing resources or planned facilities.

6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development nor to particular conditions in a final development order.

7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.

8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.

9. In the event of a breach of the agreement or failure to comply with any condition of the agreement, or if the agreement was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.

10. The preliminary development agreement shall be recorded by the developer in the public records of the county where the land is located. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.

(b) The state land planning agency may enter into other types of agreements to effectuate the provisions of this act as provided in s. 380.032.

(9) CONCEPTUAL AGENCY REVIEW.—

(a)1. In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits a developer may elect to request conceptual agency review under this subsection either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference held pursuant to subsection (7).

2. "Conceptual agency review" means general review of the proposed location, densities, intensity of use, character, and major design features of a proposed development required to undergo review under this section for the purpose of considering whether these aspects of the proposed development comply with the issuing agency's statutes and rules.

3. Conceptual agency review is a licensing action subject to chapter 120, and approval or denial constitutes final agency action, except that the 90-day time period specified in s. 120.62(2) shall be tolled for the agency when the affected regional planning agency requests information from the developer pursuant to paragraph (10)(b). If proposed agency action on the conceptual approval is the subject of a proceeding under s. 120.57, final agency action shall be conclusive as to any issues actually raised and adjudicated in the proceeding, and such issues may not be raised in any subsequent proceeding under s. 120.57 on the proposed development by any parties to the prior proceeding.

4. A conceptual agency review approval shall be valid for up to 10 years unless otherwise provided in a state or regional agency rule, and may be reviewed and reissued for additional periods of time under procedures established by the agency.

(b) By July 1, 1986, the Department of Environmental Regulation, each water management district, and other state or regional agencies that require construction or operation permits shall establish by rule a set of procedures necessary for conceptual agency review for the following permitting activities within their respective regulatory jurisdictions:

1. The construction and operation of potential sources of water pollution, including industrial wastewater, domestic wastewater, and stormwater.

2. Dredging and filling activities.

3. The management and storage of surface waters.

4. The construction and operation of works of the district, only if a conceptual agency review approval is requested under subparagraph (a)3.

Any state or regional agency may establish rules for conceptual agency review for any other permitting activities within its respective regulatory jurisdiction.

(c)1. Each agency participating in conceptual agency reviews shall determine and establish by rule its information and application requirements and furnish these requirements to the state land planning agency and to any developer seeking conceptual agency review under this subsection.

2. Each agency shall cooperate with the state land planning agency to standardize to the extent possible, review procedures, data requirements, and data collection methodologies among all participating agencies, consistent with the requirements of the statutes that establish the permitting programs for each agency.

(d) At the conclusion of the conceptual agency review, the agency shall give notice of its proposed agency action as required by s. 120.60(3), and shall forward a copy of the notice to the appropriate regional planning council with a report setting out the agency's conclusions on potential development impacts and stating whether the agency intends to grant conceptual approval, with or without conditions, or to deny conceptual approval. If the agency intends to deny conceptual approval, the report shall state the reasons therefor. The agency may require the developer to publish notice of proposed agency action in accordance with s. 403.815.

(e) An agency's decision to grant conceptual approval shall not relieve the developer of the requirement to obtain a permit and to meet the standards for issuance of a construction or operation permit or to meet the agency's information requirements for such a permit. Nevertheless, there shall be a rebuttable presumption that the developer is entitled to receive a construction or operation permit for an activity for which the agency granted conceptual review approval, to the extent that the project for which the applicant seeks a permit is in accordance with the conceptual approval and with the agency's standards and criteria for issuing a construction or operation permit. The agency may revoke or appropriately modify a valid conceptual approval if the agency shows:

1. That an applicant or his agent has submitted materially false or inaccurate information in the application for conceptual approval;

2. That the developer has violated a condition of the conceptual approval; or

3. That the development will cause a violation of the agency's applicable laws or rules.

(f) Nothing contained in this subsection shall modify or abridge the law of vested rights or estoppel.

(g) Nothing contained in this subsection shall be construed to preclude an agency from adopting rules for conceptual review for developments which are not developments of regional impact.

~~(8) OPTIONAL COORDINATED REVIEW PROCESS. An optional coordinated review process is established consisting of the following:~~

~~(a) As part of the preapplication conference, the developer may, in addition to regular development-of-regional-impact review, elect to proceed in a coordinated review process with other affected state or regional licensing agencies. The developer may select the state or regional agencies which will participate in this coordinated review process.~~

~~(b) The developer may request a binding agreement from an agency on any of the following:~~

~~1. The identifiable areas of agency jurisdiction over the proposed development.~~

~~2. The identifiable agency rules, subject to changes imposed by law, applicable to the proposed development.~~

~~3. The types and categories of information which may be required at the time of the license or permit application for the proposed development.~~

~~4. Any other appropriate agreement pursuant to appropriate state or federal law or regulation.~~

~~Any agreements entered into under this paragraph are subject to the provisions of chapter 120 and are not subject to paragraph (14)(a). Every agreement entered into pursuant to this paragraph shall be binding upon the developer and the agency, unless the agency determines that the information upon which the agreement was based was inaccurate, that conditions have changed substantially, or that a modification has been proposed which materially changes the circumstances of the proposed development. The developer shall notify the agency of any such modification. The binding agreement shall be valid for a period of 5 years after issuance.~~

~~(c) The developer may request that agencies, for nonbinding information purposes only, identify issues or problems which could later constitute grounds for permit denial or major modifications of the proposed agreement.~~

~~(d) The regional planning agency shall notify all affected agencies and coordinate this review process. To further effectuate this review process, the regional planning agency may encourage additional preapplication conferences, the development of permit processing schedules with other agencies, concurrent processing of applications, and the use of the development of regional impact application for development approval as a substitute for permit data requirements or plans when appropriate.~~

~~(e) The developer must submit copies of the application for development approval to all state or regional agencies which are to participate in this coordinated review process.~~

~~(10)(9) RECEIPT BY REGIONAL PLANNING AGENCY OF APPLICATION FOR DEVELOPMENT APPROVAL; DETERMINATION OF SUFFICIENCY.—~~

(a) When an application for development approval is filed with a local government, the developer shall also send copies of the application to the appropriate regional planning agency and the state land planning agency.

(b) If a regional planning agency determines that the application for development approval is insufficient for the agency to discharge its responsibilities under subsection (12)(11), it shall provide in writing to the appropriate local government and the applicant a statement of any additional information desired within 30 days of the receipt of the application by the regional planning agency. The applicant may supply the information requested by the regional planning agency and shall communicate its intention to do so in writing to the appropriate local government and the regional planning agency within 5 working days of the receipt of the statement requesting such information, or the applicant shall notify the appropriate local government and the regional planning agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the regional planning agency shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested by a regional planning agency within 120 days of its request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn.

(c) The regional planning agency shall notify the local government that a public hearing date may be set when the regional planning agency determines that the application is sufficient or when it receives notification from the developer that the additional requested information will not be supplied, as provided for in paragraph (b).

~~(11)(10) LOCAL NOTICE AND HEARING ON APPLICATION ON PROPOSED DEVELOPMENT.~~—Upon receipt of the sufficiency notification from the regional planning agency required by paragraph (10)(9) (c), the appropriate local government shall give notice and hold a public hearing on the application in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such hearing proceedings shall be recorded by tape or a certified court reporter and made available for transcription at the expense of any interested party. When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the developer, may hold a joint public hearing. The local government shall comply with the following additional requirements:

(a) The notice of public hearing shall state that the proposed development *is undergoing a development-of-regional-impact review* ~~would be a development-of-regional-impact.~~

(b) The notice shall be published at least 60 days in advance of the hearing and shall specify where the information and reports on the development of regional impact application may be reviewed.

(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, to any state or regional permitting agency participating in a *conceptual agency coordinated* ~~coordinated~~ review process under subsection (9)(9), and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

(d) A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

~~(12)(11) REGIONAL REPORTS REPORT AND RECOMMENDATIONS BY REGIONAL PLANNING AGENCY.~~—

(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(10)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:

1. The development will have a favorable or unfavorable impact on the environment and natural *and historical* resources of the region.

2. The development will have a favorable or unfavorable impact on the economy of the region.

3. The development will efficiently use or unduly burden water, sewer, solid waste disposal, or other necessary public facilities.

4. The development will efficiently use or unduly burden public transportation facilities.

5. The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

6. The development complies with such other criteria for determining regional impact as the regional planning agency deems appropriate, including, but not limited to, the extent to which the development would create an additional demand for, or additional use of, energy, provided such criteria and related policies have been adopted by the regional planning agency pursuant to s. 120.54. Regional planning agencies may also review and comment upon issues which affect only the local governmental entity with jurisdiction pursuant to this section; however, such issues shall not be grounds for, or be included as, issues in a regional planning agency appeal of a development order under s. 380.07.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Regulation permits have been issued *pursuant to chapter 373 or chapter 403*, the regional planning council may comment on the regional implications of the permits, but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

~~(13)(12) CRITERIA APPROVAL BY LOCAL GOVERNMENT OF DEVELOPMENT IN AREAS AN AREA OF CRITICAL STATE CONCERN.~~—If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under s. 380.05 *and the provisions of this section.*

~~(14)(13) CRITERIA OUTSIDE AREAS FOR APPROVAL OF DEVELOPMENT NOT IN AREA OF CRITICAL STATE CONCERN.~~

—If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local *comprehensive plan and local* land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12) (11).

~~(15)(14) LOCAL GOVERNMENT DECISION AND ISSUANCE OF DEVELOPMENT ORDER BY LOCAL GOVERNMENT.~~—

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) (12) and (14) (13). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the *developer development* with the development order.

2. ~~Shall~~ ~~May~~ establish compliance expiration dates for the development order, including a deadline for commencing physical development and; for compliance with conditions of approval or phasing requirements, and shall include a for the termination date that reasonably reflects the time required to complete the development of the order.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred, or that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety, or welfare.

4.3. Shall specify the requirements for the annual report designated under subsection (18) ~~(16)~~, including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5.4. May specify the types of changes to the development which shall will require submission for a substantial deviation determination under subsection (19) ~~paragraph (17)(a)~~.

6.5. Shall include a legal description of the property.

(d) Conditions of a development order that require a developer to contribute land for a public facility, or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

(e) Development order exactions.—

1. Effective July 1, 1986, local governments shall not include as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof, unless the local government has enacted a local ordinance which requires other development not subject to this section, to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Local governments shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development, unless the local government includes in the development order a commitment by the local government to provide these facilities consistent with the development schedule approved in the development order; provided, however, a local government's failure to meet the requirements of subparagraph 1. and this paragraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government and technical advisory committees provided for in s. 163.3207 in preparing and adopting local impact fee and other contribution ordinances.

(f)1.(d) Notice of the adoption of a development order or the subsequent modification of an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any modifications to the development order, the location where the adopted order with any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, nor actual nor constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only applies to developments initially approved under this section after July 1, 1980.

2. The state land planning agency may record a notice of adoption of any agreement entered into pursuant to subsection (8), in accordance with s. 28.222, with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement may constitute a land development regulation applicable to portions of the land covered by the agreement.

(g)(e) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(16) CREDITS AGAINST LOCAL IMPACT FEES.—

(a) If the development order requires the developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the developer is also subject by local ordinance to impact fees or exactions to meet the same needs, the local government shall establish and implement a procedure that credits a development order exaction or fee toward an impact fee or exaction imposed by local ordinance for the same need; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, the local government shall not be required to grant a credit toward the local exaction or impact fee unless the local government determines that said required contribution, payment or construction meets the same need that the local exaction or impact fee would address.

(b) If the local government imposes or increases an impact fee or exaction by local ordinance after a development order has been issued, the developer may petition the local government, and the local government shall modify the affected provisions of the development order to give the developer credit for any contribution of land for a public facility, or construction, expansion, or contribution of funds for land acquisition, or construction or expansion of a public facility, or a portion thereof, required by the development order toward an impact fee or exaction for the same need.

(c) The local government and the developer may enter into capital contribution front-ending agreements as part of a development of regional impact development order to reimburse the developer, or his successor, for voluntary contributions paid in excess of his fair share.

(d) This subsection does not apply to internal, on-site facilities required by local regulations or to any off-site facilities to the extent such facilities are necessary to provide safe and adequate services to the development.

(17)(15) ENFORCEMENT OF DEVELOPMENT ORDER BY LOCAL MONITORING GOVERNMENT.—The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.

(18)(16) ANNUAL REPORTS BY DEVELOPER.—The developer shall submit an annual report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies, on the date specified in the development order. If the annual report is not received, the regional plan-

ning agency or the state land planning agency shall notify the local government. If the local government does not receive the annual report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government.

~~(19)(17)—MODIFICATION OF DEVELOPMENT ORDER; DETERMINATION BY LOCAL GOVERNMENT OF SUBSTANTIAL DEVIATIONS DEVIATION.—~~

(a) Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review.

(b) A proposed change to a previously approved development of regional impact or development order condition which meets or exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 10 percent expansion to an existing runway or a 20 percent increase in the floor area of an existing terminal.

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent or 6 acres, whichever is greater, or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent or 20,000 barrels or 7 million pounds, whichever is greater.

8. An increase of development at a water port of wet storage for 20 watercraft, or dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional water port development, or a 5 percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent, or 50 dwelling units, whichever is greater.

10. An increase in commercial development by 6 acres of land area, or by 50,000 square feet of gross floor area, or of parking spaces provided for customers for 300 cars or 5 percent, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. Net changes to two or more types of development which cumulatively meet or exceed 100 percent of the criteria set forth herein.

15. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. A change proposed for 15 percent or more of the acreage of an approved development of regional impact to a land use not previously approved in the development order.

17. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other such special areas.

18. A proposed change involving simultaneous increases and decreases of the uses set forth in subparagraphs 4., 6., 10., and 11., only if regional impacts of the change exceed the adverse regional impacts of the originally authorized development or the project as changed creates regional impacts which were not reviewed by the regional planning agency.

(c) An extension of the date of buildout of a development by 5 or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by local government. For the purpose of calculating when a build-out date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits.

(d)1. A proposed change which does not meet or exceed any of the criteria listed in paragraph (b) shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.

2. A change in the plan of development of an approved development of regional impact, resulting from requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.

(e) Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact. At a minimum, the standard form shall require the developer to provide the precise language which the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and may, in its discretion and within 30 days of submittal by the developer of the request for approval of a change, advise the local government of its intention to participate at the public hearing before the local government.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (19)(a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraph (c) and (d) shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review, shall be subject to the appeal provisions of s. 380.07. However, neither the regional planning agency nor the state land planning agency may appeal the local government decision if neither participated at the local hearing.

(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change as it relates to the entire development should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not affected by the proposed change.

(h) When further development-of-regional-impact review is required, because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(a) A developer shall submit proposed changes to a development of regional impact previously approved pursuant to this section to the local government for a substantial deviation determination. The local government shall review the proposed changes pursuant to the criteria enumerated in this subsection and shall make a substantial deviation determination. The local government shall, at the conclusion of local review, modify the development order to reflect approved changes to the development and shall notify the regional planning agency and the state land planning agency of the changes to the development order, with the findings subject to the appeal provisions of s. 380.07. If the proposed changes are found to be a substantial deviation, the development shall be subject to further review pursuant to this section. Nothing in this section precludes the right of the local government or of the state land planning agency to injunctive relief under s. 380.11. As used in this section, the term "Substantial deviation" means any change to the previously approved development of regional impact which creates a reasonable likelihood of additional adverse regional impact, or any other regional impact created by the change not previously reviewed by the regional planning agency.

(b) In determining whether a development of regional impact previously approved pursuant to this section is subject to further review pursuant to this section, the local government shall consider the following changes which shall be presumed not to be substantial deviations requiring further review:

1.—An increase in the number of dwelling units of not more than 5 percent or 200 dwelling units, whichever is less.

2.—A decrease in the number of dwelling units which does not require a major redistribution of density.

3.—A decrease in the area set aside for common open space of not more than 5 percent or 50 acres, whichever is less.

4.—An increase in the area set aside for common open space.

5.—An increase in the floor area proposed for nonresidential use of not more than 5 percent or 10,000 square feet, whichever is less.

6.—A decrease in the regional impact of the development.

7.—A change required by permit conditions or requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.060 or any of their successor agencies or by any appropriate federal regulatory agency.

(c) Unless the presumptions set forth in paragraph (b) are rebutted by clear and convincing evidence offered by the moving party, the development shall not be subject to further development-of-regional-impact review pursuant to this section. The appropriate local government shall afford a reasonable opportunity for a developer or other substantially affected party to present evidence to support or rebut such presumptions.

(20)(19) **VESTED PRESERVATION OF SPECIFIED RIGHTS OF DEVELOPERS.**—Nothing in this section shall limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 498 478, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973 the effective date of the rules issued by the Administration Commission pursuant to subsection (2). If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must so notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, any commencing of development upon which there has been reliance and change of position shall vest the applicant's rights until June 30, 1990. Where the notification requirements have not been met, the vested rights authorized for this section shall expire June 30, 1986.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined under this subsection, provided such zoning change is actually granted by such government.

(19) **PUBLICATION OF NOTICES OF APPLICATIONS FOR DEVELOPMENTS OF REGIONAL IMPACT.**—The state land planning agency shall print biweekly, and mail to any person upon payment of a reasonable charge to cover costs of preparation and mailing, a list of all notices of applications for developments of regional impact that have been filed with the state land planning agency.

(21)(20) **APPLICATIONS FOR COMPREHENSIVE APPLICATION; DEVELOPMENT OF REGIONAL IMPACT AND FOR MASTER PLAN DEVELOPMENT ORDER APPROVAL.**—

(a) If a development project includes two or more developments of regional impact, a developer may file a comprehensive development-of-regional-impact application.

(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (9) (8) do not apply to this subsection.

1. Prior to adoption of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the devel-

opment order to ensure that anticipated regional impacts have been adequately addressed and that information requirements for subsequent incremental application review are clearly defined. The development order for a master application shall specify the information which must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.

2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.

(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.

~~(22)(21)~~ APPLICATION BY DOWNTOWN DEVELOPMENT AUTHORITIES AUTHORITY.—

(a) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to this section subsection (5). The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in s. 380.031(5). For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.

(b) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (15)(14), the development order shall specify the amount of development approved within each land use category. Development undertaken in conformance with a development order issued under this section does not require further review.

(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, *changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria listed in paragraph (19)(b) shall be double those listed the local government shall make a substantial deviation determination in regard to that proposal, pursuant to subsection (17).*

(d) The provisions of subsection (9) (8) do not apply to this subsection.

~~(23)(22)~~ ADOPTION OF RULES BY STATE LAND PLANNING AGENCY AND REGIONAL PLANNING AGENCIES.—

(a) The state land planning agency shall adopt rules to ensure uniform procedural review of developments of regional impact by the state land planning agency and regional planning agencies under this section. These rules shall be adopted pursuant to chapter 120 and shall include all forms, application content, and review guidelines necessary to implement developments-of-regional-impact review. *The state land planning agency, in consultation with the regional planning agencies may also designate types of development or areas suitable for development in which reduced information requirements for development-of-regional-impact review shall apply.*

(b) All Regional planning agencies shall develop a list of regional issues to be used in reviewing development-of-regional-impact applications for development approval. *Such regional issues shall be consistent with state laws and rules where state laws and rules on those issues exist. Within 9 months of the effective date of this paragraph,* These lists of regional issues must be submitted to the state land planning agency for its adoption or rejection. Should a new agency be designated a regional planning agency pursuant to s. 380.031(15), that agency shall have 9 months from its date of designation to submit a list of regional issues to the state land planning agency for its adoption or rejection.

(c) Regional planning agencies shall be subject to rules adopted by the state land planning agency; however, a regional planning agency may adopt additional rules, not inconsistent with rules adopted by the state land planning agency, to promote efficient review of developments-of-regional-impact applications. Regional planning agency rules shall be adopted pursuant to chapter 120.

~~(24)(23)~~ STATUTORY EXEMPTIONS.—

(a) Any proposed hospital which has a designed capacity of not more than 100 beds is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

~~(25)(24)~~ AREAWIDE DEVELOPMENT OF REGIONAL IMPACT PLAN.—

(a) An authorized "developer," ~~as defined in paragraph (a),~~ may submit an areawide development of regional impact plan to be reviewed pursuant to the procedures and standards for development-of-regional-impact review set forth in this section. *The areawide development-of-regional-impact review shall include an areawide development plan in addition to any other information required by rule pursuant to this section.* After review and approval of an areawide development of regional impact plan under this section, all development within the defined planning area shall ~~must~~ conform to the approved areawide development plan and development order. Individual developments that conform to the approved areawide development plan shall not be required to undergo further development-of-regional-impact review, unless ~~such review is~~ otherwise provided for in the development order. ~~(a)~~ As used in this subsection, the term:

1. "Areawide development plan" means a plan of development that, at a minimum:

a. Encompasses a defined planning area approved pursuant to this subsection that will include at least two or more developments;

b. Maps and defines the land uses proposed, including the amount of development by use and development phasing;

c. Integrates a capital improvements program for transportation and other public facilities to ensure development staging contingent on availability of facilities and services;

d. Incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of regional and state significance; and

e. Specifies responsibilities and identifies the mechanisms for carrying out all commitments in the areawide development plan and for compliance with all conditions of any areawide development order.

~~1. "Areawide development plan" means a plan of development that encompasses a defined planning area that will include at least two or more developments.~~

2. "Developer" means any person or association of persons, including a governmental agency as defined in s. 380.031(6), that petitions for authorization to file an application for development approval for an areawide development plan.

(b) The state land planning agency shall establish by rule procedures and criteria for a developer to petition for authorization to submit a proposed areawide development of regional impact plan for a defined planning area. At a minimum, the rules shall provide for:

~~1. The submission of~~ A petition that shall be submitted to the local government, the regional planning agency, and the state land planning agency. Such petition shall include proof that timely, actual notice has been provided by the petitioner to each every person owning land within the proposed areawide development plan. This notice shall be in addition to other notice of public hearings as required by this act.

2. ~~The provision of~~ A public hearing or joint public hearing if required by paragraph (e) ~~(d)~~, with appropriate notice, before the affected local government.

3. ~~The provision of~~ Criteria for evaluating a petition, including, but not limited to:

a. Whether the developer is financially capable of processing the application for development approval through to final approval pursuant to this section.

b. Whether the defined planning area and anticipated development ~~therein in the defined planning area~~ appear to be of such a character, magnitude, and location that a proposed areawide development plan ~~would~~ will be in the public interest. The rules shall specify that any public interest determination under this criterion is preliminary and not binding on the state land planning agency, regional planning agency, or local government.

4. ~~The provision of~~ Standard forms for petitions and applications for development approval for use under this subsection.

(c) Any person may submit a petition to a local government having jurisdiction over an area to be developed, ~~requesting that which petition requests the local government to approve that such person as a developer, whether or not any or all development will be undertaken by that such person, and to approve the area as appropriate for an areawide development of regional impact.~~

(d) *A general purpose local government with jurisdiction over an area to be considered in an areawide development of regional impact shall not have to petition itself for authorization to prepare and consider an application for development approval for an areawide development plan. However, such a local government shall initiate the preparation of an application only after:*

1. *Scheduling and conducting a public hearing as specified in paragraph (e); and*

2. *After conducting such hearing, finding that the planning area meets the standards and criteria established by the state land planning agency pursuant to subparagraph (b)3. for determining that an areawide development plan will be in the public interest.*

(e)~~(d)~~1. The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days prior to the hearing. ~~At least 30 days prior to the public hearing,~~ The local government shall specifically notify in writing the regional planning agency and the state land planning agency ~~at least 30 days prior to the public of the hearing.~~ At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications, the need for, and benefits of, an areawide development of regional impact, and such other issues relevant to a full consideration of the petition.

2. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. Such ~~joint~~ hearing shall address, at a minimum, the need to resolve conflicting ordinances or comprehensive plans, if any. The local government ~~holding which holds~~ the joint hearing shall comply with the following additional requirements:

1.a. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.

2.b. The notice ~~of the hearing~~ shall be given to the state land planning agency, to the applicable regional planning agency, and to ~~such any~~ other persons as ~~who~~ may have been designated by the state land planning agency as entitled to receive such notices.

3.e. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

(f)~~(e)~~ Following the public hearing, the local government shall issue a written order, appealable under s. 380.07, which approves, approves with conditions, or denies the petition. ~~It The local government shall approve the petitioner as the developer if it the local government finds that the petitioner and defined planning area meet the standards and criteria, consistent with applicable law, established by the state land planning agency.~~

(g)~~(f)~~ The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the regional planning agency, and to the state land planning agency, within 30 days after the order becomes effective.

(h)~~(g)~~ The petitioner, an owner of property within the defined planning area, the appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in s. 380.07 shall be followed for such an appeal.

(i)~~(h)~~ After the time for appeal of the decision has run, an approved developer may submit an application for development approval for a proposed areawide development of regional impact plan for land within the defined planning area, pursuant to subsection (6). ~~The undertaking of Development undertaken~~ in conformance with an areawide development order issued under this section ~~shall does~~ not require further development-of-regional-impact review.

(j)~~(i)~~ In reviewing an application for a proposed areawide development of regional impact plan, the regional planning agency shall evaluate, and the local government shall consider, the following criteria, in addition to any other criteria set forth in this section:

1. Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact plan.

2. Whether the developer has demonstrated that all property owners within the defined planning area consent, or do not object to, the proposed areawide development of regional impact plan.

3. Whether the area and the anticipated development are consistent with the applicable local, regional, and state comprehensive plans ~~except as provided for in paragraph (k).~~

(k)~~(j)~~ In addition to the requirements of subsection (14) ~~(13)~~, a development order approving, or approving with conditions, a proposed areawide development of regional impact plan shall specify the approved land uses and the amount of development approved ~~within for~~ each land use category in the defined planning area. The development order shall incorporate by reference the approved areawide development plan. The local government shall not approve an areawide development plan that is inconsistent with the local comprehensive plan ~~except that a local government may amend its comprehensive plan pursuant to s. 380.06(6)(b).~~

(l)~~(k)~~ Any owner of property within the defined planning area may withdraw his consent to the areawide development plan at any time prior to local government approval, with or without conditions, of the petition, and the plan, ~~the areawide development order,~~ and the exemption from development-of-regional-impact review of individual projects under this section shall not thereafter apply to the owner's property. After the areawide development order ~~is issued plan is approved,~~ a landowner may withdraw his consent only with the approval of the local government.

(m) *If the developer of an areawide development of regional impact is a general purpose local government with jurisdiction over the land area included within the areawide development proposal and if no interest in the land within the land area is owned, leased, or otherwise controlled by a person, corporate or natural, for the purpose of mining or beneficiation of minerals, then:*

1. *Demonstration of property owner consent or lack of objection to an areawide development plan shall not be required; and*

2. *The option to withdraw consent does not apply and all property and development within the areawide development planning area shall be subject to the areawide plan and to the development order conditions.*

(n)~~(l)~~ After a development order approving an areawide development plan is received, ~~the developer shall submit any proposed changes shall be subject to the provisions of to the local government for a modification of the development order and a substantial deviation determination pursuant to subsection (19) (17), except the percentages and numerical criteria listed in paragraph (19)(b) shall be double those listed. A proposed change in the type of land use or an increase in the amount of development shall be presumed to create a substantial deviation.~~

Section 44. Section 380.061, Florida Statutes, is created to read:

380.061 Florida's Quality Developments program.—

(1) There is hereby created the Florida's Quality Developments program. The intent of this program is to encourage development which has been thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire.

(2) Developments which may be designated as Florida's Quality Developments are those developments which are above 80 percent of any numerical thresholds in the guidelines and standards for development-of-regional-impact review pursuant to s. 380.06.

(3)(a) As a condition precedent for designation under this program, the developer shall comply with each of the following requirements which is applicable to the site of a qualified development:

1. Have donated or entered into a binding commitment with the Board of Trustees of the Internal Improvement Trust Fund, or to the appropriate water management district created pursuant to chapter 373, to donate the fee or a lesser interest sufficient to protect in perpetuity the natural attributes of the following types of lands:

a. Wetlands and waterbodies within the jurisdiction of the Department of Environmental Regulation pursuant to s. 403.8171. This requirement may be waived where the department asserts jurisdiction over man-made canals or other artificially created waterbodies and the developer proposes a plan to redesign them in a manner which will more nearly approach a naturally functioning system. The developer may use such areas for the purpose of stormwater or domestic sewage management to the extent that such use is permitted pursuant to chapter 403.

b. Active beach or primary and secondary dunes and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Archives, History and Records Management of the Department of State.

d. Habitat known to be significant to one or more endangered or threatened plant and animal species designated by the U.S. Fish and Wildlife Service or by the Florida Game and Fresh Water Fish Commission or the Department of Agriculture and Consumer Services.

2. In lieu of the requirement in subparagraph 1., the developer may enter into a binding commitment which runs with the land to set aside such areas on the property as open space to be retained in a natural condition in perpetuity.

3. Produce, or dispose of, no substances designated as hazardous or toxic substances by the U.S. Environmental Protection Agency or by the Department of Environmental Regulation or the Department of Agriculture and Consumer Services.

4. Participation in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

5. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves or outstanding Florida waters.

6. Include open space, recreation areas, energy conservation, and minimize impermeable surfaces as appropriate to the location and type of project.

7. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts which the development will impose on publicly funded infrastructure and phase the development to insure that public infrastructure will be operational when needed.

8. Enter into a binding commitment with the state land planning agency to design and construct the development in a manner which is consistent with the adopted state plan, state land development plan, and the applicable adopted local government comprehensive plan.

(b) In addition to the foregoing requirements, the developer is encouraged to plan his development in a manner which considers innova-

tive design and the quality of life of the people who will live and work in or near the development. These additional amenities will be considered in determining whether the development qualifies for designation under this program.

(4) To apply for designation as one of Florida's Quality Developments, the developer shall submit an application which consists of:

(a) A series of large-scale maps which clearly depict the following information:

1. General location of the project.
2. Existing topography, indicating the project boundaries and those areas prone to flooding during a 100-year storm event.
3. Existing land uses showing existing uses on and abutting the project site.
4. Soils, for which a Soil Conservation Service soils survey may be used.
5. Vegetation associations, indicating the total acreage of each association, using Level III of The Florida Land Use and Cover Classification System.

6. The master drainage plan, delineating existing and proposed drainage areas, water retention areas, drainage structures, drainage easements, canals and other major drainage features.

7. The proposed plan of development which shows, at least, the proposed land uses, the type and location and density of each activity; recreation and open space; retained natural areas; points of sewage discharge; landfills or other waste disposal sites; well sites; sewage treatment facilities; roads and other capital improvements; and additional information to give a full and complete depiction of the types and location of activities which will occur within the development. If the project will have a proposed completion date of greater than 10 years from the start of construction, this information shall include the planned project phasing.

8. Existing highway and transportation network within a 5-mile radius from the project, indicating level of service.

(b) A recent vertical aerial photograph of the area clearly depicting the development boundaries.

(c) Agreements and other documentation sufficient to demonstrate compliance with subsection (3).

(5)(a) The developer shall submit the application to the state land planning agency, the appropriate regional planning agency, and the appropriate local government for review. The review shall be conducted under the time limits and procedures set forth in s. 120.60, except that the 90-day time limit shall cease to run when all three entities reviewing the project have notified the applicant of their decision on whether the development should be designated under this program.

(b) If all three reviewing entities agree that the project should be designated under this program, the state land planning agency shall issue a development order which incorporates the plan of development as set out in the application along with any agreed upon modifications and conditions and a certification that the development is designated as one of Florida's Quality Developments. Upon designation, the development, as approved, is exempt from development-of-regional-impact review pursuant to s. 380.06.

(c) If one or more of the reviewing entities recommends against designation, the development shall undergo development-of-regional-impact review pursuant to s. 380.06, except as provided in subsection (6) of this section.

(6)(a) In the event that the development is not designated under subsection (5), the developer may appeal that determination to the Quality Developments Review Board. The board shall consist of the secretary of the state land planning agency, the Secretary of the Department of Environmental Regulation, the Executive Director of the Florida Game and Fresh Water Fish Commission, the Executive Director of the Department of Natural Resources, the executive director of the appropriate water management district created pursuant to chapter 373, the executive director of the appropriate regional planning agency, and the chief executive officer of the appropriate local government. When there is a significant historical or archaeological site within the boundaries of a develop-

ment appeal to the board, the Director of the Division of Archives, History and Records Management of the Department of State shall also sit on the board. The staff of the state land planning agency shall serve as staff to the board.

(b) The board shall meet once each quarter of the year. However, a meeting may be waived if no appeals are pending.

(c) On appeal, the sole issue shall be whether the development meets the statutory criteria for designation under this program. An affirmative vote of at least five members of the board, including the affirmative vote of the chief executive officer of the appropriate local government, shall be necessary to designate the development by the board.

(d) The state land planning agency shall adopt procedural rules for consideration of appeals under this subsection.

(7) The development order issued pursuant to this section is enforceable in the same manner as a development order issued pursuant to s. 380.06.

Section 45. Section 380.065, Florida Statutes, is created to read:

380.065 Certification of local government review of development.—

(1) By petition to the Administration Commission, a local government may request certification to review developments of regional impact that are located within the jurisdiction in lieu of the regional review requirements set forth in s. 380.06. Such petitions shall not be accepted by the commission until the state comprehensive plan and the regional comprehensive policy plan have been adopted pursuant to chapter 186. To demonstrate the practicality of that certification program, the department shall work with at least one regional planning council where certification is desirable and feasible to have its comprehensive regional policy plan available for presentation to the Legislature no later than March 1, 1986. Once certified, the development of regional impact provisions of s. 380.06 shall not be applicable within such jurisdiction.

(2) When a petition is filed, the state land planning agency shall have no more than 90 days to prepare and submit to the Administration Commission a report and recommendations on the proposed certification. In deciding whether to grant certification, the Administration Commission shall determine whether the following criteria are being met:

(a) The petitioning local government has adopted and effectively implemented a local comprehensive plan and development regulations which comply with ss. 163.3161-163.3215, the Local Government Comprehensive Planning and Land Development Regulation Act.

(b) The local government's comprehensive plan is consistent with the adopted state comprehensive plan and adopted regional comprehensive policy plans applicable to the local governmental jurisdiction.

(c) The local government has adopted land development regulations and a capital improvements program which are consistent with and effectively implement the local comprehensive plan, and which provide that no development order may be approved until adequate provision has been made for the services and infrastructure necessary to support the development.

(d) The local government has authority for, and has established an effective mechanism for resolving greater-than-local impacts of developments.

(e) The local government comprehensive plan shall provide for effective intergovernmental coordination, including a method to address any significant incompatibilities between and among local government comprehensive plans where implementation of such incompatible plan would result in a substantial adverse effect on the citizens of another local government.

(f) The local government shall have adopted procedures which permit orderly local citizen participation in at least one public hearing held during the local government review process.

(g) The local government has adequate review procedures and the financial and staffing resources necessary to assume responsibility for adequate review of developments.

(h) The local government has a record of effectively monitoring and enforcing compliance with development orders, permits, and chapter 380.

(3) Development orders issued pursuant to this section are subject to the provisions of s. 380.07; however, a certified local government's findings of fact and conclusions of law are presumed to be correct on appeal. The grounds for appeal of a development order issued by a certified local government under this section shall be limited to:

(a) Inconsistency with the local government's comprehensive plan or land use regulations.

(b) Inconsistency with the state land development plan and the state comprehensive plan.

(c) Inconsistency with any regional standard or policy identified in an adopted regional comprehensive policy plan for use in reviewing a development of regional impact.

(d) Whether the public facilities meet or exceed the standards established in the capital improvements plan required by s. 163.3177 and will be available when needed for the proposed development, or that development orders and permits are conditioned on the availability of the public facilities necessary to serve the proposed development. Such development orders and permit conditions shall not allow a reduction in the level of service for affected regional public facilities below the level of services provided in the adopted comprehensive regional policy plan.

(4) After a local government has been certified to conduct development-of-regional-impact review, that review responsibility may be revoked by the Administration Commission upon a determination, subject to the provisions of s. 120.57, that one or more of the criteria specified in subsection (2) is not being met.

(5) Upon revocation of certification, developments of regional impact shall be reviewed by the regional planning agency designated development-of-regional-impact review responsibilities for the region in which the local government is located, pursuant to s. 380.06.

(6) The Administration Commission shall adopt rules to implement this section.

(7) A county may petition to conduct development-of-regional-impact review within a municipality if approved by the municipality, or so provided in the county charter or a special act.

(8) Nothing contained herein shall abridge or modify any vested or other rights or any obligations pursuant to any development order which are now applicable to developments of regional impact.

(9) Development of regional impact with pending applications for development approval may elect to continue such review pursuant to s. 380.06.

(10) The department shall submit an annual progress report to the President of the Senate and the Speaker of the House of Representatives by March 1 on the certification of local governments, stating which local governments have been certified. For those local governments which have applied for certification but for which certification has been denied, the department shall specify the reasons certification was denied.

Section 46. Section 380.0651, Florida Statutes, is created to read:

380.0651 Statewide guidelines and standards.—

(1) The statewide guidelines and standards for developments required to undergo development-of-regional-impact review provided in this section supersede the statewide guidelines and standards previously adopted by the Administration Commission that address the same development. The guidelines and standards shall be applied in the manner described in s. 380.06(2)(a).

(2) The Administration Commission shall publish the statewide guidelines and standards established in this section in its administrative rule in place of the guidelines and standards that are superseded by this act, without the proceedings required by s. 120.54 and notwithstanding the provisions of s. 120.545(1)(c). The Administration Commission shall initiate rulemaking proceedings pursuant to s. 120.54 to make all other technical revisions necessary to conform to the rules to this act. Rule amendments made pursuant to this subsection shall not be subject to the requirement for legislative approval pursuant to s. 380.06(2)(d).

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(a) Airports.—

1. Any of the following airport construction projects shall be presumed to be a development of regional impact:

- a. A new airport with paved runways.
- b. A new paved runway.
- c. A new passenger terminal facility.

2.a. Expansion of an existing runway or terminal facility by 25 percent or more on a commercial service airport or a general aviation airport with regularly scheduled flights shall be presumed to be a development of regional impact.

b. For the purpose of this section, runway expansion shall include strengthening the runway when the strengthening will result in an increase in aircraft size, or the addition of jet aircraft utilizing the airport.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity shall not be presumed to be a development of regional impact.

(b) Attractions and recreation facilities.—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, sports arenas, stadiums, race tracks, tourist attractions, amusement parks, and pari-mutuel facilities, the construction or expansion of which:

- 1. For single performance facilities:
 - a. Provides parking spaces for more than 2,500 cars; or
 - b. Provides more than 10,000 permanent seats for spectators; or
- 2. For serial performance facilities:
 - a. Provides parking spaces for more than 1,000 cars; or
 - b. Provides more than 4,000 permanent seats for spectators.

For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

(c) Industrial plants and industrial parks.—Any proposed industrial, manufacturing, or processing plant under common ownership, or any proposed industrial park under common ownership which provides sites for industrial, manufacturing, or processing activity which:

- 1. Provides parking for more than 2,500 motor vehicles; or
- 2. Occupies a site greater than 320 acres.

(d) Office development.—Any proposed office building or park operated under common ownership, development plan, or management, that:

- 1. Encompasses 300,000 or more square feet of gross floor area;
- 2. Has a total site size of 30 or more acres; or

3. Encompasses more than 600,000 square feet of gross floor area in counties with a population greater than 500,000 and only in geographic areas specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the comprehensive regional policy plan.

(e) Port facilities.—The proposed construction of any waterport or marina required to undergo development-of-regional-impact review, except those designed for:

- 1. The wet storage or mooring of less than 100 watercraft used exclusively for sport, pleasure or commercial fishing.
- 2. The dry storage of less than 150 watercraft used exclusively for sport, pleasure, or commercial fishing.
- 3. The wet or dry storage or mooring of less than 300 watercraft used exclusively for sport, pleasure, or commercial fishing in an area designated by the Governor and Cabinet in the state marina siting plan as suitable for marina construction.
- 4. The dry storage of less than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.

(f) Retail, service, and wholesale development.—Any proposed retail, service, or wholesale business establishment or group of establishments operated under one common property ownership, development plan, or management that:

- 1. Encompasses more than 400,000 square feet of gross area; or
- 2. Occupies more than 40 acres of land; or
- 3. Provides parking spaces for more than 2,500 cars.

(g) Hotel or motel development.—

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in counties with a population greater than 500,000, and only in geographic areas specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and the comprehensive regional policy plan.

(h) Recreational vehicle development.—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(i) Multi-use development.—Any proposed development with two or more land uses under common ownership, development plan, advertising or management where the sum of the percentages of the appropriate thresholds identified in chapter 27F-2, Florida Administrative Code, or this section, for each land use in the development is equal to or greater than 130 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(j) Residential development.—No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent county.

(4) The state land planning agency shall recommend to the Administration Commission specific criteria to be used in determining whether two or more developments shall be aggregated and treated as a single development under this act. The Administration Commission shall adopt appropriate aggregation criteria by rule no later than March 1, 1986. The rule shall specify criteria that, in addition to common ownership or majority interest, shall require that one or more of the following factors must exist: proximity, sharing of infrastructure, common advertising or management, or master plan or other corroborative documentation which includes each project in a unified plan of development.

Section 47. Subsection (5) is added to section 380.07, Florida Statutes, to read:

380.07 Florida Land and Water Adjudicatory Commission.—

(5) *If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403, and for which a permit or conceptual review approval has been obtained prior to the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed pursuant to this section, together with other issues which constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained prior to the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there shall be a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or conceptual approval has been obtained are not adversely affected.*

Section 48. Paragraph (a) of subsection (2) of section 380.11, Florida Statutes, is amended, and paragraph (d) is added to said subsection to read:

380.11 Enforcement; procedures; remedies.—

(2) ADMINISTRATIVE REMEDIES.—

(a) If the state land planning agency has reason to believe a violation of this part, s. 380.06, s. 380.065, s. 380.0651, or s. 380.0652 or of any rule, development order, or other order issued thereunder, or of any agreement entered into under s. 380.032(3) or s. 380.06(8) has occurred or is about to occur, it may institute an administrative proceeding pursuant to this section to prevent, abate, or control the conditions or activity creating the violation.

(d) *The state land planning agency may institute an administrative proceeding against any developer or responsible party to obtain compliance with s. 380.06 and binding letters, agreements, rules, orders, or development orders issued pursuant to s. 380.032(3), s. 380.05, s. 380.06, or s. 380.07. The state land planning agency may seek enforcement of its final agency action in accordance with s. 120.69 or by written agreement with the alleged violator pursuant to s. 380.032(3).*

Section 49. Paragraph (b) of subsection (2) of section 403.524, Florida Statutes, is amended to read:

403.524 Applicability and certification.—

(2) Except as provided in subsection (1), no construction of any transmission line may be undertaken without first obtaining certification under this act, but the provisions of this act do not apply to:

(b) Transmission lines which have been exempted by a binding letter of interpretation issued under s. 380.06(4), or in which the Department of Community Affairs or its predecessor agency has determined the utility to have vested development rights within the meaning of s. 380.05(18) or s. 380.06(20)(47).

Section 50. There is hereby appropriated from the General Revenue Fund of the state to the Department of Community Affairs the sum of \$150,000 to be used for the study of undeveloped platted lands and antiquated subdivisions in the State of Florida. One hundred thousand dollars of the total amount shall be used by the Department of Community Affairs to retain experts or consultants who shall prepare reports and suggest legislation on methods of deplatting antiquated subdivisions, on providing incentives for voluntary reassembly or replatting platted or subdivided lands, and on maintaining a proper balance between private property rights and the state's interest in the regulation of antiquated subdivisions and promoting well-planned developments and appropriate land usage throughout the state. The remaining \$50,000 shall be utilized by the Department of Community Affairs for its staff costs and expenses, including travel, in supporting, coordinating and reviewing the work of the consultants retained to work on the platted lands project.

Section 51. This act shall take effect October 1, 1985, except that this section, section 10, and subsection (8) of section 380.06, Florida Statutes, shall take effect July 1, 1985.

Amendment 1 to Senate Amendment 2—On page 1, line 12, through page 7, line 20, strike all of said pages and insert:

A bill to be entitled An act relating to growth management; amending part II of chapter 163, F.S.; revising the short title and various provisions of ss. 163.3161-163.3211, F.S., the Local Government Comprehensive Planning Act of 1975; revising definitions; deleting provisions relating to jurisdiction of municipalities over reserve areas; deleting application of act to special districts; requiring adoption or amendment of comprehensive plans by counties and municipalities; requiring submission to state and regional planning agencies; providing deadlines for establishment of planning agency and preparation of plan by newly established municipalities; requiring preparation of plan by regional planning agency under certain circumstances and providing for compensation; providing application to Reedy Creek Improvement District; repealing s. 163.3171(4), F.S., relating to said district; deleting requirement of passage of ordinance of intent to exercise authority under the act; revising provisions relating to designation of local planning agencies and appropriations of funds therefor; specifying responsibilities of such agencies; revising required elements of the comprehensive plan; repealing s. 163.3177(6)(i) and (7)(e), F.S., relating to a required utility element and an optional public services and facilities element; creating s. 163.3178, F.S.; providing legislative intent; providing coastal management element content; revising requirements relating to adoption of comprehensive plans and submission to specified agencies; providing duties of state land planning agency; directing the state land planning agency to adopt minimum criteria for the review of local comprehensive plans; directing counties and municipalities to comply with adopted requirements concerning local comprehensive plans; providing for review and hearings; providing that local govern-

ments found to be not in compliance are ineligible for certain funding, specified grants, and certain revenue sharing; revising procedures for, and providing restrictions on, amendment of comprehensive plans; requiring submission of current plans to the state land planning agency by a specified date; providing for updating plans on file; revising provisions relating to conflict with other statutes; revising procedures for amendment of plans based on periodic evaluation reports; providing for cooperation between agencies; providing for the relationship between land development regulations and adopted plans; specifying status of certain development order applications; creating ss. 163.3202, 163.3213, and 163.3215, F.S.; providing for land development regulations; providing for periodic review of land development regulations; providing for enforcement; providing for administrative review; providing for actions to prevent local government action on development orders that are inconsistent with comprehensive plans; repealing ss. 163.160, 163.165, 163.170, 163.175, 163.180, 163.183, 163.185, 163.190, 163.195, 163.200, 163.205, 163.210, 163.215, 163.220, 163.225, 163.230, 163.235, 163.240, 163.245, 163.250, 163.255, 163.260, 163.265, 163.270, 163.275, 163.280, 163.285, 163.290, 163.295, 163.300, 163.305, 163.310, 163.315, F.S., relating to optional planning authority for counties and municipalities to plan for future development; repealing s. 163.3207, F.S., relating to technical advisory committees; providing legislative intent; amending s. 163.01, F.S.; providing procedures for authorizing bonds; amending s. 171.062, F.S.; providing requirements for certain annexed areas; amending s. 186.508, F.S.; prescribing procedures for adoption of comprehensive regional policy plans; creating a committee for the study of substate district boundaries; amending s. 253.193, F.S.; providing coordination planning; amending ss. 163.360, 190.004, 190.005, 193.501, 339.175, 378.011, and 378.021, F.S.; conforming terminology; amending s. 161.053, F.S., relating to coastal construction and excavation; providing for local hearings and requiring a public hearing by the Governor and Cabinet; providing for the adoption and reestablishment of coastal construction control lines; restricting permitting authority for certain structures which will be seaward of the seasonal high-water line within a specified period; revising penalty provisions; revising exemptions and provisions relating to purchase of land; authorizing permitting of certain repair or rebuilding; amending s. 161.0535, F.S.; revising provisions relating to the fee schedule for permits; amending s. 161.054, F.S.; revising administrative penalty and liability provisions; creating ss. 161.52-161.58, F.S., the "Coastal Zone Protection Act of 1985"; providing legislative intent; providing definitions; providing requirements for construction within the coastal building zone and barrier islands; providing for local enforcement; requiring a disclosure statement with respect to the sale or transfer of certain coastal property; providing requirements with respect to vehicular traffic on coastal beaches; authorizing certain fees; providing penalties; creating s. 380.26, F.S.; providing for establishment of coastal building zones for certain counties; creating s. 380.27, F.S.; prohibiting use of state funds for bridges or causeways to certain barrier islands; prohibiting use of state funds for certain projects in certain coastal areas; requiring reports; amending s. 403.813, F.S., relating to permits issued at district centers; specifying that certain exemptions do not affect the requirements of chapter 161; amending s. 125.0104, F.S.; authorizing use of the local option tourist development tax to finance beach improvement and maintenance; authorizing issuance of revenue bonds; amending s. 380.031, F.S.; revising definitions; amending s. 380.032, F.S.; providing for approval of certain rules by the Administration Commission; amending s. 380.06, F.S., relating to developments of regional impact; providing for adoption of statewide guidelines and standards; providing for variation of thresholds in statewide guidelines and standards; requiring that a developer obtain a binding letter of interpretation under certain circumstances; authorizing local governments to petition that development in an adjacent jurisdiction obtain a binding letter; revising time period for issuance of binding letters; providing a time period after which certain binding letters expire; deleting certain provisions relating to local governments which have no subdivision or zoning ordinances; specifying effect on state and regional permits; providing for concurrent consideration of related local government comprehensive plan amendments; authorizing preliminary development agreements; authorizing developer to elect a conceptual agency review by certain permitting agencies; removing provisions which establish an optional coordinated review process; requiring development orders to contain dates until which the approved development will not be subject to down-zoning, unit density reduction, or intensity reduction, except in certain circumstances; providing criteria for development orders that require certain contributions by developers; authorizing the state land planning agency to record certain notices; providing certain credits and other related provisions for developers who are required to make contributions; revising procedures and criteria for substantial deviation deter-

minations; providing for expiration of certain provisions relating to vested rights; deleting requirement for biweekly notice of applications for development; revising provisions for changes to development orders of downtown development authorities; authorizing the state land planning agency and the regional planning agencies to develop rules relating to reduced information requirements; providing that a general purpose local government shall not have to petition itself to prepare an application for an areawide development plan; making certain provisions with regard to property owner consent and withdrawal of consent if the developer of an areawide development is a general purpose local government; revising provisions for changes to areawide development plans; creating s. 380.061, F.S.; providing for Florida's Quality Developments Program; creating s. 380.065, F.S.; providing for certification of local review of development in lieu of regional review; creating s. 380.0651, F.S.; providing statewide presumptive guidelines and standards; amending s. 380.07, F.S.; providing additional appeal procedures; amending s. 380.11, F.S.; revising power of state land planning agency with respect to administrative remedies; amending s. 403.524, F.S.; correcting cross-references; providing an appropriation; providing effective dates.

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

CS for HB 287 passed as amended. The action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Mr. President	Fox	Johnson	Myers
Beard	Frank	Kiser	Stuart
Carlucci	Girardeau	Langley	Thomas
Castor	Grant	Malchon	Thurman
Childers, D.	Hill	Mann	Vogt
Childers, W. D.	Jenne	Margolis	Weinstein
Dunn	Jennings	McPherson	

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick, Neal

SPECIAL ORDER, continued

CS for HB 1202—A bill to be entitled An act relating to environmental protection; creating the "Apalachicola Bay Area Protection Act"; providing legislative intent; designating Franklin County, excluding certain lands, as an area of critical state concern to be known as the Apalachicola Bay Area; providing for removal of such designation; providing for the application of certain land and water management laws; providing for the appointment of a resource planning and management committee; providing duties; providing principles for guiding development in the area; providing for comprehensive plan elements and land development regulations; providing for modifications; providing for local government requirements; providing a penalty; providing procedures for applications for certain grants; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendments which were adopted:

Amendment 1—On page 5, line 8, strike "(18),"

Amendment 2—On page 7, between lines 3 and 4, insert: (7) Review the study done pursuant to (3) (a) of section 9 of this act, and make recommendations for implementation and funding.

Amendment 3—On page 12, line 1, strike "this" and insert: the

Amendment 4—On page 14, line 7, strike "penalties for failing to correct" and insert: procedures for correcting

Amendment 5—On page 11, line 31, after "agency" insert: , after consulting with the appropriate local government,

On motion by Senator Barron, by two-thirds vote CS for HB 1202 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Frank	Kirkpatrick	Stuart
Barron	Girardeau	Kiser	Thomas
Beard	Gordon	Langley	Thurman
Carlucci	Grant	Malchon	Vogt
Castor	Hill	Mann	Weinstein
Childers, W. D.	Jenne	Margolis	
Dunn	Jennings	McPherson	
Fox	Johnson	Myers	

Nays—None

Vote after roll call:

Yea—Gersten, Neal

CS for CS for SB 997—A bill to be entitled An act relating to the Department of Law Enforcement; amending s. 943.05, F.S.; redefining the duties of the Division of Criminal Justice Information Systems; planning an automated fingerprint identification system; requiring uniform offense and arrest reports; initiating a crime information system; directing certain crime reports be published; providing for certain training; amending s. 943.051, F.S., relating to criminal justice information collection and storage; amending s. 943.052, F.S.; eliminating prior approval of certain rules by the Supreme Court; amending s. 943.06, F.S.; requiring semiannual meetings of the Criminal Justice Information Systems Council; amending s. 943.08, F.S.; providing additional duties of the Criminal Justice Information Systems Council; requiring the council to review proposed rules and amendments thereto; providing for the operation, maintenance, and use of an automated fingerprint identification system; establishing the minimum information requirements of uniform reports; providing for cooperation with the Criminal Justice Standards and Training Commission; amending s. 943.12, F.S.; providing for employment standards; amending s. 943.131, F.S.; requiring compliance with firearms training; providing procedures for exemption from training requirements; amending s. 943.1395, F.S., relating to concurrent certification; amending s. 943.19, F.S.; modifying the savings clause; amending s. 943.22, F.S.; amending s. 943.22, F.S.; increasing training hour units for salary incentive payments; modifying reporting dates; requiring educational salary incentive payments for correctional officers; amending s. 943.25, F.S.; eliminating training trust fund contributions to fund the Division of Criminal Justice Standards and Training; providing for amendments to the advanced training program; increasing the assessment; providing for the distribution of the assessment; modifying the approval of local funds collected for training purposes; eliminating regional construction projects; establishing an Administrative Trust Fund; eliminating dated referenced Public Law; providing the operation of the division to be paid from the Administrative Trust Fund; providing for specific legislative appropriation of trust fund deposits; amending s. 943.362, F.S.; providing for the deposit of funds; providing an appropriation; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for CS for SB 997 to conform the bill to CS for HB 1358.

Pending further consideration of CS for CS for SB 997 on motion by Senator Beard, 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 1358 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Criminal Justice and Representative Martinez and others—

CS for HB 1358—A bill to be entitled An act relating to the Department of Law Enforcement; amending s. 943.05, F.S.; redefining the duties of the Division of Criminal Justice Information Systems; planning an automated fingerprint identification system; requiring uniform offense and arrest reports; initiating a crime information system; directing certain crime reports be published; providing for certain training; amending s. 943.051, F.S., relating to criminal justice information collection and storage; amending s. 943.052, F.S.; eliminating prior approval of certain

rules by the Supreme Court; amending s. 943.06, F.S.; requiring semiannual meetings of the Criminal Justice Information Systems Council; amending s. 943.08, F.S.; providing additional duties of the Criminal Justice Information Systems Council; requiring the council to review proposed rules and amendments thereto; providing for the operation, maintenance, and use of an automated fingerprint identification system; establishing the minimum information requirements of uniform reports; providing for cooperation with the Criminal Justice Standards and Training Commission; amending s. 943.12, F.S.; providing for employment standards; amending s. 943.131, F.S.; requiring compliance with firearms training; providing procedures for exemption from training requirements; amending s. 943.1395, F.S., relating to concurrent certification; amending s. 943.19, F.S.; modifying the savings clause; amending s. 943.22, F.S., increasing training hour units for salary incentive payments; modifying reporting dates; requiring educational salary incentive payments for correctional officers; amending s. 943.25, F.S.; eliminating training trust fund contributions to fund the Division of Criminal Justice Standards and Training; providing for amendments to the advanced training program; increasing the assessment; providing for the distribution of the assessment; modifying the approval of local funds collected for training purposes; eliminating regional construction projects; establishing an Administrative Trust Fund; eliminating dated referenced Public Law; providing the operation of the division to be paid from the Administrative Trust Fund; providing for specific legislative appropriation of trust fund deposits; amending s. 943.362, F.S.; providing for the deposit of funds; providing an appropriation; 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 read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Beard, by two-thirds vote CS for HB 1358, a companion measure, was substituted for CS for SB 997 and by two-thirds vote read the second time by title. On motion by Senator Beard, by two-thirds vote CS for HB 1358 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Dunn	Jennings	Scott
Barron	Fox	Johnson	Stuart
Beard	Frank	Kiser	Thomas
Carlucci	Girardeau	Langley	Thurman
Castor	Gordon	Malchon	Vogt
Childers, D.	Grant	Margolis	Weinstein
Childers, W. D.	Grizzle	Myers	
Deratany	Jenne	Peterson	

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick, Neal

CS for CS for SB 997 was laid on the table.

Consideration of SB 136, CS for SB 761 and CS for SB 526 was deferred.

CS for CS for SB 973—A bill to be entitled An act relating to insurance; amending s. 624.316, F.S.; clarifying the scope of department examinations; authorizing acceptance of audited certified accountant's reports in lieu of certain insurer examinations; amending s. 624.407, F.S.; increasing minimum capital, surplus, or net trust fund requirements for insurers; amending s. 624.408, F.S.; and creating s. 624.4081, F.S.; changing the calculation of certain insurer surplus requirements and requiring existing insurers to meet certain surplus requirements; providing a schedule for certain insurers to meet capital, surplus, special surplus or net trust fund requirements; creating s. 624.4095, F.S., authorizing the Department of Insurance to restrict premiums written by an insurer under certain circumstances; amending s. 624.411, F.S., increasing the deposit requirement for domestic and foreign insurers; increasing the maximum amount of discretionary deposit requirements for certain insurers; amending s. 624.413, F.S., requiring that an applicant for an insurance certificate of

authority furnish copies of existing and proposed nonfacultative reinsurance contracts; changing provisions relating to the timeliness of insurer examination reports; authorizing acceptance by the department of audited certified public accountant's report in lieu of certified examination reports; amending s. 624.418, F.S., providing for annual determinations of net premiums written to surplus for certain purposes; amending s. 624.424, F.S., requiring certain insurers to provide to the department a certified public accountant's audited financial statement and opinion and other information; providing for maintenance of data and exemptions; creating s. 624.4241, F.S., requiring insurers to file an additional copy of certain reports with the department to be forwarded to the National Association of Insurance Commissioners; providing for payment of certain fees; amending s. 624.610, F.S., requiring submission of copies of reinsurance treaties by ceding insurers to the department; authorizing use of reinsurance consultants and payment therefor; disallowing authority for granting certain reinsurance credits in certain financial statements; amending s. 625.012, F.S., revising premiums in the course of collection which may be allowed as an asset of an insurer; providing definitions; providing restrictions; amending s. 625.52, F.S., changing the types of investments in which insurer deposits may be made; providing additional investment requirements; amending s. 625.55, F.S., revising language relating to custodial arrangements in lieu of insurer deposit requirements; amending s. 625.58, F.S., placing the responsibility for maintaining the market value of deposits on the depositing insurer; providing for optional deposits by insurers; amending s. 626.091, F.S., restricting use of supervisors or managers by certain insurers unless licensed as a supervising or managing general agent; placing responsibility with the insurer for acts of its supervising or managing general agent; exempting surplus lines insurance; amending s. 627.321, F.S., authorizing the department to examine certain insurers and under certain circumstances; amending s. 627.915, F.S., changing a reporting date affecting certain insurers; deleting the scheduled reporting date for products liability insurance; limiting a reporting requirement of the department; amending s. 629.131, F.S., disallowing the use of cash in lieu of certain securities to meet the alternative deposit authorized for reciprocal insurers; providing for an appropriation; providing effective dates.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote CS for CS for SB 973 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Dunn	Johnson	Stuart
Barron	Frank	Kiser	Thomas
Beard	Girardeau	Langley	Thurman
Carlucci	Gordon	Malchon	Vogt
Castor	Grant	Margolis	Weinstein
Childers, D.	Hill	Myers	
Childers, W. D.	Jenne	Neal	
Deratany	Jennings	Peterson	

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick

CS for SB 974—A bill to be entitled An act relating to insurance; amending s. 631.021, F.S., relating to venue of a summary proceeding against insurers brought under chapter 631, F.S., relating to insolvency; creating s. 631.153, F.S., prohibiting intervention in insurer delinquency proceedings and providing for exclusiveness of the claims procedure regarding the insurer receivership estate; amending s. 631.171, F.S., correcting incorrect cross-references; amending s. 631.193, F.S., providing that a release does not discharge a guaranty association from certain responsibilities and duties; amending s. 631.252, F.S., revising time periods for the continuation of certain insurance policies; amending s. 631.263, F.S., providing for the invalidity of a transfer after the filing of the original petition in any delinquency proceeding; amending s. 631.361, F.S., providing for filing by the department solely in the circuit court in and for Leon County its petition alleging a ground for a delinquency proceeding; limiting the period of the order with respect to the proceeding; providing for an extension; amending s. 631.391, F.S., providing that an order of rehabilitation or liquidation does not operate to release certain persons from the duty to cooperate with the department with respect to any proceeding under chapter 631, F.S.; amending s. 631.57, F.S., providing the method of service of process upon the Florida Insurance Guaranty Association, Incorporated; amending s. 631.717, F.S., restricting the lia-

bility of the association; providing the method of service of process upon the Florida Life and Health Insurance Guaranty Association; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote CS for SB 974 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

On motions by Senator Castor, the rules were waived and by two-thirds vote CS for HB 121 was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Castor—

CS for HB 121—A bill to be entitled An act relating to postsecondary education; creating s. 240.4066, F.S., establishing the “Chappie” James Most Promising Teacher Scholarship Program; providing for scholarships to selected graduating seniors from each public school district; prescribing criteria for eligibility; providing for the appropriation and allocation of funds; providing criteria for nomination and selection of candidates; providing conditions of scholarships; providing for rules; providing an effective date.

—a companion measure, was substituted for SB 136 and read the second time by title.

Senator Castor moved the following amendment:

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

Section 1. Section 240.4068, Florida Statutes, is created to read:

240.4068 “Chappie” James Most Promising Teacher Scholarship Program.—

(1) This act may be cited as the “Chappie’ James Most Promising Teacher Scholarship Act.”

(2) There is hereby created the “Chappie” James Most Promising Teacher Scholarship Program, which shall offer to a top graduating senior from each public secondary school in the state a full 4-year scholarship to attend a state university, a community college, or an independent institution as defined in s. 240.401(2). To be eligible, a student shall be ranked within the top quartile of the senior class and shall make a written agreement to enter the public teaching profession in Florida for a minimum number of years, at least equal to the number of years of postsecondary instruction received through the program.

(3) Funds appropriated by the Legislature for the program shall be deposited in the Critical Teacher Shortage Trust Fund. Of such funds, at least one scholarship shall be reserved annually for each public high school. Fifteen percent of scholarships awarded shall be to minority students. Any unexpended funds allocated to the program shall remain in the trust fund and shall be available to be appropriated for use in any of the programs supported by the fund, and as otherwise provided for by law.

(4) Three candidates from each public secondary school in the state shall be nominated by the principal and a committee of teachers based on criteria which shall include, but need not be limited to, rank in class, standardized test scores, cumulative grade point average, extracurricular activities, letters of recommendation, and an essay and declaration of intention to teach in a public school in the state. From such nominees, the Commissioner of Education shall select a graduating senior from each high school to receive a scholarship, with priority given to candidates who plan to teach in critical teacher shortage areas identified by the State Board of Education.

(5) Each scholarship shall be limited to \$4,000 per year and shall be subject to annual renewal contingent upon the recipient maintaining full-time enrollment status and a grade point average of at least 3.0 on a 4.0 scale, or the equivalent. No person shall receive a scholarship for more than 4 years. Recipients shall not be eligible to participate in the teacher scholarship loan program under s. 240.4062 or the student loan forgiveness program under s. 231.621.

(6) Any recipient who fails to complete an appropriate program of studies or fails to teach in accordance with the conditions specified in this section shall be responsible for repaying the scholarship amount plus interest at the prevailing rate, and the Department of Education shall take action for repayment in the manner prescribed in s. 240.465 in order to accomplish the intent and purposes of this act.

(7) The State Board of Education shall adopt rules necessary for the implementation of the program. Such rules shall prescribe the prevailing rate of interest as required in subsection (6).

Section 2. 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.*

Section 3. Subsection (3) of 201.08, Florida Statutes, is amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(3) No documentary stamps shall be required on promissory notes executed for students to receive financial aid from federal or state educational assistance programs, from loans guaranteed by the Federal Government or the state where federal regulations prohibit the assessment of such taxes against the borrower, or for any financial aid program administered by a state university or community college, and the holders of such promissory notes shall not lose any rights incident to the payment of such stamp costs.

Section 4. Paragraph (p) is added to subsection (3) of section 240.311, Florida Statutes, to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(p) *Encourage and support activities which promote and advance college and statewide direct support organizations.*

Section 5. Section 240.356, Florida Statutes, is created to read:

240.356 Sunshine State Skills Program.—

(1) The Sunshine State Skills Program is hereby created to act as a catalyst to bring the community colleges of the state and employers with specific training needs related to new, expanding, or diversification of business. The program shall provide grants to community colleges for the purpose of providing instructional programs that coincide with targeted current and future employer requirements. A participating business must match the grant amount in the form of funding, equipment, or facility use.

(2) The program shall be operated by the State Board of Community Colleges with the advice of an Economic Development Advisory Committee appointed by the state board under its rules. The Director of the Division of Economic Development of the Department of Commerce shall serve as an advisor to the committee. The committee shall review applications and make recommendations to the State Board of Community Colleges regarding the approval of grants for the Sunshine State Skills Program.

(3) The State Board of Community Colleges, in conjunction with business organizations, shall sponsor an annual conference which will promote the purposes of the Sunshine State Skills Program and increase communication and cooperation among agencies of federal, state, and municipal government and all interested institutions, persons, firms, or corporations concerned with business and industry, economic development, employment, skills training, and education.

(4) The State Board of Community Colleges, with advice from its Economic Development Advisory Committee, shall provide grants to community colleges, not in excess of \$200,000 per grant, provided, however, that the grant funds shall not be used for the purchase of equipment. The commitment of financial support from participating business and industry shall be equal to or greater than the amount of the requested grant.

(5) An application from a community college for the Sunshine State Skills Program shall contain a proposal for a program of skills training and education, including a description of the program, the type of skills training or education to be provided; a statement of the total cost of the program and a breakdown of the costs associated with personnel, facilities, and materials; a statement of the employment need for the program and evidence in support thereof, a statement of the technical assistance and financial support for the program received or to be received from business and industry; and such other information as the State Board of Community Colleges shall request.

(6) To assist in carrying out this act, the State Board of Community Colleges and each community college are authorized to accept grants of money, materials, services, or property of any kind from a federal agency, private agency, corporation, or individual, upon such terms and conditions as such federal agency, private agency, corporation, or individual may impose.

Section 6. Section 240.4066, Florida Statutes, is created to read:

240.4066 Masters' Fellowship Loan Program for Teachers.—

(1) For the purpose of attracting and retaining highly qualified post-secondary graduates into public school teaching in Florida, there is hereby created the Masters' Fellowship Loan Program for Teachers. The primary objective of the program shall be to attract liberal arts graduates and science graduates to teaching and to provide an opportunity for mid-career decisions to enter the teaching profession.

(2) Any university in this state may establish a Masters' Program for Teachers where the College of Education and the College of Arts and Sciences shall jointly develop a cooperative program that will allow a liberal arts graduate or a science graduate to receive a master's degree and be certified as a teacher by the Department of Education.

(3) To be eligible, a candidate shall:

(a) Hold a bachelor's degree from any college or university accredited by a Regional Accrediting Association as defined by State Board of Education Rule 6A-4.03.

(b) Have maintained an undergraduate grade-point average of at least 3.0 on a 4.0 scale or the equivalent in his major subject area of study and have attained a Graduate Record Examination score of 1000 or above;

(c) Have declared an intention to teach in public schools of Florida for 3 years in a critical teacher shortage location identified by the State Board of Education; and

(d) Be a candidate for admission to a Masters' Program for Teachers based on criteria adopted by the State Board of Education.

(4) Each candidate shall be selected by the Commissioner of Education and awarded a fellowship loan for tuition and fees to cover the costs of two semesters and up to two summer sessions, plus \$6,000 for the Masters' Fellowship Loan Program for Teachers.

(5) After the candidate has successfully completed a master's degree, the Department of Education shall provide temporary certification to the candidate, and, after the candidate has completed a successful first year of teaching in the Beginning Teacher Program, the department shall provide regular certification to the candidate.

(6) Universities shall work with local school districts to develop cooperative agreements which will provide for placement of the candidates upon completion of the Masters' Program for Teachers.

(7) Fellowship recipients shall complete 3 years of public school service within 5 years after graduation from the program. Any person who fails to complete the training program or the required teaching service shall be responsible for repaying the fellowship loan plus interest at prevailing rates. Repayment schedules and applicable interest rates shall be fixed by rules of the State Board of Education.

(8) The State Board of Education shall adopt any rules necessary to implement the program.

Section 7. Section 240.4067, Florida Statutes, is created to read:

240.4067 Medical Education Loan Reimbursement Program.—

(1) In order to encourage qualified medical personnel to practice in underserved areas of this state in which physician shortages exist, there is established the Medical Education Loan Reimbursement Program. The primary function of the program shall be to make repayments towards loans received by students from federal programs or commercial lending institutions for the support of studies leading to a medical degree at an accredited, recognized Florida medical school.

(2) From the funds available, the Department of Education is authorized to make loan principal repayments to selected physicians as follows:

(a) Up to \$5,000 per year or an amount equivalent to the annual tuition and fees paid by the loan recipient during the last year of medical school, whichever is greater, for up to three years.

(b) Eligible applicants shall have completed their medical studies after July 1, 1987.

(c) All repayments shall be contingent on continued proof of full-time practice in an underserved area identified by the Department of Health and Rehabilitative Services. In addition to identification of appropriate sites, the Department of Health and Rehabilitative Services shall be responsible for eliciting civic and local governmental support for the physician and for liaison with county public health units which have been designated as appropriate practice sites.

(d) Repayments shall be limited to licensed physicians who have been trained in and agree to practice a primary care specialty.

(3) The Department of Education and Department of Health and Rehabilitative Services are authorized to promulgate any rules necessary for the administration of this program.

(4) The Department of Education shall submit a budget request to the Legislature for support for this program beginning with the 1987-88 fiscal year.

Section 8. Section 240.414, Florida Statutes, 1984 Supplement, is amended to read:

240.414 Latin American and Caribbean Basin Scholarship Program.—

(1)(a) There is created the Latin American and Caribbean Basin Scholarship Program to be administered by the Department of Education. The purpose of the program is to provide support for students from Latin American and Caribbean countries to pursue postsecondary training in this state that will enable them to address the social and economic development needs of the region.

(b) There is created the Latin American and Caribbean Basin Scholarship Trust Fund. The Comptroller shall authorize expenditures from this fund upon receipt of vouchers approved by the Department of Education. Any balance in the trust fund at the end of a fiscal year shall remain in the trust fund and be available for carrying out the purposes of this program.

(2) The institutions that are eligible to participate in the scholarship program include the state universities and community colleges authorized by Florida law and any independent institutions eligible to participate in the state tuition voucher program pursuant to s. 240.401. No college or university may receive more than 25 percent of the funds appropriated in any year. Institutions shall seek matching funds from private businesses, public foundations, and other appropriate agencies.

(3) Scholarships shall not exceed \$3,000 per individual in any one semester shall be determined annually by the General Appropriation Act. An eligible student may receive awards under this program for up to 11 1/2 semesters or the equivalent, three of which may be used for intensive English language training.

(4) In order to be eligible to participate in the Latin American and Caribbean Basin Scholarship Program, a student:

(a) Must be accepted for enrollment or be enrolled as a full-time undergraduate student at an eligible college or university or be accepted in an intensive English language institute prior to enrollment in an eligible college or university;

(b) Must be a citizen of a Caribbean, Central American, or South American country;

(c) Must have declared an intention to return to his country of origin upon completion of his studies and remain there for at least the number of years equal to the number of annual awards received under this program; and

(d) Must be in need of financial assistance.

(5) As a condition for renewal of a scholarship, a student must maintain a cumulative grade point average of 2.0 on a 4.0 scale or the equivalent for the period covered by scholarships previously received by him under this program.

(6) *Eligible colleges and universities are authorized to waive out-of-state fees for scholarship recipients.*

(7)(6) The State Board of Education is authorized to adopt any rules necessary for the implementation of this program and to identify areas of study which should be given priority in the use of the awards.

Section 9. Florida Center for Educational Statistics.—

(1) There is created the Florida Center for Educational Statistics which shall be assigned to the Department of Education for administrative purposes. The center shall serve as the official source for information used to support educational planning and budgeting, and evaluation decisions made by the Governor, the State Board of Education, the Postsecondary Education Planning Commission, the Department of Education and each of its divisions, educational governing boards, and educational institutions and school districts. The center shall be provided and shall include information on all levels of public education and other educational institutions and programs as appropriate and practicable. The information shall also be available for use by the Legislature.

(2) The Florida Center for Educational Statistics Advisory Committee shall be responsible for hiring the center director and establishing broad general educational statistical guidelines of the center. The committee shall be composed of four members as follows:

(a) One member of the Senate appointed by the President of the Senate;

(b) One member of the House appointed by the Speaker of the House of Representatives;

(c) One member of the Office of the Governor appointed by the Governor; and

(d) The Commissioner of Education.

(3) A designee may be appointed by each of the members.

(4) The director shall have the following responsibilities:

(a) Develop and maintain the functional design and organizational structure for the center;

(b) Identify appropriate computer hardware and software applications necessary for the center to perform its function;

(c) Identify data elements to be maintained by the center including fiscal, student, program, personnel, facility, demographic, and other relevant information;

(d) Develop standardized input and output formats, terminology, definitions, and procedures for the official Florida educational statistics maintained by the center; and

(e) Provide for continuous evaluation and enhancement of the accuracy, effectiveness, and efficiency of the center data base, including monitoring and enforcement of compliance with data standards.

(5) A Florida Center for Educational Statistics user group shall be composed of one staff person from each of the following:

(a) Postsecondary Education Planning Commission;

(b) Board of Regents;

(c) State Board of Community Colleges;

(d) Division of Vocational Education;

(e) Division of Public Schools;

(f) Deputy Commissioner for Administration;

(g) Deputy Commissioner for Special Programs;

(h) Deputy Commissioner;

(i) State Board of Independent Colleges and Universities;

(j) State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools;

(k) Office of the Governor;

(l) The Senate, and

(m) The House of Representatives.

Section 10. Paragraph (c) of subsection (4) of section 20.15, Florida Statutes, 1984 Supplement, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(4) The State Board of Education and the Commissioner of Education:

(c) Shall assign to the State Board of Community Colleges such powers, duties, responsibilities, and functions as are necessary to ensure the coordination, efficiency, and effectiveness of community colleges, except those duties specifically assigned to the Commissioner of Education in ss. 229.512(2)-(14) and 229.551 and the duties concerning physical facilities in chapter 235.

Section 11. Paragraph (u) is added to subsection (2) of section 110.205, Florida Statutes, 1984 Supplement, to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided no position, except for positions established for a limited period of time pursuant to paragraph (i), shall be exempted if the position reports to a position in the career service:

(u) 1. *Administrative and professional positions as determined by the State Board of Community Colleges.*

2. *Those administrative and professional positions nominated by the State Board of Community Colleges and accepted by the department for inclusion within the Senior Management Service. The salaries of these positions shall be set by the department in accordance with the classification and pay plan established for the Senior Management Service.*

Section 12. Subsection (4) of section 240.311, Florida Statutes, 1984 Supplement, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(4) The State Board of Community Colleges shall appoint, and may suspend or dismiss, an executive director of the community college system. *Notwithstanding the provisions of s. 229.512(1), the board shall establish, maintain, and administer a personnel classification and pay plan for the administrative and professional employees of the Division of Community Colleges.* The board shall fix annually the compensation for the executive director and for all other professional, administrative, and clerical employees necessary to assist the board and the executive director in the performance of their duties. The executive director shall serve as executive officer and as secretary to the board; shall attend, but not vote at, all meetings of the board except when on authorized leave; shall be in charge of the offices of the board, including appointment and termination of staff; and shall be responsible for the preparation of reports and the collection and dissemination of data and other public information relating to the state community college system. The executive director shall conduct systemwide program reviews for board

approval; prepare the legislative budget request for the system; and, upon the request of the board, represent the system before the Legislature and the State Board of Education, including representation in the presentation of proposed rules to the State Board of Education. The board may, by rule, delegate to the executive director any of the powers and duties vested in or imposed upon it by this part. Under the supervision of the board, the executive director shall administer the provisions of this part and the rules established hereunder and all other applicable laws of the state.

Section 13. Subsection (9) of section 240.36, Florida Statutes, is hereby repealed, and subsections (3), (5), (7), and (8) of said section are amended to read:

240.36 Florida Academic Improvement Trust Fund for Community Colleges.—

(3) For every year in which there is a legislative appropriation to the trust fund, funds sufficient to provide each community college with the opportunity to match at least one \$25,000 challenge grant shall be reserved. The balance of the funds shall be available for matching by any community college. Trust funds which remain unmatched by contribution or pledge on March 1 of any year, 1984, shall also be available for matching by any community college. The State Board of Education shall adopt rules providing all community colleges with an opportunity to apply for excess trust funds prior to the awarding of such funds. However, no community college may receive more than \$100,000 of the excess funds.

(5) Funds sufficient to provide the match shall be transferred from the state trust fund to the community college foundation in increments of \$5,000, after the initial \$10,000 is matched and released, and upon notification that a proportionate amount has been received and deposited by the community college in its own trust fund. ~~However, no community college may receive more than \$100,000, above the original allocation, from the trust fund in any fiscal year.~~

(7)(a) The board of trustees of the community college is responsible for determining the uses for the proceeds of the trust fund. Such uses may include:

- 1.(a) Scientific and technical equipment.
- 2.(b) Professional development and training for faculty.
- 3.(c) Other activities appropriate to improving the quality of education at the community college.
4. Scholarships, which are the lowest priority for use of these funds.

(b) If a community college includes scholarships in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships. Such scholarships must be program specific and require high academic achievement for students to qualify for or retain the scholarship. A scholarship program may be used for minority recruitment but may not be used for athletic participants. The board of trustees must have designated the program as a program of emphasis for quality improvement, a designation that should be restricted to a limited number of programs at the community college. In addition, the board of trustees must have adopted a specific plan that details how the community college will improve the quality of the program designated for emphasis and that includes quality measures and outcome measures. Over a period of time, the community college operating budget should show additional financial commitment to the program of emphasis above and beyond the average increases to other programs offered by the community college. Fund-raising activities must be specifically identified as being for the program of emphasis or scholarship money. The community college must fully levy the amount for financial aid purposes provided by s. 240.35(6) in addition to the tuition and matriculation fee before any scholarship funds are awarded to the community college as part of its approved request.

(c) Proposals for use of the trust fund shall be submitted to the State ~~Community College Coordinating Board of Community Colleges~~ for approval. Any proposal not acted upon in 60 days shall be considered not approved.

(8) The State Board of Education shall establish rules to provide for the administration of this fund. Such rules shall establish the minimum challenge grant reserved for each college and the maximum amount

which a college may receive from a legislative appropriation in any fiscal year in accordance with the provisions of the General Appropriations Act.

Section 14. This act shall take effect upon becoming a law.

Senator Castor moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 17, between lines 23 and 24, insert: a new section

Section 14. Section 240.2695, Florida Statutes, is amended to read:

The Board of Regents shall develop a budget allocation and program expenditure reporting system by university which shall be submitted to the Legislature for approval. A plan for the development of this system shall be submitted to the Legislature for approval by January 1, 1986.

(Renumber subsequent sections.)

Amendment 1B—On page 17, between lines 23 and 24, insert: a new section

Section 15. Paragraph (c) is added to subsection (4) of section 240.257, Florida Statutes, to read:

(c) *There is established a Trust Account for Major Gifts Challenge Program to which funds shall be appropriated to provide challenge grants to match major gifts to encourage an increase in the number of major gifts and provide named endowed professorships to enhance state funded positions or for specialized facilities construction or renovation not normally state funded. The amount appropriated to the trust account shall be allocated by the Board of Regents to each university on the basis of one \$50,000 challenge grant for each \$100,000 raised from private sources. Prior to July 1, 1986, each university shall be eligible to match one-ninth of the funds appropriated to the trust account. Any university which has matched one-ninth of the funds provided shall be eligible to match any funds remaining in the trust account after July 1, 1986. The matching funds shall come from contributions made after July 1, 1986. Contributions may also be eligible for matching, if there is a commitment to make a donation of at least \$100,000 and an initial payment of at least \$20,000 accompanied by a written pledge to provide the balance within 4 years after the date of such initial payment. Payments on the balance must be at least \$20,000 per year and shall be made on or before the anniversary date of the initial payment. Pledged contributions shall not be matched with state funds prior to the actual collection of the total \$100,000 contribution. Each matching grant received shall be placed in a restricted endowment in the Florida Challenges for Excellence Endowment Trust Fund in the university foundation. Funds received shall be used to endow professorships or for specialized facilities construction or renovation not normally state funded. The Board of Regents shall approve the university's plan for use of any funds received under this provision.*

(Renumber subsequent sections.)

Amendment 1 as amended was adopted.

Senator Castor moved the following amendment which was adopted:

Amendment 2—In title, on page 1, strike all of lines 1-12 and insert: An act relating to postsecondary education, creating s. 240.4068, F.S.; establishing the "Chappie" James Most Promising Teacher Scholarship Program; amending s. 240.1201, F.S.; providing for certain persons to be classified as residents for tuition purposes; amending s. 201.08, F.S.; providing an exemption for certain student loans guaranteed by the Federal Government or the state; amending s. 240.311, F.S.; providing for State Board of Community College support of college and statewide direct support organizations; creating s. 240.356, F.S.; establishing the Sunshine State Skills Program; creating s. 240.4066, F.S.; establishing a Masters' Fellowship Loan Program for Teachers; creating s. 240.4067, F.S.; establishing the Medical Education Loan Repayment Program for Physicians; amending s. 240.414, F.S.; relating to amounts and conditions of awards from the Latin American and Caribbean Basin Scholarship Program; creating the Florida Center for Educational Statistics; amending s. 20.15, F.S.; allowing the assignment of certain powers and duties to the State Board of Community Colleges; amending s. 110.205, F.S.; adding administrative and professional positions to be determined by the State Board of Community Colleges to the list of exempt positions; amending s. 240.311, F.S.; providing that the State Board of Community Colleges

shall establish and maintain a personnel classification and pay plan and periodically fix the compensation for certain employees; amending s. 240.36, F.S.; relating to the Florida Academic Improvement Trust Fund; providing an effective date.

On motion by Senator Castor, by two-thirds vote CS for HB 121 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Dunn	Jenne	Peterson
Beard	Fox	Jennings	Plummer
Carlucci	Gersten	Johnson	Stuart
Castor	Girardeau	Kirkpatrick	Thomas
Childers, D.	Gordon	Kiser	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Deratany	Grizzle	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Neal

SB 136 was laid on the table.

CS for SB 761—A bill to be entitled An act relating to housing; 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"; amending s. 420.422, F.S.; providing for coordination of public and private resources; providing that continuation of neighborhood housing services programs are in the public interest; amending s. 420.423, F.S.; prescribing policy and purpose; amending s. 420.424, F.S.; providing definitions; amending s. 420.427, F.S.; providing project eligibility for grants; amending s. 420.428, F.S.; prescribing eligible activities of grant recipients; providing a retroactive effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 761 to conform the bill to CS for HB 552.

Pending further consideration of CS for SB 761, on motions by Senator Meek, the rules were waived and by two-thirds vote CS for HB 552 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations.

On motion by Senator Meek—

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.

—a companion measure, was substituted for CS for SB 761 and read the second time by title. On motion by Senator Meek, by two-thirds vote CS for HB 552 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

CS for SB 761 was laid on the table.

On motions by Senator Meek, the rules were waived and by two-thirds vote CS for HB 62 was withdrawn from the Committees on Health and Rehabilitative Services; and Economic, Community and Consumer Affairs.

On motion by Senator Meek—

CS for HB 62—A bill to be entitled An act relating to adult congregate 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.

—a companion measure, was substituted for CS for SB 526 and read the second time by title. On motion by Senator Meek, by two-thirds vote CS for HB 62 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 526 was laid on the table.

On motions by Senator Crawford, the rules were waived and by two-thirds vote CS for CS for HB 949 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Crawford—

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.

—a companion measure, was substituted for CS for SB 1273 and read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 6, lines 14-18, after “deposit” strike all of said lines

Amendment 2—On page 8, line 18, after “section” insert: *provided such institution is subject to the examination, supervision, or control of this state*

Amendment 3—On page 13, line 31, and on page 14, line 1, strike all of said lines and insert: *initiated pursuant to a registration statement filed under the Securities Act of 1933 provided that prior to the sale, the registration statement has become effective, the department shall*

Amendment 4—On page 22, lines 27 and 28, after “and” strike all of said lines and insert: *such investigation has not been completed or become inactive.*

Amendment 5—On page 23, strike line 1 and insert: the sum of \$1,642,852 to fund 56 positions for the Division of

Amendment 6—On page 23, lines 14 and 15, strike “October 1, 1985” and insert: July 1, 1985 or upon becoming a law, whichever occurs later.

On motion by Senator Crawford, by two-thirds vote CS for CS for HB 949 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Jenne, Neal

CS for SB 1273 was laid on the table.

SB 851—A bill to be entitled An act relating to the investment of state funds; amending s. 215.44, F.S.; authorizing powers and duties of the Board of Administration; creating s. 215.475, F.S.; authorizing investments for the Florida Retirement System Trust Fund; establishing the “prudent expert rule” as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System Trust Fund; amending s. 280.03 F.S.; exempting Florida Retirement System Trust Fund deposits and securities from public deposit security requirements under Ch. 280, F.S.; 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 Crawford:

Amendment 1—On page 3, line 21, before the period (.) insert: *with the exception of section 3 which shall take effect January 6, 1986*

Further consideration of SB 851 was deferred.

On motion by Senator Fox, the rules were waived and by two-thirds vote HB 395 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Fox—

HB 395—A bill to be entitled An act relating to pharmacy; amending s. 465.017, F.S.; providing for the confidentiality of prescription information and for the release of such information under certain circumstances; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for SB 426 and read the second time by title.

Senator Fox moved the following amendment which was adopted:

Amendment 1—On page 2, lines 9-13, after “proceeding,” strike the rest of line 9 and all of lines 10-13 and insert: *upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records.*

On motion by Senator Fox, by two-thirds vote HB 395 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Castor, Kirkpatrick

SB 426 was laid on the table.

CS for SB 1176—A bill to be entitled An act relating to tax administration; amending s. 95.091, F.S.; providing that “administrative proceedings” shall include certain taxpayer protest proceedings; amending ss. 198.13, 198.15, F.S.; conforming certain Florida estate tax return filing provisions to certain federal estate tax return provisions; amending s. 212.058(4), F.S., as created by chapter 83-355, Laws of Florida, and amended by chapter 84-324, Laws of Florida; providing for the disposition of certain revenues; creating s. 213.23, F.S.; providing for certain consent agreements; creating s. 213.24, F.S.; providing that no interest shall be imposed on certain deficiencies paid within 30 days; creating s. 213.25, F.S.; providing for the netting of taxes; creating s. 213.27, F.S.; providing for contracting with debt collection agencies; creating s. 72.041, F.S.; allowing actions to enforce sales, use, and corporate income taxes of another state to be brought in a court of this state; providing conditions; creating s. 213.29, F.S.; providing for personal liability of corporate officers and employees for taxes not properly remitted under certain circumstances; amending ss. 213.21, 212.14, F.S.; providing for the tolling of certain statutes of limitation; providing for certain limitations on the executive director of the Department of Revenue; amending s. 220.53, F.S.; applying certain portions of chapter 213, F.S., to chapter 220, F.S.; repealing ss. 214.09(4), 214.16(2), F.S., relating to limitations on certain actions; amending s. 206.87, F.S.; providing an exemption for certain equipment mounted on a motor vehicle; amending s. 212.62, F.S.; changing the date on which the sales tax on motor and special fuel is adjusted; authorizing the Department of Revenue to adopt emergency rules; amending ss. 220.03, 221.01, 221.02, 221.04, F.S.; delaying until June 30, 1986 the repeal of the emergency excise tax; revising part I of chapter 206, F.S., relating to the excise tax on motor fuel; providing definitions;

providing for licensing of refiners, importers, and wholesalers; providing for licensing of jobbers, carriers, and terminal facilities; providing for fees; prohibiting certain persons from holding a refiner, importer, or wholesaler license; providing powers of circuit court with regard to certain required divestiture; providing requirements regarding transfer of license; authorizing assessment of investigative costs; providing that various provisions of said part applicable to distributors shall apply to refiners, importers, and wholesalers; revising bond requirements; including assessment of interest in various penalty provisions; including reference to the sales tax on fuel in various administrative and penalty provisions; providing penalties for failure to make complete reports; requiring reports by jobbers, carriers, and terminal facilities; revising penalties; providing for inspection of records and equipment of refiners, importers, wholesalers, jobbers, retail dealers and terminals; providing for application of various exemption and refund provisions; providing for refunds or credits with respect to the exemption for certain aviation fuel; providing requirements with respect to tax-exempt purchasers; specifying offenses with respect to exemptions; providing for reports by refiners, importers, and wholesalers; specifying joint liability for tax of certain sellers and purchasers; providing for distribution of the county tax on motor fuel; providing for refunds to ethanol dealers; amending s. 206.97, F.S.; revising definitions applicable to the excise tax on special fuel under part II of chapter 206 to conform and providing for application of specified provisions of part I; amending ss. 212.61, 212.62, 212.66, and 212.67, F.S., relating to the sales tax on fuel, to conform; amending s. 213.053, F.S.; providing for application; amending ss. 336.021 and 336.025, F.S., relating to county local option gas taxes; providing for designation of a collector; providing for collection and distribution of proceeds; providing for dealer's allowances; specifying powers of county governing bodies; requiring certain notice to Department of Revenue; amending s. 192.091, F.S.; providing for commissions of tax collectors for collection of local option taxes; specifying effect on distributors licensed on the effective date of the act; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 29, strike all of lines 28 and 29 and insert: bond in a penal sum of not more than \$100,000, such sum to be approximately 3 times the average

Amendment 2—On page 4, line 10, insert:

Section 1. Section 72.011, Florida Statutes, 1984 Supplement, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1) A taxpayer may contest the legality of any assessment of tax, interest, or penalty provided for under s. 125.0104, ~~s. 125.0166~~, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, chapter 208, chapter 211, chapter 212, chapter 213, chapter 214, chapter 220, chapter 221, s. 336.021, s. 336.025, chapter 376, or chapter 624 by filing an action in circuit court; or, alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, or s. 120.57, no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

(2) No action may be brought ~~and no petition may be filed~~ to contest an assessment of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1) after 60 days from the date the assessment becomes final. The Department of Revenue shall establish by rule when an assessment becomes final for purposes of this section and a procedure by which a taxpayer shall be notified of the assessment. It is not necessary for the department to file or docket any assessment with the agency clerk in order for such assessment to become final for purposes of an action initiated pursuant to this chapter or chapter 120.

(3)(a) ~~In any action filed before a taxpayer may bring an action~~ in circuit court contesting the legality of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1), ~~the plaintiff~~ he must:

(a) Pay to the department the amount of the tax, penalty and accrued interest assessed by the department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty in the amount of 25 percent of the tax assessed; and either

~~1. Pay to the department not less than the amount of the tax, including penalties and accrued interest, which he admits in good faith to be owing; and either~~

(b) ~~2.a.~~ Tender into the registry of the court with the complaint the amount of the contested assessment complained of, including penalties and accrued interest, unless this requirement is waived in writing by the executive director of the department; or

(c) ~~b.~~ File with the complaint a cash bond or a surety bond for the amount of the contested assessment endorsed by a surety company authorized to do business in this state, or by any other security arrangement as may be approved by the court, and conditioned upon payment in full of the judgment, including the taxes, costs, penalties, and interest, unless this requirement is waived, in writing, by the executive director of not already paid to the department.

~~(b) Before a taxpayer may file a petition under chapter 120 contesting the legality of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1), he must:~~

~~1. Pay to the department not less than the amount of the tax, including penalties and accrued interest, which he admits in good faith to be owing; and~~

~~2. File with the petition a cash bond or a surety bond for the amount of the contested assessment complained of endorsed by a surety company authorized to do business in this state, or by any other security arrangement as may be approved by the hearing officer, and conditioned upon payment in full of the judgment, including the taxes, costs, penalties, and interest not already paid to the department.~~

~~(4) The department shall issue a receipt for the payment made pursuant to subparagraph (3)(a)1. or subparagraph (3)(b)1., and the taxpayer shall file the receipt with his complaint or petition.~~

~~(5) Payment of a tax, except as provided in subparagraphs (3)(a)1. and (b)1., shall not be deemed an admission that the tax was due and shall not prejudice the right of a taxpayer to bring a timely action as provided in subsection (2) to challenge such tax and seek a refund.~~

~~(6) No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes assessed in years after the action is brought which the taxpayer in good faith admits to be owing are paid before they become delinquent.~~

~~(4)(7) The requirements of this section subsections (2), (3), and (6) are jurisdictional. No court or hearing officer shall have jurisdiction in any such case until after the requirements of both subsections (2) and (3) have been met. A court or hearing officer shall lose jurisdiction of a case when the taxpayer has failed to comply with the requirements of subsection (6).~~

(5)(8)(a) Except as provided in paragraph (b), an action initiated in circuit court pursuant to subsection (1) shall be filed in the Second Judicial Circuit Court in and for Leon County or in the circuit court in the county where the taxpayer resides or maintains its principal commercial domicile in this state.

(b) Venue in an action initiated in circuit court pursuant to subsection (1) by a taxpayer that is not a resident of this state or that does not maintain a commercial domicile in this state shall be in Leon County. Venue in an action contesting the legality of an assessment arising under chapter 198 shall be in the circuit court having jurisdiction over the administration of the estate.

~~(9) This section also applies to notices of assessments of transferee liability and to any notices or billings made by the Department of Revenue.~~

~~(6)(10) This section is not applicable to actions for refund of taxes previously paid.~~

Section 2. Subsection (3) is added to section 120.575, Florida Statutes, to read:

120.575 Taxpayer contest proceedings.—

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the department the amount of taxes, penalties and accrued interest assessed by the department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment by the Department of Revenue.

Section 3. Section 72.021, Florida Statutes, 1984 Supplement, as created by chapter 84-170, Laws of Florida, is hereby repealed.

(Renumber subsequent sections.)

Amendment 3—On page 12, strike all of lines 6-13 and insert:

(1)(a) The Department of Revenue may adopt rules for establishing informal conference procedures within the department for resolution of disputes relating to assessment of taxes, interest, and penalties and for informal hearings under s. 120.57(2).

(b) The statute of limitations upon the issuance of final assessments shall be tolled during the period in which the taxpayer is engaged in a procedure under this section.

Amendment 4—On page 57, line 24, after the comma (,) insert: which shall include the administrative costs incurred by the department in the collection, administration, and distribution back to the counties of the taxes levied pursuant to this section,

Amendment 5—On page 71, line 31, insert:

Section 77. There is hereby appropriated \$192,000 and 12 positions from the Gas Tax Collection Trust Fund and \$88,000 and 5 positions from the Local Option Gas Tax Trust Fund to the Department of Revenue in fiscal year 1985-86 for the administration of this act.

Amendment 6—On page 72, strike all of lines 1 and 2 and insert:

Section 78. Sections 1 through 24, section 77, and this section shall take effect upon becoming a law; however, it is the legislative intent that the amendments to ss. 95.091(4) and 212.14(6), Florida Statutes, and s. 213.21(1), Florida Statutes, 1984 Supplement, by this act are remedial in nature and shall apply to all bills, audits, or assessments currently in progress pursuant to s. 213.21. Sections 25 through 76

Amendment 7—On page 24, line 20, after the first comma (,) insert: except a publicly held corporation regularly traded on a national securities exchange and not over the counter,

Senator Scott moved the following amendment which was adopted:

Amendment 8—On page 16, line 30, after the period (.) insert: A refiner also includes any wholly owned subsidiary of such person.

Senator Crawford moved the following amendments which were adopted:

Amendment 9—On page 71, line 31, insert:

Section 74. Subsection (6) of section 212.08, Florida Statutes, 1984 Supplement is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS, COMMUNICATIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, the state, or any county, municipality, or political subdivision of this state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means including but not limited to cash, check or credit card when that employee is subsequently reimbursed by the governmental entity. ~~provided~~ This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes

into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959. ~~and further provided~~ This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion. Likewise exempt are newspapers; film rentals, when an admission is charged for viewing such film; and charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.

Amendment 10—On page 72, strike all of lines 1 and 2 and insert:

Section 75. Sections 1 through 21 and this section shall take effect upon becoming a law. Sections 22 through 74

Amendment 11—In title, on page 4, line 6, after the semicolon (;) insert: amending s. 212.08, F.S.; providing a limitation to the exemption;

Amendment 12—In title, on page 1, line 2, after the semicolon (;) insert: amending s. 72.011, F.S., which authorizes taxpayers to file an action in circuit court or a petition under chapter 120 to contest certain tax assessments; revising application of said section and requirements imposed thereunder; providing a penalty; repealing s. 72.021, F.S., which provides a penalty with respect to certain underpayments of taxes admitted to be owing; amending s. 120.575, F.S.; providing requirements with respect to taxpayer contest proceedings under chapter 120; providing a penalty;

Further consideration of CS for SB 1176 was deferred.

On motion by Senator Fox, 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 1376 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations and Representative Bell—

HB 1376—A bill to be entitled An act relating to neonatal care; amending ss. 383.16, 383.17, 383.171, 383.18, and 383.19, F.S.; providing definitions; providing conditions for grant agreements; requiring contracting hospitals to submit reports to the Department of Health and Rehabilitative Services; requiring the Hospital Cost Containment Board and the department to submit reports to the Governor and the Legislature; deleting limitations on grants to neonatal centers; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Fox, by two-thirds vote HB 1376, a companion measure, was substituted for CS for SB 708 and by two-thirds vote read the second time by title.

On motion by Senator Fox, by two-thirds vote HB 1376 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Crawford	Girardeau	Jenne
Barron	Deratany	Gordon	Jennings
Beard	Dunn	Grant	Johnson
Carlucci	Fox	Grizzle	Kirkpatrick
Childers, D.	Frank	Hair	Kiser
Childers, W. D.	Gersten	Hill	Langley

Malchon	McPherson	Peterson	Thomas
Mann	Meek	Scott	Thurman
Margolis	Myers	Stuart	

(Renumber subsequent section.)

The vote was:

Nays—None

Vote after roll call:

Yea—Castor, Neal

CS for SB 708 was laid on the table.

HB 844—A bill to be entitled An act relating to elections; amending s. 104.271, F.S., prohibiting candidates from making false statements against opposing candidates; authorizing expedited procedures for hearing certain complaints; providing a penalty; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Vogt and failed:

Amendment 1—On page 1, line 25, after “is” insert: *known to be*

On motion by Senator Vogt, by two-thirds vote HB 844 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Castor, Jenne

HB 1425—A bill to be entitled An act relating to tax on sales, use and other transactions; reenacting s. 212.11, F.S., relating to tax returns and regulations and calculation and payment of estimated tax liability; reenacting s. 212.12(2), F.S., relating to penalties for failure to remit payments; validating the repeal of s. 212.12(5), F.S., relating to extensions for making returns and certain estimated tax payments; validating collections made under chapters 83-310 and 84-549, Laws of Florida; providing an effective date.

—was read the second time by title.

Senator Carlucci moved the following amendments which were adopted:

Amendment 1—On page 5, line 31, insert:

Section 5. Section 212.051, Florida Statutes, is amended to read:

212.051 *Materials, equipment or machinery for environmental improvement pollution control; not subject to sales or use tax.—Notwithstanding any provision to the contrary, sales, use, or privilege taxes shall not be collected or due with respect to any facility, structure, device, fixture, equipment or machinery installed, or materials used therein, solely to comply with any law or requirement of the Department of Environmental Regulation for improving air and water quality, solid waste disposal, or controlling pollutants and contaminants from manufacturing, processing, or industrial facilities or installations, primarily for the control or abatement of pollution or contaminants from manufacturing or industrial plants or installations, and any structure, machinery or equipment installed in the reconstruction or replacement of such facility, structure, device, fixture, equipment or machinery. This exemption shall apply only to bona fide environmental improvement expenditures certified by the Department of Environmental Regulation pursuant to the issuance of a permit under chapter 403, and this exemption shall apply only to new expenditures occurring subsequent to the effective date of this act. Nothing in this section shall be construed to authorize exemption from any tax currently being collected pursuant to existing environmental facilities.*

Yeas—19

Barron	Girardeau	Jennings	Peterson
Carlucci	Gordon	Johnson	Thomas
Childers, D.	Grant	Kiser	Thurman
Childers, W. D.	Grizzle	Langley	Vogt
Deratany	Hair	Myers	

Nays—11

Castor	Gersten	Meek	Stuart
Crawford	Hill	Neal	Weinstein
Fox	Mann	Plummer	

Amendment 2—On page 1, line 12, after the semicolon (;) insert: amending s. 212.051, F.S.; providing an exemption for facilities, equipment and materials necessary to comply with specified environmental improvement requirements;

Senator Stuart presiding

On motion by Senator Thomas, the Senate reconsidered the vote by which Amendment 1 was adopted. The vote was:

Yeas—23

Beard	Frank	Jennings	Neal
Castor	Gordon	Johnson	Stuart
Crawford	Grizzle	Malchon	Thomas
Deratany	Hair	Mann	Thurman
Dunn	Hill	Margolis	Weinstein
Fox	Jenne	Myers	

Nays—7

Carlucci	Childers, W. D.	Grant	Vogt
Childers, D.	Girardeau	Peterson	

On motion by Senator Jenne, by two-thirds vote SB 673 was scheduled for consideration at 4:00 p.m. this day in lieu of 3:30 p.m.

The question recurred on Amendment 1 which failed. The vote was:

Yeas—11

Carlucci	Girardeau	Hair	Peterson
Childers, D.	Gordon	Hill	Vogt
Childers, W. D.	Grant	Myers	

Nays—17

Beard	Fox	Malchon	Thomas
Castor	Frank	Mann	Weinstein
Crawford	Jennings	Margolis	
Deratany	Johnson	Neal	
Dunn	Kirkpatrick	Stuart	

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

The question recurred on Amendment 2 which failed.

On motion by Senator Crawford, by two-thirds vote HB 1425 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Carlucci	Frank	Johnson	Peterson
Castor	Gersten	Kirkpatrick	Plummer
Childers, D.	Girardeau	Kiser	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crawford	Grizzle	Mann	Thurman
Deratany	Hair	Margolis	Vogt
Dunn	Hill	Myers	Weinstein
Fox	Jennings	Neal	

Nays—None

Vote after roll call:

Yea—Jenne

Statement of Legislative Intent

It is the Legislative intent on CS for CS for SB's 668, 1054 and 1106 (911 Fee), that the fee can be levied by any county's incurring, or which has incurred, non-recurring charges for the initial provision or subsequent addition of "911" service or equipment, or both service and equipment.

Robert B. Crawford, 13th District

The Senate resumed consideration of—

SB 851—A bill to be entitled An act relating to the investment of state funds; amending s. 215.44, F.S.; authorizing powers and duties of the Board of Administration; creating s. 215.475, F.S.; authorizing investments for the Florida Retirement System Trust Fund; establishing the "prudent expert rule" as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System Trust Fund; amending s. 280.03 F.S.; exempting Florida Retirement System Trust Fund deposits and securities from public deposit security requirements under Ch. 280, F.S.; providing an effective date.

—with pending Amendment 1 which was adopted.

On motion by Senator Crawford, by two-thirds vote SB 851 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	Johnson	Plummer
Castor	Girardeau	Kiser	Scott
Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Malchon	Thomas
Crawford	Grizzle	Mann	Thurman
Deratany	Hair	Margolis	Vogt
Dunn	Hill	McPherson	Weinstein
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

The Senate resumed consideration of—

CS for SB 1176—A bill to be entitled An act relating to tax administration; amending s. 95.091, F.S.; providing that "administrative proceedings" shall include certain taxpayer protest proceedings; amending ss. 198.13, 198.15, F.S.; conforming certain Florida estate tax return filing provisions to certain federal estate tax return provisions; amending s. 212.058(4), F.S., as created by chapter 83-355, Laws of Florida, and amended by chapter 84-324, Laws of Florida; providing for the disposition of certain revenues; creating s. 213.23, F.S.; providing for certain consent agreements; creating s. 213.24, F.S.; providing that no interest shall be imposed on certain deficiencies paid within 30 days; creating s. 213.25, F.S.; providing for the netting of taxes; creating s. 213.27, F.S.; providing for contracting with debt collection agencies; creating s. 72.041, F.S.; allowing actions to enforce sales, use, and corporate income taxes of another state to be brought in a court of this state; providing conditions; creating s. 213.29, F.S.; providing for personal liability of corporate officers and employees for taxes not properly remitted under certain circumstances; amending ss. 213.21, 212.14, F.S.; providing for the tolling of certain statutes of limitation; providing for certain limitations on the executive director of the Department of Revenue; amending s. 220.53, F.S.; applying certain portions of chapter 213, F.S., to chapter 220, F.S.; repealing ss. 214.09(4), 214.16(2), F.S., relating to limitations on certain actions; amending s. 206.87, F.S.; providing an exemption for certain equipment mounted on a motor vehicle; amending s. 212.62, F.S.; changing the date on which the sales tax on motor and special fuel is adjusted; authorizing the Department of Revenue to adopt emergency rules; amending ss. 220.03, 221.01, 221.02, 221.04, F.S.; delaying until June 30, 1986 the repeal of the emergency excise tax; revising part I of chapter 206, F.S., relating to the excise tax on motor fuel; providing definitions; providing for licensing of refiners, importers, and wholesalers; providing for licensing of jobbers, carriers, and terminal facilities; providing for fees; prohibiting certain persons from holding a refiner, importer, or wholesaler license; providing powers of circuit court with regard to certain required divestiture; providing requirements regarding transfer of

license; authorizing assessment of investigative costs; providing that various provisions of said part applicable to distributors shall apply to refiners, importers, and wholesalers; revising bond requirements; including assessment of interest in various penalty provisions; including reference to the sales tax on fuel in various administrative and penalty provisions; providing penalties for failure to make complete reports; requiring reports by jobbers, carriers, and terminal facilities; revising penalties; providing for inspection of records and equipment of refiners, importers, wholesalers, jobbers, retail dealers and terminals; providing for application of various exemption and refund provisions; providing for refunds or credits with respect to the exemption for certain aviation fuel; providing requirements with respect to tax-exempt purchasers; specifying offenses with respect to exemptions; providing for reports by refiners, importers, and wholesalers; specifying joint liability for tax of certain sellers and purchasers; providing for distribution of the county tax on motor fuel; providing for refunds to ethanol dealers; amending s. 206.97, F.S.; revising definitions applicable to the excise tax on special fuel under part II of chapter 206 to conform and providing for application of specified provisions of part I; amending ss. 212.61, 212.62, 212.66, and 212.67, F.S., relating to the sales tax on fuel, to conform; amending s. 213.053, F.S.; providing for application; amending ss. 336.021 and 336.025, F.S., relating to county local option gas taxes; providing for designation of a collector; providing for collection and distribution of proceeds; providing for dealer's allowances; specifying powers of county governing bodies; requiring certain notice to Department of Revenue; amending s. 192.091, F.S.; providing for commissions of tax collectors for collection of local option taxes; specifying effect on distributors licensed on the effective date of the act; providing an effective date.

Senator Crawford moved the following amendment which was adopted:

Amendment 13—On page 9, strike all of lines 16-21 and insert: collecting any delinquent taxes due from a taxpayer, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes including penalties and interest thereon. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by certified mail by the Department, its employees or its authorized representative 30 days prior to commencing any litigation to recover any delinquent taxes.

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

Amendment 14—On page 72, strike all of lines 1-5 and insert:

Section 74. Subsection (2) of section 193.011, Florida Statutes, is amended to read:

193.011 Factors to consider in deriving just valuation.—In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration *any legally binding restrictions to said use*, and any applicable local or state land use regulation, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium prohibits or restricts the development or improvement of property as otherwise authorized by applicable law;

Section 75. Sections 1 through 21 and this section shall take effect upon becoming a law. Sections 22 through 74 shall take effect January 1, 1986, except that the Department of Revenue may begin processing refiner license applications under section 73 beginning July 1, 1985. The amendments to s. 193.011, Florida Statutes, shall apply only to legally binding restrictions to use which are in place on January 1, 1985.

Senator Crawford moved the following amendment which was adopted:

Amendment 15—On page 1, line 26, before the semicolon (;) insert: and attorneys

Senator Deratany moved the following amendment which was adopted:

Amendment 16—In title, on page 4, line 6, after the semicolon (;) insert: amending s. 193.011, F.S.; revising factors to consider in deriving just valuation;

On motion by Senator Crawford, by two-thirds vote CS for SB 1176 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Jenne

SB 1271—A bill to be entitled An act relating to education; creating ss. 233.0636 and 240.561, F.S.; requiring inclusion of certain curriculum materials in courses dealing with Cuban culture, history, and literature; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Gersten and adopted:

Amendment 1—On page 1, lines 13, 14 and 24, strike “require that” and insert: encourage

Senator Gersten moved the following amendments which were adopted:

Amendment 2—On page 1, lines 13, 19, 24, and 30, strike “require” wherever it appears and insert: encourage

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

Section 3. In order to facilitate the implementation of this Act, a compilation of materials on Cuban History and Culture available in the United States as well as a compilation of Cuban Oral History narrated by Cubans in exile, to preserve the Cuban Exile History, shall be carried out by Florida International University as a three year project.

(Renumber subsequent sections.)

Amendment 4—On page 1, line 6, insert: providing for a compilation of certain materials;

Amendment 5—On page 1, line 3, strike “requiring” and insert: encouraging

The Committee on Education recommended the following amendment which was moved by Senator Gersten and adopted:

Amendment 6—In title, on page 1, line 3, strike “requiring” and insert: encouraging

On motion by Senator Gersten, by two-thirds vote SB 1271 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—21

Carlucci	Grizzle	Langley	Stuart
Crawford	Hill	Margolis	Thurman
Deratany	Jenne	Meek	Weinstein
Fox	Johnson	Myers	
Gersten	Kirkpatrick	Neal	
Girardeau	Kiser	Plummer	

Nays—8

Beard	Frank	Grant	Thomas
Childers, W. D.	Gordon	Peterson	Vogt

Vote after roll call:

Yea—Castor

SB 690—A bill to be entitled An act relating to farm labor; amending sections 2, 3, and 4 of chapter 77-25, Laws of Florida, updating references with respect to authority to administer and enforce federal farm labor law; amending s. 450.28, F.S., decreasing the minimum number of farm workers required to be employed to subject a farm labor contractor to the Farm Labor Registration Law; providing additional definitions; amending s. 450.29, F.S., providing exclusions from application of the Farm Labor Registration Law for immediate family members of persons presently excluded, and for persons who transport workers by carpool; amending s. 450.30, F.S., providing for registration renewal on the registrant’s birthdate or date of incorporation; amending s. 450.31, F.S., increasing the fee for application for registration; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendments which were moved by Senator Peterson and adopted:

Amendment 1—On page 4, between lines 26 and 27, insert:

Section 6. Section 450.38, Florida Statutes, is amended to read:

450.38 Penalties.—

(1) Any person who violates the provisions of ss. 450.33 or ~~and~~ 450.35 of this part is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any farm labor contractor who, on or after the effective date of this subsection, commits a violation of this part or of any rule adopted thereunder may be assessed a civil penalty of not more than \$1,000 for each such violation. Such assessed penalties shall be deposited into the General Revenue Fund. The division shall not institute or maintain any administrative proceeding to assess a civil penalty under this subsection when the violation is the subject of a criminal indictment or information under this section which results in a criminal penalty being imposed, or a criminal, civil, or administrative proceeding by the United States government or an agency thereof which results in a criminal or civil penalty being imposed.

(3) Upon a complaint of the division being filed in the circuit court of the county in which the farm labor contractor may be doing business, any farm labor contractor who fails to obtain a certificate of registration as required by this part may, in addition to such penalties, be enjoined from engaging in any activity which requires the farm labor contractor to possess a certificate of registration.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 20, after the semicolon (;) insert: amending s. 450.38, F.S.; providing penalties, administrative fines, and injunctive relief;

On motion by Senator Peterson, by two-thirds vote SB 690 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Carlucci, Mann

Consideration of CS for SB 519 and CS for SB 261 was deferred.

On motions by Senator Hair, the rules were waived and by two-thirds vote HB 1081 was withdrawn from the Committees on Judiciary-Civil; and Finance, Taxation and Claims.

On motion by Senator Hair—

HB 1081—A bill to be entitled An act relating to fiduciaries; amending s. 733.817, F.S., providing for the apportionment of estate taxes as to certain marital deduction property; amending s. 737.3053, F.S., providing that the income of certain wills and trusts must, unless otherwise provided in the instrument, be distributed at least annually; amending s. 737.306, F.S., relieving certain successor trustees of personal liability for actions and omissions of certain prior trustees; providing that certain successor trustees are relieved of any duty to institute actions against certain prior trustees; providing an effective date.

—a companion measure, was substituted for SB 1128 and read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1081 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Carlucci, Jenne

SB 1128 was laid on the table.

On motions by Senator Hair, the rules were waived and by two-thirds vote HB 1184 was withdrawn from the Committees on Education, Governmental Operations and Appropriations.

On motion by Senator Hair—

HB 1184—A bill to be entitled An act relating to the military code; 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; amending s. 120.52, F.S., excluding certain activities, policies, and procedures of the Department of Military Affairs of the State from the definition of "rule"; amending s. 250.35, F.S., revising state law governing courts-martial; amending s. 250.36, F.S., providing for the extent of warrants, subpoenas, and other process issued by military courts; providing for the disposition of fines; amending s. 250.37, F.S., relating to expenses of courts-martial; providing an effective date.

—a companion measure, was substituted for SB 1129 and read the second time by title.

Senator Hair moved the following amendments which were adopted:

Amendment 1—On page 1, lines 23-31; on page 2, lines 1-31; and on page 3, lines 1-27, strike all of said lines

Amendment 2—On page 1, strike all of lines 2-12 and insert: An act relating to the military code; amending s. 120.52, F.S., excluding certain activities, policies, and procedures of the Department of Military Affairs of the State from the definition of "rule"; amending s. 250.35, F.S.

On motion by Senator Hair, by two-thirds vote HB 1184 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Carlucci, Jenne, Kirkpatrick

SB 1129 was laid on the table.

On motion by Senator Hair, 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 CS for HB 140 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Governmental Operations and Representative Hargrett—

CS for HB 140—A bill to be entitled An act relating to game promotions; amending s. 849.094, F.S.; transferring the responsibility for the registration and regulation of certain game promotions from the Department of Legal Affairs to the Department of State by a type four transfer, as defined in s. 20.06(4), F.S.; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

SPECIAL ORDER, continued

On motions by Senator Hair, by two-thirds vote CS for HB 140, a companion measure, was withdrawn from the Committee on Governmental Operations and substituted for SB 58.

On motions by Senator Hair, by two-thirds vote CS for HB 140 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—34

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

Nays—None

Vote after roll call:

Yea—Jenne

SB 58 was laid on the table.

The hour of 3:30 p.m. having arrived, 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 1021—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.051, F.S., ratifying the decision by certain employees of the University Athletic Association, Inc., to retroactively terminate membership in the Florida Retirement System; making such decisions irrevocable; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 7, line 8, after the period, insert:

Section 2. Paragraph (a) of subsection (1), subsection (2) and paragraph (a) and (b) of subsection (4) of section 112.362, Florida Statutes, are amended to read:

112.362 Recomputation of retirement benefits.—

(1)(a) A member of any state-supported retirement system who ~~has already retired, prior to July 1, 1985, who is over 65 years of age,~~ who has not less than 10 years of creditable service, and who is not entitled to the minimum benefit provided for in paragraph (b), ~~upon reaching 65 years of age and~~ upon application to the administrator of his retirement system, may have his present monthly retirement benefits recomputed and receive a monthly retirement allowance equal to \$8 multiplied by the total number of years of creditable service. Effective July 1, 1980, this minimum monthly benefit shall be equal to \$10.50 multiplied by the total number of years of creditable service, and thereafter said minimum monthly benefit shall be recomputed as provided in paragraph (5)(a). No present retirement benefits shall be reduced under this computation.

(2)(a) A retired member of any state-supported retirement system ~~who retires prior to July 1, 1985, who is over 65 years of age and who possesses the creditable service requirements contained in paragraph (1)(a) or paragraph (1)(b), or the surviving spouse or beneficiary of said member who, if living, would be over 65 years of age,~~ if such spouse or beneficiary is receiving a retirement benefit, ~~shall, at the time the retiree reaches 65 years of age or would have reached 65 years of age if deceased, and~~ upon proper application to the administrator, ~~shall~~ have his monthly retirement benefit recomputed and may receive a retirement benefit as provided in either paragraph (1)(a) or paragraph (1)(b) and, if a retirement option has been elected by the member, multiplied by the actuarial reduction factor relating to such retirement option and, if the member is deceased, multiplied by the percentage of the benefit payable to the surviving spouse or beneficiary. No present retirement benefits shall be reduced under this computation.

(b) A member of any state-supported retirement system who retires after July 1, 1975, and ~~before July 1, 1985,~~ who is over 65 years of age at the time of his retirement may be entitled to the benefit recalculation options provided by either paragraph (1)(a) or paragraph (1)(b).

(4)(a) Effective July 1, 1980, any person who is retired ~~prior to July 1, 1985,~~ under a state-supported retirement system with not less than 10 years of creditable service, ~~who is 65 years of age or over,~~ and who is not receiving or entitled to receive federal social security benefits shall, ~~upon reaching 65 years of age and~~ upon application to the Division of Retirement, be entitled to receive a minimum monthly benefit equal to \$16.50 multiplied by the member's total number of years of creditable service and adjusted by the actuarial factor applied to the original benefit for optional forms of retirement. Thereafter, the minimum monthly benefit shall be recomputed as provided in paragraph (5)(a). Application for this minimum monthly benefit shall include certification by the retired member that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the Division of Retirement to have access to information from the Federal Social Security Administration concerning the member's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

(b) Effective July 1, 1978, the surviving spouse or beneficiary who is receiving or entitled to receive a monthly benefit ~~commencing prior to July 1, 1985,~~ from the account of any deceased retired member who had completed at least 10 years of creditable service ~~shall, at the time such deceased retiree would have reached age 65, and who,~~ if living, ~~and would be age 65 or over shall,~~ upon application to the Division of Retirement, be entitled to receive the minimum monthly benefit described in paragraph (a), adjusted by the actuarial factor applied to the optional form of benefit payable to said surviving spouse or beneficiary, provided said person is not receiving or entitled to receive federal social security benefits. Application for this minimum monthly benefit shall include certification by the surviving spouse or beneficiary that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the Division of Retirement to have access to information from the Federal Social Security Administration concerning such person's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

Section 3. Paragraph (b) of subsection (17) of section 121.021, Florida Statutes, 1984 Supplement, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(17)

(b) For purposes of the definition of "creditable service," monthly service credit under the Florida Retirement System and existing state systems shall be awarded as follows:

1. One month of service credit shall be awarded for each month of service performed prior to July 1, 1974.

2. One month of service credit shall be awarded for each month of service performed on and after July 1, 1974, in which the member was paid a salary of \$100 or more. If the member was paid less than \$100 during a month of employment, the service credit for that month shall be a fraction of one month of credit, such fraction to be determined by dividing the actual salary by \$100.

3. One month of service credit shall be awarded for each month of service performed on and after July 1, 1979, for which the member was paid a salary of \$250 or more, including any amount which was set aside for participation in a deferred compensation plan. If the member was paid less than \$250 during a month of employment, the service credit for that month shall be a fraction of one month of credit, such fraction to be determined by dividing the actual salary payment by \$250.

4. *On and after July 1, 1985, 1 month of service credit shall be awarded for each month salary is paid for service performed.*

Section 4. Subsection (2) of section 121.081, Florida Statutes, 1984 Supplement, is amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(2) Prior service, as defined in s. 121.021(19), may be claimed as creditable service under the Florida Retirement System after a member has been reemployed for 12 continuous months. *Service performed as a participant of the optional retirement program for the State University System under s. 121.35 may be used to satisfy the 12-continuous-month requirement.* The member shall not be permitted to make any contributions for prior service until after the 12-month period. The required contributions for claiming the various types of prior service are:

(a) For prior service performed prior to the date the system becomes noncontributory for the member and for which the member had credit under one of the existing retirement systems and received a refund of contributions upon termination of employment, the member shall contribute 4 percent of all salary received during the period being claimed, plus 4 percent interest compounded annually from date of refund until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund.

(b) For prior service performed prior to the date the system becomes noncontributory for the member and for which the member had credit under the Florida Retirement System and received a refund of contributions upon termination of employment, the member shall contribute at the rate that was required of him during the period of service being claimed, on all salary received during such period, plus 4 percent interest compounded annually from date of refund until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until the full payment is made to the Retirement Trust Fund.

(c) For service performed after the Florida Retirement System becomes noncontributory for the member, and for which the member had credit under the Florida Retirement System at the date of termination of employment, the member shall not be required to make any contributions in order to receive prior service credit, but such credit shall not be granted until the member has been reemployed for 12 continuous months.

(d) For prior service as defined in s. 121.021(19)(b) and (c) during which no contributions were made because the member did not participate in a retirement system, the member shall contribute 9 percent of all salary received during such period or 9 percent of \$100 per month during such period, whichever is greater, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund.

(e) In order to claim credit for prior service as defined in s. 121.021(19)(d) for which no retirement contributions were paid during the period of such service, the member shall contribute the total

employee and employer contributions which were required to be made to the Highway Patrol Pension Trust Fund, as provided in chapter 321, during the period claimed, plus 4 percent interest compounded annually from the first year of service until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund. However, any governmental entity which employed such member may elect to pay up to 50 percent of the contributions and interest required to purchase this prior service credit.

Section 5. Section 240.508, Florida Statutes, 1984 Supplement, is renumbered as section 121.40, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 240.508, F.S., for present text.)

121.40 Cooperative extension personnel at the Institute of Food and Agriculture Sciences; supplemental retirement benefits.—

(1) **SHORT TITLE.**—This section shall be known and may be cited as the “Institute of Food and Agricultural Sciences Supplemental Retirement Act.”

(2) **PURPOSE.**—The purpose of this act is to provide a supplement to the monthly retirement benefits being paid under the federal Civil Service Retirement System to, or with respect to, certain retired employees of the Institute of Food and Agricultural Sciences at the University of Florida, whose positions were ineligible for coverage under a state-supported retirement system.

(3) **DEFINITIONS.**—The definitions provided in s. 121.021 shall not apply to this section except when specifically cited. For purposes of this section the following words or phrases have the respective meanings set forth:

(a) “Institute” means the Institute of Food and Agricultural Sciences of the University of Florida.

(b) “Division” means the Division of Retirement of the Department of Administration.

(c) “Participant” means any employee of the Institute of Food and Agricultural Sciences at the University of Florida who is eligible to receive a supplemental benefit as provided in s. 121.40(4).

(d) “Trust fund” means the Institute for Food and Agricultural Sciences Supplemental Retirement Trust Fund.

(e) “Creditable service” means any service subsequent to December 1, 1970, with the Institute of Food and Agricultural Sciences as a cooperative extension employee holding both state and federal appointments, that is credited for retirement purposes by the institute toward a federal Civil Service Retirement System annuity.

(4) **ELIGIBILITY FOR SUPPLEMENT.**—To be eligible for a benefit pursuant to the provisions of this section, a person must meet all of the following eligibility criteria:

(a) The person must have held both state and federal appointments while employed at the institute, and have completed 10 years of creditable service with the institute, subsequent to December 1, 1970.

(b) The person must be participating in the federal Civil Service Retirement System based on his service at the institute.

(c) The person must have retired from the institute on or after January 1, 1985, and must have been eligible for benefits under the federal Civil Service Retirement System commencing immediately upon the termination of service with the institute.

(d) The person must have attained the age of 62.

(e) The person must not be entitled to any benefit from a state-supported retirement system or from social security based upon service as a cooperative extension employee of the institute. Participation in the Institute for Food and Agricultural Sciences Supplemental Retirement Program shall not constitute membership in the Florida Retirement System.

(f) The person must have been employed with the institute prior to, and on, July 1, 1983.

(5) **SUPPLEMENT AMOUNT.**—The supplemental payment shall provide a benefit to the retiree equal to the amount by which the retiree

ment annuity, without a survivor benefit, earned by the employee under the federal Civil Service Retirement System with respect to service as a cooperative extension employee of the institute after December 1, 1970, is inferior to:

(a) An amount equal to the Option one retirement benefit that the employee would have been entitled to receive at his normal retirement age under the Florida Retirement System, attributable only to creditable service after December 1, 1970, as a cooperative extension employee of the institute, excluding any past or prior service credit, had such employee been a member of the Florida Retirement System; plus

(b) An amount equal to the primary insurance amount that the individual employee would have been entitled to receive under social security at age 62 had he been covered for such employment, such amount to be computed in accordance with the Social Security Act only with respect to employment as a cooperative extension employee of the institute after December 1, 1970.

(6) **PAYMENT OF SUPPLEMENT.**—Any participant who retires on or after January 1, 1985, from the federal Civil Service Retirement System as a cooperative extension employee of the institute at the University of Florida, and who satisfies all of the eligibility criteria specified in subsection (4), shall be entitled to receive a supplemental benefit computed in accordance with subsection (5), to begin July 1, 1985, or the month of retirement, or the month in which the participant becomes age 62, whichever is later. Upon application to the administrator, the participant shall receive a monthly supplemental benefit which shall commence on the last day of the month of retirement, and shall be payable on the last day of the month thereafter during his lifetime.

(7) **OPTIONAL FORMS OF SUPPLEMENTAL RETIREMENT BENEFITS.**—Prior to the receipt of his first monthly supplemental retirement payment, a participant shall elect to receive the supplemental retirement benefits to which he is entitled under subsection (6) in accordance with s. 121.091(6).

(8) **DEATH BENEFITS.**—

(a) If the employment of a participant is terminated by reason of his death subsequent to the completion of 10 years of creditable service with the institute but prior to his actual retirement, such 10 year period having commenced on or after December 1, 1970, it shall be assumed that the participant had met all of the eligibility requirements under this section and had retired from the federal Civil Service Retirement System and under this section as of his date of death, having elected, in accordance with subsection (7), the optional form of supplemental payment most favorable to his beneficiary, as determined by the administrator. The monthly supplemental benefit provided in this paragraph shall be paid to the participant's beneficiary (spouse or other financial dependent) upon such beneficiary's attaining the age of 62 and shall be paid thereafter for the beneficiary's lifetime.

(b) If a participant dies subsequent to his actual retirement under the federal Civil Service Retirement System but prior to his attaining age 62, and such participant was otherwise eligible for supplemental benefits under this section, it shall be assumed that the participant had met all of the eligibility requirements under this section and had retired as of his date of death, having elected in accordance with subsection (7), the optional form of supplemental payment most favorable to his beneficiary, as determined by the administrator. The monthly supplemental benefit provided in this paragraph shall be paid to the participant's beneficiary (spouse or other financial dependent) upon such beneficiary's attaining the age of 62 and shall be paid thereafter for the beneficiary's lifetime.

(9) **DESIGNATION OF BENEFICIARIES.**—Each participant may designate beneficiaries in accordance with s. 121.091(8).

(10) **COST-OF-LIVING ADJUSTMENT OF SUPPLEMENTAL BENEFITS.**—On each July 1, the supplemental benefit of each retired participant and each annuitant shall be adjusted as follows:

(a) Each retired participant and each annuitant who is receiving supplemental benefits pursuant to this section shall receive a cost-of-living adjustment resulting in an adjusted monthly supplemental benefit. The adjusted monthly supplemental benefit shall be the sum of the monthly supplemental benefit being received on June 30 immediately preceding the adjustment date and a percentage of this benefit equal to the percentage change in the average cost-of-living index as defined in s. 121.101(2)(a) as of the date of adjustment from that index for the next

preceding adjustment date. However, in no event shall the percentage for the annual cost-of-living adjustment exceed 3 percent for any annual adjustment date.

(b) For those retired participants and annuitants who qualify for an initial cost-of-living adjustment within 12 months subsequent to the date on which supplemental benefits have commenced pursuant to this section, the percentage change in the average cost-of-living index shall be determined by interpolation from the average cost-of-living index for the two nearest adjustment dates.

(11) EMPLOYMENT AFTER RETIREMENT: LIMITATION.—

(a) Any person who is receiving a supplemental retirement benefit under this section may be reemployed by any private or public employer after retirement and receive supplemental retirement benefits pursuant to this section and compensation from his employer, without any limitations, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and supplemental retirement benefits under this section for a period of 12 months immediately subsequent to the date of retirement.

(b) Each person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division, and shall have his supplemental retirement benefits suspended for the balance of the 12-month limitation period. Any supplemental retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the trust fund and supplemental retirement benefits shall remain suspended until such repayment has been made. Supplemental benefits suspended beyond the reemployment limitation shall apply toward repayment of supplemental benefits received in violation of the reemployment limitation.

(c) The reemployment by an employer participating in the Florida Retirement System of any person receiving supplemental retirement benefits under this section shall have no effect on the amount of the supplemental benefit of that person, and membership in the Florida Retirement System of any such person shall not be permitted. Any employer upon employment of any person who is receiving supplemental retirement benefits under this section shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.

(d) The limitations of this subsection apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

(12) CONTRIBUTIONS.—

(a) For purposes of funding the supplemental benefits provided by this section, the Institute of Food and Agricultural Sciences at the University of Florida is authorized and required to pay, commencing July 1, 1985, the necessary monthly contributions from its appropriated budget. These amounts shall be paid into the Institute of Food and Agricultural Sciences Supplemental Retirement Trust Fund, which is hereby created.

(b) The monthly contributions required to be paid pursuant to paragraph (a) shall be equal to 6.68 percent of the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System.

(13) INVESTMENT OF THE TRUST FUND.—

(a) The State Board of Administration shall invest and reinvest available funds of the trust fund in accordance with the provision of ss. 215.44-215.53. The board shall consider investment techniques, such as contingent immunization or the development of a dedicated portfolio, which are directed toward developing minimum-risk procedures for supporting a prescribed liability schedule.

(b) Costs incurred in carrying out the provisions of this part shall be deducted from the interest earnings accruing to the trust fund.

(14) ADMINISTRATION OF SYSTEM.—

(a) The Division of Retirement shall make such rules as are necessary for the effective and efficient administration of this system. The director

of the division shall be the administrator of the system. The funds to pay the expenses for such administration shall be appropriated from the interest earned on investments made for the trust fund.

(b) The Division of Retirement is authorized to require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its duties and responsibilities under this section.

(c) The administrator shall cause an actuarial study of the system to be made at least once every 2 years and shall report the results of such study to the next session of the Legislature following completion of the study.

Section 6. Subsection (4) of section 122.08, Florida Statutes, is amended to read:

122.08 Requirements for retirement; classifications.—There shall be two retirement classifications for all state and county officers and employees participating herein as hereafter provided in this section:

(4)(a) Any state or county officer or employee shall have the right at any time prior to receipt of his or her first monthly installment of retirement compensation to elect to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw such reduced retirement compensation, or one-half thereof if so designated, so long as such spouse shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to such officer or employee. Any state or county officer or employee who becomes eligible for retirement and continues to hold office or be employed shall be construed to have selected the option herein which will afford the surviving spouse the greatest amount of benefits. Should such officer or employee die before retiring, his surviving spouse shall be entitled to receive either the accumulated contributions of such officer or employee at the date of death or the reduced retirement compensation to which the surviving spouse would have been entitled under such option, calculated on the assumption that such officer or employee retired on the date of his death; provided, that for all those persons who become members of the retirement system on or after July 1, 1963, the amount of retirement compensation otherwise payable to the member at his date of death shall be determined on the basis of a retirement age of 62 years. Any officer or employee shall have the right at the time of retirement to change the option so provided; and, should the option be changed or not at the time of retirement, such option shall be effective immediately upon retirement and thereafter may not be revoked.

(b) A member who elects an option in paragraph (a) shall on a form provided for that purpose, designate his spouse as beneficiary to receive the benefits which continue to be payable upon the death of the member. After such benefits have commenced under an option in paragraph (a), the retired member may change the designation of his spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he may do so by filing with the division a notarized change of spouse designation form and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

Section 7. Subsection (1) of section 123.07, Florida Statutes, is amended to read:

123.07 Reduced retirement benefits with excess to beneficiary.—

(1) Any Supreme Court justice, district court of appeal judge, or circuit judge shall have the right at any time prior to receipt of his or her first monthly installment of retirement compensation to elect to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw such reduced retirement compensation (or one-half thereof if so designated) so long as he or she shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement otherwise payable to such Supreme Court justice, district court of appeal judge or circuit judge. A member who elects the option to receive such a reduced retirement compensation shall on a form provided for that purpose, designate his spouse as beneficiary to receive the benefits which continue to be pay-

able upon the death of the member. After such reduced retirement benefits have commenced, the retired member may change the designation of his spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he may do so by filing with the division a notarized change of spouse designation form, and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

Section 8. Subsection (4) of section 123.17, Florida Statutes, is amended to read:

123.17 Judicial retirement for disability.—

(4) Any justice or judge retired for disability shall have the right at any time prior to receipt of the first monthly installment of retirement compensation to elect to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw such reduced retirement compensation so long as he or she shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement otherwise payable such justice or judge. In the event the disability of the justice or judge renders him incapable of making such election the commission may elect the plan most favorable under the circumstances of the particular case and include this election in its judgment. Any disabled justice or judge who elects the option to receive such a reduced retirement compensation shall on a form provided for that purpose, designate his spouse or beneficiary to receive the benefits which continue to be payable upon his death. After such reduced retirement benefits have commenced, the retired justice or judge may change the designation of his spouse as beneficiary only twice. If such a retired justice or judge remarries and wishes to make such a change, he may do so by filing with the division a notarized change of spouse designation form, the division shall adjust the monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

Section 9. Subsection (5) of section 238.08, Florida Statutes, is amended to read:

238.08 Optional benefits.—A member may elect to receive his benefits under the terms of this chapter according to the provisions of any one of the following options:

(5)(a) If a member continues in service beyond the date he is first eligible for service retirement and does not, prior to his death, elect Options three or four, his spouse may, at the option of the spouse, receive either the accumulated contributions of the member at date of death or the reduced retirement compensation to which the beneficiary would have been entitled under Option three, calculated on the assumption that the member retired on his date of death and died immediately subsequent thereto provided that the spouse of any member who died between July 1, 1955, and June 30, 1957, both dates inclusive, is entitled to full benefits under this subsection and further provided that for all persons who become members of the system on or after July 1, 1963, the amount of such retirement allowance otherwise payable to the member at his date of death shall be determined on the basis of his normal retirement age as defined in s. 238.07.

(b) A member who elects Option three or Option four shall on a form provided for that purpose, designate his spouse as beneficiary to receive the benefits which continue to be payable upon the death of the member. After such benefits have commenced under Option three or Option four, the retired member may change the designation of his spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he may do so by filing with the division a notarized change of spouse designation form, and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

Section 10. Subsection (5) of section 321.20, Florida Statutes, is amended to read:

321.20 Retirement pay; basis.—

(5) Every member shall have the right at any time prior to receipt of his first monthly pension payment to elect to receive a reduced pension during his lifetime with the provision that such reduced pension, or one-half thereof if so designated, shall be continued after his death to his spouse during her lifetime. The amount of such reduced pension shall be the actuarial equivalent of the amount of such pension otherwise payable to the member in accordance with subsection (1). A member who elects the option to receive such a reduced pension shall on a form provided for that purpose, designate his spouse as beneficiary to receive the benefits which continue to be payable after the death of the member. After such reduced pension benefits have commenced, the retired member may change the designation of his spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he may do so by filing with the division a notarized change of spouse designation form and shall notify the former spouse in writing of such change. Upon receipt of a completed change of spouse designation form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 112.362, F.S., restricting the application of the minimum retirement benefit provision; amending s. 121.021, F.S., redefining monthly service credit; amending s. 121.081, F.S., providing for the purchase of prior service under the Florida Retirement System for members of the optional retirement program for the State University System; amending and renumbering s. 240.508, F.S., revising the "Institute of Food and Agricultural Sciences Supplemental Retirement Act"; amending ss. 122.08, 123.07, 123.17, and 238.08, F.S., relating to optional forms of benefits payable under the State and County Officers and Employees' Retirement System, the Supreme Court Justices, District Court of Appeal Judges and Circuit Judges Retirement System and the Teachers' Retirement System of Florida; providing for the recalculation of benefits upon redesignation of a spouse as beneficiary; amending s. 321.20, F.S., relating to optional forms of benefits payable under the Highway Patrol Retirement System; providing for the recalculation of benefits upon redesignation of a spouse as beneficiary;

Amendment 3—On page 1, line 12, insert:

Section 1. Paragraph (e) of subsection (4) of section 121.091, Florida Statutes, 1984 Supplement, is amended to read:

121.091 Benefits payable under the system.—

(4) DISABILITY RETIREMENT BENEFIT.—

(e) Recovery from disability.—The administrator may require periodic reexaminations at the expense of the retirement fund, and:

1. If the administrator finds that a member who is receiving disability benefits is, at any time prior to his normal retirement date, no longer disabled, the administrator shall direct that the benefits be discontinued. The decision of the administrator on this question shall be final and binding.

2. If the member, described in subparagraph 1., who recovers from such disability prior to his normal retirement date does not reenter the employ of an employer and had not completed 10 years of creditable service as of his disability retirement date, he shall be entitled to the excess, if any, of his accumulated contributions over the total disability benefits received up to his date of recovery.

3. If the member, described in subparagraph 1., who recovers from such disability prior to his normal retirement date does not reenter the employ of an employer but had completed 10 or more years of creditable service as of his disability retirement date, he may elect to receive:

a. The excess, if any, of his accumulated contributions over the total disability benefits received up to his date of recovery, or

b. A deferred benefit commencing on the last day of the month of his normal retirement date which shall be payable on the last day of the month thereafter during his lifetime. The amount of such monthly benefit shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but based on average monthly compensation and creditable service as of the member's disability retirement date.

4. If the member recovers from disability and reenters employment of an employer within 6 months after his recovery, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability benefit payment and ending with the date he reentered employment will not be considered as creditable service for the purpose of computing benefits *except as provided in subparagraphs 5.* The term "accumulated contributions" for such member wherever used in this section after such recovery means the excess of a member's accumulated contributions as of his disability retirement date over total disability benefits received under paragraph (d).

5. *If the member recovers from disability, has his disability benefit terminated, reenters covered employment and is continuously employed for a minimum of 1 year of creditable service, he may claim as creditable service the months during which he was receiving a disability benefit, upon payment of the required contributions. Contributions shall equal the total required employee and employer contribution rate during the period the retiree received retirement benefits, multiplied times his rate of monthly compensation prior to the commencement of disability retirement for each month of the period claimed, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 to the date of payment. If the member does not claim credit for all of the months he received disability benefits, the months claimed must be his most recent months of retirement.*

(Renumber the subsequent sections.)

Amendment 4—In the title, on page 1, line 3, after the semicolon (;) insert: amending s. 121.091, F.S., permitting a member retired due to disability to purchase such retired years as creditable service upon recovery of disability and reemployment under the Florida Retirement System;

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

SB 1021 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

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

Nays—None

Vote after roll call:

Yea—Fox

The Honorable Harry A. Johnston, II, President

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

SB 1031—A bill to be entitled An act relating to corrections; adding s. 945.091(1)(c), F.S.; providing for extending limits of confinement of inmates in certain rehabilitative programs; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 10, strike everything after the enact- ing clause and insert:

Section 1. Subsection (7) is added to section 944.02, Florida Statutes, to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(7) "*Lease-purchase agreement*" means an installment sales contract which requires regular payments with an interest charge included, and which provides that the lessee receives title to the property upon final payment.

Section 2. Subsection (1) of section 944.08, Florida Statutes, is amended to read:

944.08 Commitment to custody of department; venue of institutions.

(1) The words "penitentiary" or "state prison" or "state prison farm," whenever the same are used in any of the laws of this state, as a place of confinement or punishment for a crime, shall be construed to mean and refer to the custody of the Department of Corrections within the state correctional system, which shall include facilities operated by private entities with whom the department enters into a contract pursuant to s. 944.105.

Section 3. Subsection (1) of section 944.09, Florida Statutes, is amended to read:

944.09 Supervision of offenders committed to the department; rules and regulations; punishment.—

(1) All persons committed to the department shall be supervised by it, except those persons supervised pursuant to the provisions of ss. 944.105, 945.091, 946.09, and 946.40.

Section 4. Subsection (2) of section 944.10, Florida Statutes, is renumbered as subsection (3) and a new subsection (2) is added to said section, to read:

944.10 Division of Building Construction and Property Management to provide buildings; sale and purchase of land.—

(2)(a) *The Division of Building Construction and Property Management of the Department of General Services may enter into lease-purchase agreements, on behalf of the Department of Corrections, to provide correctional facilities for the housing of state inmates. The facilities provided through such agreements shall meet the program plans and specifications of the Department of Corrections. The Division of Building Construction and Property Management may enter into such lease agreements with private corporations and other governmental entities. However, notwithstanding the provisions of s. 255.25(3)(a), no such lease agreement may be entered into except upon advertisement for and receipt of competitive bids and award to the lowest and best bidder.*

(b) *Such a lease-purchase agreement which is for a term extending beyond the end of a fiscal year shall be subject to the provisions of s. 216.311.*

Section 5. Section 944.105, Florida Statutes, is created to read:

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and supervision of inmates.—

(1) *The Department of Corrections is authorized to enter into contracts with private entities for the provision of the operation and maintenance of correctional facilities and the supervision of inmates.*

(2) *Any private entity entering into a contract with the department pursuant to this section shall be liable in tort with respect to the care and custody of inmates under its supervision and for any breach of contract with the department.*

(3) *In cases of an inmate's willful failure to remain within the supervisory control of the private entity, such action shall constitute an escape punishable as provided in s. 944.40.*

(4) *The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private entity providing such services. The department shall promulgate rules pursuant to chapter 120 specifying criteria for such contractual arrangements.*

Section 6. Subsection (21) is added to section 20.315, Florida Statutes, to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(21) *PURCHASE OF SERVICES.*—Whenever possible, the department, in accordance with the established program objectives and performance criteria, may contract for the provision of services by counties, municipalities, nonprofit corporations, and other entities capable of providing needed services, if services so provided are more cost-efficient, cost-effective, or timely than those provided by the department or available to it under existing law.

Section 7. Section 944.597, Florida Statutes, is created to read:

944.597 *Transportation and return of prisoners by private transport company.*—

(1) *The department is authorized to contract with private transport companies for the transportation of prisoners both within and beyond the limits of this state. Each prisoner shall be taken into custody by the transport company for the purpose of transportation and then delivered by the same transport company to the proper law enforcement official upon arriving at the point of destination. Any private transport company transporting a prisoner pursuant to this section shall be considered an independent contractor and shall be solely liable for the prisoner while he is in the custody of such company.*

(2) *The department shall include, but shall not be limited to, the following requirements in any contract with any transport company:*

(a) *That the transport company shall maintain adequate liability coverage with respect to the transportation of prisoners;*

(b) *That personnel employed with the transport company who are based in the state shall meet the minimum standards in accordance with s. 943.13 and that personnel employed with the transport company based outside of Florida shall meet the minimum standards of a correctional officer or law enforcement officer in the state where the employee is based;*

(c) *That the transport company shall adhere to standards which provide for humane treatment of prisoners while in the custody of the transport company;*

(d) *That the transport company shall submit reports to the department regarding incidents of escape, use of force, and accidents involving prisoners in the custody of the transport company.*

(3) *Any company providing transport of inmates, pursuant to this section shall hold a Class "B" license pursuant to chapter 493, and any employee of such a company shall hold a Class "D" and Class "G" license pursuant to chapter 493.*

(4) *The Department shall advertise for and receive competitive bids for the transportation of prisoners and award the contract to the lowest and best bidder.*

Section 8. Paragraph (c) is added to subsection (1) of section 945.091, Florida Statutes, 1984 Supplement, to read:

945.091 Extension of the limits of confinement; restitution by employment inmates.—

(1) The department is authorized to adopt regulations permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that he will honor his trust by authorizing him, under prescribed conditions and following investigation and approval by the secretary, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(c) *Participate in a residential or nonresidential rehabilitative program operated by a public or private, nonprofit agency with which the department has contracted for the treatment of such inmate. The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private entity providing such services. The department shall require such agency to provide appropriate supervision of inmates participating in such program. The failure of such inmate to demonstrate satisfactory progress in the program is a ground for the department to terminate the inmate's participation in the program and to terminate the extended limits of confinement.*

Section 9. This act shall take effect upon becoming a law.

Amendment 2—On page 1 in the title, lines 2-6, strike all of said lines and insert: An act relating to the state correctional system; amending s. 944.02, F.S.; defining "lease-purchase agreement"; amending s. 944.08, F.S.; including correctional facilities operated by private entities within the state correctional system; amending s. 944.09, F.S.; exempting certain persons from supervision by the Department of Corrections; amending s. 944.10, F.S.; authorizing the Department of General Services to enter into lease-purchase agreements to provide correctional facilities; creating s. 944.105, F.S.; authorizing the Department of Corrections to contract with private entities to operate and maintain correctional facilities and supervise inmates; providing certain liability; providing punishment for escape; amending s. 20.315, F.S.; authorizing the Department of Corrections to contract for certain services; creating s. 944.597, F.S.; authorizing the Department of Corrections to contract with private transport companies for the transportation of prisoners; providing requirements for such contracts; amending s. 945.091, F.S.; providing for extending limits of confinement with respect to certain inmates in certain rehabilitative programs; providing an effective date.

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

Amendment 1—On page 3, line 13, through page 4, line 9, strike all of section 5 and insert:

Section 5. Section 944.105, Florida Statutes, is created to read:

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and county detention facilities and supervision of inmates and county prisoners.

(1) The Department of Corrections is authorized to enter into contracts with private entities for the provision of the operation and maintenance of correctional facilities and the supervision of inmates. However, no such contract shall be entered into without specific legislative approval, and funds specifically appropriated for the contract.

(2) The boards of county commissioners are authorized to enter into contracts with private entities for the provision of the operation and maintenance of a county detention facility as defined in s. 951.23(1)(a) and the supervision of county prisoners.

(3) Any private entity entering into a contract with the department or a board of county commissioners pursuant to this section shall be liable in tort with respect to the care and custody of inmates or county prisoners under its supervision and for any breach of contract with the department or a board of county commissioners.

(4) In cases of an inmate's or county prisoner's willful failure to remain within the supervisory control of the private entity, such action shall constitute an escape punishable as provided in s. 944.40.

(5) The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private entity providing such services. The department shall promulgate rules pursuant to chapter 120 specifying criteria for such contractual arrangements.

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

Amendment 2—On page 3, line 6, after "inmates." insert: However, no such lease purchase agreement shall be entered into without specific legislative authorization of that agreement, and funds specifically appropriated for each lease purchase agreement.

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

Amendment 3—On page 6, line 2, insert a new Section 9

Section 9. Subsection (1) of section 945.30, Florida Statutes, 1984 Supplement, is amended to read:

945.30 Payment for cost of supervision and rehabilitation.—

(1) Any person under *community control*, probation or parole supervision or under supervision in the pretrial supervision program pursuant to chapter 944 shall be required to contribute no less than \$30 \$20 or more than \$50 per month as decided by the sentencing court or, with respect to pretrial intervention, by the state attorney to a court-approved public or private entity providing him with supervision and rehabilita-

tion. Any failure to pay such contribution may constitute a ground for the revocation of probation by the court, the revocation of parole by the Parole and Probation Commission, or removal from the pretrial intervention program by the state attorney. The Department of Corrections may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

- (a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to make such payments.
- (b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the Secretary of Corrections by the educational institution in which the offender is enrolled.
- (c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the secretary.
- (d) The offender's age prevents him from obtaining employment.
- (e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.
- (f) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.
- (g) There are other extenuating circumstances, as determined by the secretary.

Section 2. Section 946.40, Florida Statutes, is amended to read:

946.40 Use of prisoners in public works.—

(1) The Department of Corrections ~~may is authorized to~~ enter into agreements with such political subdivisions in the state, as defined by s. 1.01(9), including municipalities; with such agencies and institutions of the state; and with such nonprofit corporations as might use the services of inmates of correctional institutions and camps when it is determined by the department that such services will not be detrimental to the welfare of such inmates or the interests of the state in a program of rehabilitation. An agreement for use of *fewer than 10* minimum custody inmates and medium custody inmates may provide that supervision will be either by the department or by the political subdivision, institution, nonprofit corporation, or agency using the inmates. The department is authorized to adopt rules governing work and supervision of inmates used in public works projects, which rules shall include, but shall not be limited to, the proper screening and supervision of such inmates. Inmates may be used for these purposes without being accompanied by a correctional officer, provided the political subdivision, municipality, or agency of the state or the nonprofit corporation provides proper supervision pursuant to the rules of the Department of Corrections.

(2) The budget of the department may be reimbursed from the budget of any ~~political subdivision of the state, as defined by s. 1.01(9),~~ state agency, or state institution for the services of inmates and personnel of the department in such amounts as may be determined by agreement between the department and the head of such ~~political subdivision,~~ agency, or institution. *However, no political subdivision of the state shall be required to reimburse the department for such services. The department shall not be required to provide supervision for minimum or medium custody inmates unless there is adequate notice of the need for the services of at least 10 such inmates.*

(3) *No person convicted of sexual battery pursuant to s. 794.011 or any other sex offense specified in s. 917.012(1)(a) shall be eligible for any program under the provisions of this section.*

(4) *Ten dollars of the monthly cost of supervision fee imposed pursuant to s. 945.30 (1) after the effective date of this subsection shall be deposited into the General Revenue Fund and paid to the Department of Corrections for the administration of the Inmate Work Program as created by this act. Within the dollars generated pursuant to this subsection the Administration Commission is authorized to establish positions in excess of the number fixed by the Legislature for the administration of this program.*

(Renumber subsequent sections.)

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

Amendment 4—On page 6, line 1, insert:

Section 9. Section 944.601, Florida Statutes, is amended to read:

944.601 Basic release assistance.—

(1) Prior to the release from commitment of any inmate, the department shall determine the releasee's postincarceration plans. Any inmate *who is being released and is lacking either employment or a qualifying residence may be eligible for a contract release, except when being released from a work-release program, to another state or to a detainer. Selected inmates on work release who experience severe hardships may be considered for contract release. Each contract release plan must meet departmental approval. ~~not being released from a work-release program or to another state; to detainer; to parole supervision; to presecured employment; or to a qualifying residence, family member, or friend may be eligible for a contract release.~~*

(2) The department is authorized to contract with the Department of Health and Rehabilitative Services, the Salvation Army, and other public or private organizations in the various counties of the state for the provision of support services as the receiving agencies for contract releasees.

(3) The department shall advance the release date of a contract releasee by up to ~~30~~ 10 days and shall forward to the support agency designated in the contract an additional amount equal to that of the discharge gratuity for the purpose of motivating the releasee to secure permanent employment and residence. The receiving agency shall distribute the stipend to the releasee in accordance with the terms of the release contract. Violation of the terms of the contract may constitute grounds for the forfeiture of the stipend and termination of the contract.

(4) The department shall promulgate rules for the development, implementation, and termination of release contracts.

(Renumber subsequent section.)

Senators Stuart and Hill offered the following amendment to House Amendment 2 which was moved by Senator Hill and adopted:

Amendment 1—On page 1, line 19, after "programs;" insert: amending s. 945.30, F.S.; increasing the minimum monthly cost of supervision fee assessed to persons in the pretrial intervention program, and to offenders on probation, parole, or community control; amending s. 946.40, F.S.; allowing inmate work squads to work for political subdivisions without reimbursement to the Department of Corrections; restricting inmates convicted of sex offenses from such squads; requiring payment of a portion of the cost of supervision fees into the Inmate Work Trust Fund for certain purposes;

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

Amendment 2—In title, on page 1, line 19, after the semicolon (;) insert: amending s. 944.601, F.S.; providing that certain inmates who are being released may be eligible for a contract release; requiring the Department of Corrections to advance the release date of a contract releasee by up to a specified number of days;

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

SB 1031 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

B Beard	G Girardeau	K Kiser	P Plummer
C Castor	G Gordon	L Langley	S Stuart
Ch Childers, W. D.	G Grant	M Malchon	T Thurman
C Crawford	G Grizzle	M Mann	V Vogt
D Deratany	H Hill	M Margolis	W Weinstein
F Fox	J Jennings	Mc McPherson	
Fr Frank	J Johnson	M Meek	
Ge Gersten	K Kirkpatrick	M Myers	

Nays—None

Vote after roll call:

Yea—Carlucci, Jenne, Neal, Thomas

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 2, 4, 5, 6, 7, 8 and 9; has amended Senate Amendment 3, concurred in same as amended and passed HB 542, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 542—A bill to be entitled An act relating to motor vehicles and mobile homes; amending s. 319.33, F.S., prohibiting possession, concealment, or disposition of any motor vehicle or mobile home, or major component part thereof; prohibiting possession, manufacture, sale, or exchange, and prohibiting supplying in blank or giving away, any counterfeit identification or serial plate or decal, or offering or conspiring to do any of the foregoing; providing an exception; providing for confiscation and sale of unidentifiable motor vehicles; providing procedures; repealing s. 320.33, F.S., relating to possession of motor vehicles from which the serial number has been removed; providing an effective date.

Amendment 1 to Senate Amendment 3—On page 1, lines 27-30 and on page 2, lines 1-2, strike all of said lines and insert: *any mobile home classified by a seller or a lender as personal property at the time a security interest was granted therein to secure an obligation shall continue to be so classified for all purposes relating to the loan and security interest, at least as long as any part of such obligation, or any extension or renewal thereof, remains outstanding. Classification of a mobile home as personal property by a seller or a lender shall not prohibit the owner from having the mobile home classified and taxed as real property under subsection (1).*

(Renumber subsequent sections.)

On motion by Senator Beard, the Senate concurred in House Amendment 1 to Senate Amendment 3.

HB 542 passed as amended. The action of the Senate was certified to the House. The vote on passage was:

Yeas—24

Beard	Gersten	Jennings	Meek
Childers, W. D.	Girardeau	Kirkpatrick	Myers
Crawford	Gordon	Langley	Plummer
Deratany	Grant	Malchon	Stuart
Fox	Grizzle	Mann	Thurman
Frank	Hill	McPherson	Vogt

Nays—None

Vote after roll call:

Yea—Carlucci, Castor, Jenne, Neal, 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 572—A bill to be entitled An act relating to community colleges; amending s. 240.313, F.S.; providing circumstances under which a community college district board of trustees may consist of seven members; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 22 and 23, strike section 2 and insert:

Section 2. Paragraph (c) of subsection (1) of section 240.343, Florida Statutes, is 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 42 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.

Section 3. This act shall take effect upon becoming a law.

Amendment 2—On page 1 in the title, line 5, insert after the semicolon (:): amending s. 240.343, F.S. changing the number of days a full-time employee to be absent for personal reasons;

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

SB 572 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—31

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

Nays—None

Vote after roll call:

Yea—Carlucci, Castor, Jenne, Langley, Neal

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 170 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Martinez and others—

HB 170—A bill to be entitled An act relating to insurance; amending s. 627.419, F.S., requiring chiropractic coverage in certain insurance policies, plans, and contracts; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

On motion by Senator Jennings, by unanimous consent—

SB 248—A bill to be entitled An act relating to insurance; amending s. 627.419, F.S.; providing that certain insurance policies, plans, and contracts shall be construed to include coverage for chiropractic services or procedures; providing an effective date.

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

The Committee on Commerce recommended the following amendment which was moved by Senator Jennings and adopted:

Amendment 1—On page 1, line 20, after the period (.) insert: *Any limitation or condition placed upon payment to, or services, diagnosis, or treatment by, any licensed physician shall apply equally to all licensed physicians.*

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

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

Amendment 1A—On page 1, line 14, after "physicians" insert: *without unfair discrimination to the usual and customary treatment procedures of any class of physicians.*

Amendment 1 as amended was adopted.

On motion by Senator Jennings, by two-thirds vote SB 248 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Carlucci, Neal, Thomas

The President presiding

The hour of 4:00 p.m. having arrived, the Senate proceeded to consideration of—

CS for SB 673—A bill to be entitled An act relating to state lands; amending s. 712.03, F.S.; excepting state interest in certain lands from effects of marketable record title; amending s. 712.10, F.S.; providing that chapter 712, F.S., not be construed to divest or have divested the state of its interest in any land; amending s. 197.228, F.S.; providing for validity of certain conveyances of sovereignty lands; providing an effective date.

—which was read the second time by title.

Senators Stuart, Dunn and Kiser offered the following amendment which was moved by Senator Dunn:

Amendment 1—On page 4, line 13, strike everything after the enacting clause and insert:

Section 1. Section 712.02, Florida Statutes, is amended to read:

712.02 Marketable record title; *suspension of applicability.*—

(1) Any person having the legal capacity to own land in this state, who, alone or together with his predecessors in title, has been vested with any estate in land of record for 30 years or more, shall have a marketable record title to such estate in said land, which shall be free and clear of all claims except the matters set forth as exceptions to marketability in s. 712.03. A person shall have a marketable record title when the public records disclosed a record title transaction affecting the title to the land which has been of record for not less than 30 years purporting to create such estate either in:

(a) ~~(1)~~ The person claiming such estate; or

(b) ~~(2)~~ Some other person from whom, by one or more title transactions, such estate has passed to the person claiming such estate, with nothing appearing of record, in either case, purporting to divest such claimant of the estate claimed.

(2) *The provisions of this act shall not apply to an action, either in law or equity, in which any person seeks to quiet title to sovereignty lands or to lands which were granted for school purposes, including the sixteenth section in each township. This subsection shall stand repealed on October 1, 1986, and shall not be construed to be applicable to pending litigation. During the period of suspension of the applicability of this act, the property interests of a person including the State of Florida in such lands shall not hereby be extinguished, vested, or created.*

Section 2. (1) There is hereby created the Study Commission on MARTA, for the purpose of studying the application, if any, of the Marketable Records Title Act to sovereignty lands or other lands held by the state. For purposes of administration, the study commission shall be assigned to the Office of the Governor.

(2) The study commission shall consist of seventeen members, of whom seven shall be appointed by the Governor, five shall be appointed by the President of the Senate, and five shall be appointed by the Speaker of the House of Representatives, no later than July 1, 1985. At least three of the five members appointed by the President of the Senate shall be members of the Senate, and at least three of the members appointed by the Speaker of the House of Representatives shall be members of the House of Representatives. The Governor shall appoint the chairman of the study commission.

(3) Members of the study commission shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses while engaged in commission duties, as provided in s. 112.061, Florida Statutes.

(4) Before September 15, 1985, the commission shall conduct no fewer than five public hearings in the various geographic areas of the state to consider the specific impact of the Marketable Records Title Act on land titles and rights of possession as they relate to sovereignty lands or other lands held by the state.

(5) No later than October 15, 1985 the study commission shall submit a report of the findings from such public hearings and of the study commission's recommendations with respect to amendments of the Marketable Records Title Act and any other related issues, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3. The sum of \$50,000 is appropriated from the General Revenue Fund to the Office of the Governor for the operation of the Study Commission on MARTA.

Section 4. This act shall take effect upon becoming a law.

Senator Mann moved the following substitute amendment which failed:

Amendment 2—Strike everything after the enacting clause and insert:

Section 1. Chapter 712, Florida Statutes, is hereby repealed.

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

Senator Vogt presiding

The President presiding

Senators Kiser, Crawford, Stuart and Dunn offered the following amendment to Amendment 1 which was moved by Senator Crawford and adopted:

Amendment 1A—On page 2, line 7, after “township” insert: *, if the rights of such persons have not vested under this act at the time of the effective date of this section.*

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

Amendment 1B—On page 1, lines 12-30, and on page 2, lines 1-12, strike all of said lines and renumber subsequent sections.

Amendment 1 as amended was adopted.

Senators McPherson, Mann, Stuart, Dunn and Kiser offered the following amendment which was moved by Senator Dunn and adopted:

Amendment 3—In title, on page 1, line 1, through page 4, line 10, strike everything before the enacting clause and insert: A bill to be entitled An act relating to marketable record title; amending s. 712.02, F.S.; providing for a suspension of applicability of the marketable records title act; providing for the repeal of such suspension and limiting its applicability; creating a study commission to study certain applications and impacts of the Marketable Records Title Act; providing for commission membership; providing for reimbursement of specified expenses; providing for public hearings; requiring a report; providing an appropriation; providing an effective date.

Senator Carlucci raised a point of order that CS for SB 673 as amended had financial impact and should be removed from the calendar and referred to the Committee on Appropriations. The President ruled the point not well taken.

On motion by Senator McPherson, by two-thirds vote CS for SB 673 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	Childers, W. D.	Fox	Gordon
Beard	Crawford	Frank	Grizzle
Castor	Deratany	Gersten	Hair
Childers, D.	Dunn	Girardeau	Jenne

Jennings	Margolis	Peterson	Vogt
Johnson	McPherson	Plummer	Weinstein
Kirkpatrick	Meek	Stuart	
Kiser	Myers	Thomas	
Malchon	Neal	Thurman	

Nays—6

Barron	Grant	Mann
Carlucci	Langley	Scott

Senator Stuart presiding

Senator D. Childers moved that the rules be waived and the Senate revert to House Messages for the purpose of taking up CS for CS for SB 1. The motion failed.

Senator Kirkpatrick moved that the rules be waived and the Senate revert to House Messages for the sole purpose of taking up CS for SB 848. The motion was adopted.

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—

CS for SB 848—A bill to be entitled An act relating to educational facilities; amending ss. 235.001, 235.002, 235.011, 235.014, 235.04, 235.054, 235.055, 235.06, 235.15, 235.195, 235.196, 235.197, 235.211, 235.212, 235.26, 235.30, 235.31, 235.32, 235.33, 235.34, 235.41, 235.42, 235.435, F.S.; repealing ss. 235.065, 235.193(4), F.S.; amending the short title; providing legislative intent; providing definitions; providing for functions of the Office of Educational Facilities of the Department of Education; amending the minimum utilization rate for postsecondary classrooms; providing for the disposal of real property by certain educational boards; providing procedures for proposed purchases of real property by certain boards; authorizing certain construction on short-term leased property by the Board of Regents; providing for safety and sanitation standards and inspection of public educational and ancillary plants; deleting provision which empowered a local governing body to reject residential development plans under certain circumstances; providing for the cooperative development and use of facilities by two or more boards under certain circumstances; providing procedures and requirements for requests for moneys to construct certain community educational facilities; amending provisions relating to the use of relocatable facilities and providing for the transfer of title of such facilities; deleting provisions requiring that the state board develop and provide certain prototype design criteria; providing for use of designs for natural or natural and low-energy usage mechanical ventilation in certain new educational facilities under certain circumstances; providing for the adoption of a state uniform building code for educational and ancillary plants; requiring conformity of certain plans to the code; providing for enforcement; providing for the awarding of certain contracts; requiring inspection of certain facilities prior to occupancy or final payment to the contractor; prohibiting local legislation amending the uniform building code after a certain date; providing for supervision and inspection of certain construction; increasing the maximum amount a project may cost to be done on a day-labor basis; deleting certain provisions relating to the advertising and awarding of contracts and prequalification of contractors; requiring contractors to furnish a performance and payment bond; authorizing the expenditure of funds for certain roads and traffic control devices; amending provisions relating to legislative capital outlay budget requests; revising the sources which comprise the Public Education Capital Outlay and Debt Service Trust Fund; revising the method for allocating moneys from the fund; repealing provision relating to maintenance and operation of educational plants; creating s. 235.436, F.S.; requiring that appropriations from the Public Education Capital Outlay and Debt Service Trust Fund be made in the General Appropriations Act; prohibiting the pledging of funds from the trust fund unless the appropriation of such funds was made in the General Appropriations Act; reviving and adopting certain provisions scheduled for repeal; providing for the future repeal of certain provisions; designating part I of chapter 203, F.S.; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax; amending s. 203.012, F.S.; providing definitions; amending s. 203.013, F.S.; revising the formula for taxing certain telecommunications services; designating part I of chapter 203, F.S.; creating part II of chapter 203, F.S., consisting of ss. 203.60, 203.61, 203.62, and 203.63, F.S.; providing for imposing a gross receipts tax on interstate and international telecommunications services; providing legislative intent; providing definitions; providing for application of certain sections of part I; providing severability; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

On motion by Senator Jenne, the rules were waived and the House amendments were not printed in the Journal (amendments attached to original bill).

On motions by Senator Kirkpatrick, the Senate refused to concur in the House amendments to CS for SB 848 and requested a conference committee. The President appointed Senators Neal, Thomas, Gordon, Beard, Castor, Kirkpatrick, Peterson, Mann, Fox, Langley; alternates: Senators Jenne, Grizzle, Hair and Stuart. The action of the Senate was certified to the House.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Kirkpatrick, the rules were waived and by two-thirds vote SB 480, CS for SB 1186, CS for SB 1210, SB 1066, SB 1102, SB 953, SB 964, SB 232 and SB 24 were withdrawn from the Committee on Appropriations.

RECONSIDERATION

On motion by Senator Jennings, the Senate reconsidered the vote by which—

SB 248—A bill to be entitled An act relating to insurance; amending s. 627.419, F.S.; providing that certain insurance policies, plans, and contracts shall be construed to include coverage for chiropractic services or procedures; providing an effective date.

—as amended passed this day.

Pending further consideration of SB 248 as amended, on motion by Senator Jennings, the rules were waived and by two-thirds vote HB 170 was withdrawn from the Committee on Commerce.

On motion by Senator Jennings—

HB 170—A bill to be entitled An act relating to insurance; amending s. 627.419, F.S., requiring chiropractic coverage in certain insurance policies, plans, and contracts; providing an effective date.

—a companion measure, was substituted for SB 248 and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote HB 170 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Jenne

SB 248 was laid on the table.

SPECIAL ORDER, continued

CS for SB 519—A bill to be entitled An act relating to onsite sewage disposal systems; providing for a continuing education program for septic tank contractors, pumpout operators, environmental health specialists, and certain master plumbers; allowing persons who have completed the course to use the term "state sanctioned" in advertisements and similar materials; prohibiting other use of the term; providing penalties; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 19 and 20, insert:

Section 4. Subsection (6) of section 381.272, Florida Statutes, is amended to read:

381.272 Onsite sewage disposal systems; installations; conditions.—

(6) Onsite sewage disposal systems may be placed no closer than the minimum distances indicated for the following:

- (a) Seventy-five feet from a private potable well.
(b) Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
(c) One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
(d)(e) Seventy-five feet from surface waters.

Amendment 2—In title, on page 1, line 10, after the second semicolon (;) insert: amending s. 381.272, F.S.; providing for minimum distances with respect to placement of onsite sewage disposal systems;

On motion by Senator Thurman, by two-thirds vote CS for SB 519 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30
Table with 4 columns: Barron, Gersten, Kirkpatrick, Plummer; Carlucci, Girardeau, Kiser, Scott; Castor, Gordon, Langley, Stuart; Childers, W. D., Grant, Malchon, Thurman; Crawford, Grizzle, Margolis, Vogt; Deratany, Hill, Meek, Weinstein; Fox, Jenne, Myers; Frank, Jennings, Peterson

Nays—None

Vote after roll call:

Yea—Neal, Thomas

SB 28—A bill to be entitled An act relating to quality instruction incentives programs; amending s. 231.532, F.S.; revising fund allocation guidelines by eliminating the reallocation of funds from school districts without approved district plans to school districts with such plans; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Grizzle and failed:

Amendment 1—On page 8, between lines 6 and 7, insert:

Section 2. Notwithstanding the provision of Section 17 of Chapter 84-336, Laws of Florida, funds appropriated in Specific Appropriation 440 of Chapter 84-220, Laws of Florida, for school based district quality incentive instruction plans shall be distributed to districts with approved plans on the basis of the district's pro rata share of weighted full-time equivalent students only and no remaining funds from the 1984-1985 appropriation shall be reallocated or distributed for 1984-1985 plans. All remaining funds not required for 1984-1985 plans shall be distributed to the district under the Florida Education Finance Program allocation.

(Renumber subsequent section.)

Senator Castor moved the following amendment which was adopted:

Amendment 2—On page 5, lines 8-18, after "selected" on line 8 through "scores" on line 18, strike all of said language and insert:

in part, by being at least in the upper quartile of district schools pursuant to a local school district plan based on verifiable progress in the accomplishment of district established goals and objectives which shall include in terms of its relative or expected rate of student gain as measured by standardized tests of verbal and quantitative achievement. However, when too few elementary schools, middle schools, junior high schools, or senior high schools exist within a district to determine the upper quartile, the meritorious designation of a school shall be specified in the school district plan determined, in part, by the degree to which actual, aggregate student scores on the standardized achievement tests specified in this paragraph exceed predicted scores.

Senator Gordon moved the following amendment which failed:

Amendment 3—On page 7, lines 23-27, unstrike struck language

The vote was:

Yeas—7

Table with 4 columns: Crawford, Gordon, Margolis, Vogt; Fox, Grant, Meek

Nays—22

Table with 4 columns: Beard, Grizzle, Kiser, Stuart; Castor, Hair, Langley, Thomas; Childers, D., Hill, Malchon, Thurman; Childers, W. D., Jennings, Myers, Weinstein; Frank, Johnson, Peterson; Girardeau, Kirkpatrick, Plummer

Vote after roll call:

Yea to Nay—Crawford

Senator Weinstein moved that the Senate reconsider the vote by which Amendment 3 failed. The motion failed and the vote was:

Yeas—12

Table with 4 columns: Deratany, Hill, Mann, Scott; Fox, Jenne, Margolis, Vogt; Gordon, Johnson, Plummer, Weinstein

Nays—19

Table with 4 columns: Beard, Girardeau, Kiser, Peterson; Castor, Grant, Langley, Stuart; Childers, D., Grizzle, Malchon, Thomas; Childers, W. D., Jennings, Meek, Thurman; Crawford, Kirkpatrick, Myers

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 4—On page 8, line 7, insert a new section:

Section 2. Section 232.426, Florida Statutes, is created to read:

232.426 Conformance of athletic activities to certain postsecondary scholarship requirements.—The rules governing athletic activities conducted or sponsored by a district school board shall conform to the athletic scholarship requirements of the State University System in any sport in which athletic scholarships are provided in the State University System.

(Renumber subsequent section.)

The Committee on Education recommended the following amendment which was moved by Senator Grizzle and adopted:

Amendment 5—In title, on page 1, line 7, after the semicolon (;) insert: providing procedures for distribution of funds appropriated for fiscal year 1984-1985;

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 8, before "providing" insert: providing district school board rules;

On motion by Senator Grizzle, by two-thirds vote SB 28 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22

Table with 4 columns: Beard, Girardeau, Langley, Peterson; Castor, Grant, Malchon, Stuart; Childers, W. D., Grizzle, Mann, Thomas; Crawford, Jennings, Margolis, Thurman; Dunn, Kirkpatrick, McPherson; Frank, Kiser, Myers

Nays—10

Table with 4 columns: Deratany, Hill, Plummer, Weinstein; Fox, Jenne, Scott; Gordon, Johnson, Vogt

Vote after roll call:

Yea to Nay—Thurman

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 CS for HB 77 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Health and Rehabilitative Services and Representative Clark and others—

CS for CS for HB 77—A bill to be entitled An act relating to aging and adult services; providing intent; creating an advisory committee on Alzheimer's Disease under the Department of Health and Rehabilitative Services; providing for the issuance of research grants; creating a trust fund; requiring the Legislature to fund memory disorder clinics and the department to contract for day care and respite care programs for persons suffering from Alzheimer's Disease and related disorders; requiring a research component; providing for future review and repeal; amending s. 400.402, F.S.; permitting certain activities by nurses; amending s. 400.441, F.S.; providing a definition; limiting the use of mechanical restraints in licensed facilities; amending s. 400.411, F.S.; requiring financial information; amending s. 400.426, F.S.; providing for responsibility of owner or administrator; providing an effective date.

—was read the first time by title.

On motions by Senator Meek, by two-thirds vote CS for CS for HB 77, a companion measure, was substituted for CS for SB 121 and by two-thirds vote read the second time by title. On motion by Senator Meek, by two-thirds vote CS for CS for HB 77 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Beard	Girardeau	Langley	Plummer
Childers, D.	Grant	Malchon	Scott
Childers, W. D.	Grizzle	Mann	Stuart
Crawford	Hill	Margolis	Thomas
Fox	Jennings	McPherson	Vogt
Frank	Johnson	Meek	Weinstein
Gersten	Kirkpatrick	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Dunn, Jenne, Neal

CS for SB 121 was laid on the table.

CS for SB 138—A bill to be entitled An act relating to massage practice; reviving and readopting ch. 480, F.S., relating to the practice of massage, notwithstanding the Regulatory Sunset Act; amending s. 480.032, F.S.; adding incompetent and unsafe practitioners to those the act is to protect against; deleting obsolete language; amending s. 480.034, F.S.; clarifying an exemption; amending s. 480.039, F.S.; deleting an obsolete reference; amending s. 480.041, F.S.; requiring licensure applicants to be of good moral character; changing expiration date of provisional licenses; deleting certain fees; amending s. 480.0425, F.S.; deleting certain fees; amending s. 480.044, F.S.; deleting fee caps and authorizing certain fees; amending s. 480.047, F.S.; limiting use of the word "massage" and certain derivatives; allowing to stand repealed under the Regulatory Sunset Act s. 480.053, F.S., relating to the continuation of certain prior existing licenses; providing that present licenses remain in full force and effect; providing for future repeal and legislative review; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote CS for SB 138 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Beard	Girardeau	Johnson	Plummer
Childers, D.	Gordon	Kirkpatrick	Scott
Childers, W. D.	Grant	Langley	Stuart
Crawford	Grizzle	Malchon	Thomas
Fox	Hill	Mann	Vogt
Frank	Jenne	Margolis	Weinstein
Gersten	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Dunn, Neal

SB 1216—A bill to be entitled An act relating to corrections; amending s. 944.601, F.S.; providing that certain inmates who are being released may be eligible for a contract release; requiring the Department of Corrections to advance the release date of a contract releasee by up to a specified number of days; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote SB 1216 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gersten	Johnson	Myers
Beard	Girardeau	Kirkpatrick	Peterson
Childers, D.	Gordon	Langley	Plummer
Childers, W. D.	Grant	Malchon	Scott
Crawford	Grizzle	Mann	Thomas
Dunn	Hill	Margolis	Vogt
Fox	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	

Nays—None

Vote after roll call:

Yea—Castor, Neal

On motion by Senator Jenne, the rules were waived and time of adjournment was extended until 7:30 p.m.

HB 607—A bill to be entitled An act relating to judicial sales; amending s. 45.031, F.S., requiring successful bidders at a judicial sale to post a deposit with the clerk; providing an effective date.

—was read the second time by title. On motion by Senator Dunn, by two-thirds vote HB 607 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	Gordon	Kiser	Stuart
Childers, D.	Grant	Langley	Thomas
Childers, W. D.	Grizzle	Mann	Thurman
Crawford	Hill	Margolis	Vogt
Dunn	Jenne	McPherson	Weinstein
Frank	Jennings	Myers	
Gersten	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Fox, Neal

Consideration of CS for SB 584 was deferred.

CS for SB 91—A bill to be entitled An act relating to veterinary medical practice; amending s. 474.202, F.S.; providing definitions; amending s. 474.203, F.S.; amending reference to castration, spaying, dehorning of cattle to include all herd animals; providing that only veterinarians may immunize and treat certain animals; excluding certain out-of-state veterinarians from an exemption from regulation; amending s. 474.207, F.S.; eliminating an examination fee cap; prohibiting certain applicants from temporarily practicing; requiring certain unsuccessful examinees to supplement their education before taking the licensing examination again; amending s. 474.213, F.S.; providing clarifying language; amending s. 474.214, F.S., as amended; deleting redundant language; amending provision relating to maintenance of professional connection with persons in violation of the chapter or rules; providing for certain licensees to submit to a mental or physical examination; specifying penalty for attempting to obtain or obtaining a veterinary license through fraudulent misrepresentation; providing for board action against certain impaired veterinarians; providing for confidentiality of certain information; providing a privilege from civil liability; amending s. 474.215, F.S.; providing for the issuance of mobile clinic permits; amending s. 474.216, F.S.; providing conforming language; amending s. 474.217, F.S.; providing for licensure by endorsement; repealing the board's authority to enter into reciprocity agreements; amending s. 474.219, F.S.; changing the effective date of the

saving clause; creating s. 474.2065, F.S.; authorizing and establishing limits for certain fees; creating s. 474.2125, F.S.; providing for temporary licensure of certain out-of-state veterinarians; creating s. 474.2141, F.S.; providing for the appointment of a licensee to the impaired professional advisory committee, the use of impaired professional consultants, and the confidentiality of certain information; creating s. 474.2145, F.S.; authorizing the department to subpoena the records of certain licensees; creating s. 474.2185, F.S.; authorizing the department to require handwriting samples and medical records and providing for their admissibility; reviving and readopting chapter 474, F.S., as amended; providing for future repeal and sunset review; repealing s. 474.204(3), (4), F.S., relating to appointment of board members; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote CS for SB 91 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Childers, D.	Girardeau	Johnson	Peterson
Childers, W. D.	Gordon	Kirkpatrick	Plummer
Crawford	Grant	Kiser	Stuart
Deratany	Grizzle	Langley	Thomas
Dunn	Hill	Mann	Thurman
Frank	Jenne	Margolis	Vogt
Gersten	Jennings	Myers	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Fox, Neal

SM 778—A memorial to the Congress of the United States, urging Congress to provide for the protection of anti-communists fleeing to the United States.

—was read the second time in full. On motion by Senator Langley, SM 778 was adopted and certified to the House. The vote on adoption was:

Yeas—24

Childers, D.	Gordon	Langley	Plummer
Childers, W. D.	Grant	Mann	Stuart
Fox	Grizzle	Margolis	Thomas
Frank	Hill	McPherson	Thurman
Gersten	Jennings	Myers	Vogt
Girardeau	Kirkpatrick	Peterson	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Jenne, Neal

On motions by Senator Grant, the rules were waived and by two-thirds vote CS for HB 295 was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations.

On motion by Senator Grant—

CS for HB 295—A bill to be entitled An act relating to the Florida Security for Public Deposits Act; amending s. 280.02, F.S.; redefining the terms “public deposit,” and “required collateral”; amending s. 280.03, F.S.; prohibiting the deposit of public funds in negotiable certificates of deposit; exempting certain overnight transfers and transfers of funds from the act; amending s. 280.04, F.S.; relating to qualified public depositories and providing a limitation on total public deposits for each depository; amending s. 280.05, F.S.; providing for penalties and additional powers of the Treasurer; amending s. 280.08, F.S.; providing clarifying language with respect to qualified public depositories in default; providing for accrued interest distributions; amending s. 280.09, F.S.; providing for deposits to the Public Deposit Security Trust Fund; providing for an additional assessment; providing for the disposition of the assessment; amending s. 280.16, F.S.; extending the time period for reports of qualified public depositories; providing an effective date.

—a companion measure, was substituted for CS for SB 585 and read the second time by title. On motion by Senator Grant, by two-thirds vote CS for HB 295 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Beard	Girardeau	Kiser	Stuart
Childers, D.	Gordon	Langley	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crawford	Hill	McPherson	Vogt
Fox	Jennings	Myers	Weinstein
Frank	Johnson	Peterson	
Gersten	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Jenne, Neal

CS for SB 585 was laid on the table.

Consideration of SB 968 was deferred.

CS for SB 897—A bill to be entitled An act relating to insurance; creating s. 624.075, F.S.; defining “commercially domiciled insurer”; amending s. 625.301, F.S.; applying part II of chapter 625, relating to investments, to commercially domiciled insurers; amending ss. 628.011, 628.031 and 628.035, F.S., relating to the application of specified provisions; amending s. 628.371, F.S.; revising provisions relating to payment of dividends or distributions by domestic stock insurers; creating ss. 628.520, 628.525, 628.530, 628.535, F.S.; amending s. 607.234, F.S.; providing for change of domicile of a foreign insurer; providing for change of domicile of domestic insurers; providing for the effects of redomestication; providing for the adoption of rules; designating provisions comprising part I of chapter 628, F.S., and creating part II of chapter 628, F.S.; providing for registration of members of insurance holding companies; providing for adoption of rules; providing for injunctions; prescribing sanctions; providing for civil and criminal penalties; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 897 to conform the bill to CS for HB 1026.

Pending further consideration of CS for SB 897 on motion by Senator Fox, 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 1026 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Health Care and Insurance and Representative Lewis—

CS for HB 1026—A bill to be entitled An act relating to insurance; creating s. 624.075, F.S.; defining “commercially domiciled insurer”; amending s. 625.301, F.S.; applying part II of chapter 625, relating to investments, to commercially domiciled insurers; amending ss. 628.011, 628.031 and 628.035, F.S., relating to the application of specified provisions; amending s. 628.371, F.S.; revising provisions relating to payment of dividends or distributions by domestic stock insurers; creating ss. 628.520, 628.525, 628.530, and 628.535, F.S.; providing procedures and standards for an insurer changing from a foreign insurer to a domestic insurer or from a domestic insurer to a foreign insurer; providing effects of redomestication; authorizing the department to adopt rules pursuant to chapter 628, F.S.; amending s. 607.234, F.S.; providing for additional effects of redomestication; creating part II of chapter 628, F.S., relating to regulation of insurance holding companies; requiring registration with the Department of Insurance by any insurer which is a member of an insurance holding company; providing for rules; providing for injunctions; providing administrative penalties for violations by companies, directors, or officers; providing for cease and desist orders; providing a criminal penalty; repealing s. 607.359, F.S.; repealing the requirement that non-profit corporations file annual audits with the Auditor General; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Fox, by two-thirds vote CS for HB 1026, a companion measure, was substituted for CS for SB 897 and by two-thirds vote read the second time by title. On motion by Senator Fox, by two-thirds vote CS for HB 1026 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Childers, D.	Gordon	Langley	Stuart
Childers, W. D.	Grant	Mann	Thomas
Crawford	Grizzle	Margolis	Thurman
Fox	Hill	McPherson	Vogt
Frank	Johnson	Myers	Weinstein
Gersten	Kirkpatrick	Peterson	
Girardeau	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Jenne, Neal

CS for SB 897 was laid on the table.

The President presiding

On motion by Senator Girardeau, the rules were waived and by two-thirds vote HB 808 was withdrawn from the Committee on Transportation.

On motion by Senator Girardeau—

HB 808—A bill to be entitled An act relating to museum designation; designating the Florida Museum of Transportation and History in Fernandina Beach as the official state transportation museum; providing for an appropriate marker to be erected by the Department of Transportation; providing an effective date.

—a companion measure, was substituted for SB 968 and read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 808 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Mr. President	Girardeau	Langley	Thomas
Beard	Grant	Mann	Thurman
Childers, D.	Grizzle	Margolis	Vogt
Childers, W. D.	Hill	McPherson	Weinstein
Crawford	Jennings	Myers	
Fox	Johnson	Plummer	
Frank	Kiser	Stuart	

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Gersten, Jenne, Kirkpatrick, Neal

SB 968 was laid on the table.

CS for SB 1147—A bill to be entitled An act relating to child abuse; creating the Child Abuse Prevention Training Act of 1985; providing legislative intent; providing definitions; providing for a primary prevention and training program and providing contents thereof; providing for prevention training centers and the functions thereof; providing for establishment of certain training centers through the Department of Education; requiring monitoring and evaluation of primary prevention and training programs and prevention training centers; authorizing the development and implementation of rules; amending s. 231.17, F.S.; requiring demonstration of competency in the areas of alcohol and drug abuse recognition and prevention and of child abuse and neglect recognition and prevention for teacher certification; amending s. 233.011, F.S.; requiring the Department of Education to develop intended outcomes on child abuse and neglect prevention and alcohol and drug abuse prevention as part of the curriculum framework; amending s. 236.0811, F.S.; requiring competencies in child abuse and neglect prevention and alcohol and drug abuse prevention to be part of the master plan for inservice educational training; requiring teachers and guidance counselors to participate in such inservice training; amending s. 415.501, F.S.; adding parents of school children to those persons the Department of Health and Rehabil-

tative Services and the Department of Education are to develop ways to inform and instruct about child abuse and neglect recognition and prevention; providing that the mandates of this act do not duplicate or supersede existing programs fulfilling the requirements of this act; providing an effective date.

—was read the second time by title. On motion by Senator Fox, by two-thirds vote CS for SB 1147 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Girardeau	Kiser	Peterson
Beard	Gordon	Langley	Plummer
Childers, D.	Grant	Mann	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hill	McPherson	Thurman
Fox	Jennings	Myers	Vogt
Frank	Johnson	Neal	Weinstein

Nays—None

Vote after roll call:

Yea—Castor, Deratany, Gersten, Jenne, Kirkpatrick

CS for CS for SB 34—A bill to be entitled An act relating to the "Florida Cemetery Act"; amending s. 497.003, F.S.; exempting certain columbaria from the Florida Cemetery Act; amending s. 497.005, F.S.; adding a definition of "monument"; amending s. 497.006, F.S.; requiring a certain acreage prior to the establishment of a cemetery; providing for waiver of need requirement in certain circumstances; amending s. 497.022, F.S.; providing for care and maintenance of a cemetery including monuments; amending s. 497.023, F.S.; authorizing cemetery companies to assess a uniform monument maintenance fee; amending s. 497.041, F.S.; prohibiting certain installation and maintenance fees and limiting inspection fees; amending s. 497.044, F.S.; prohibiting certain tying arrangements between the sale of grave space in a cemetery and the provision of certain services or the imposition of certain fees with respect to monuments; permitting cemetery companies to provide certain rules regarding installation of monuments by noncemetery persons; providing civil penalties; amending s. 497.048, F.S.; limiting the period for refund for a cancellation of a contract; providing an effective date.

—was read the second time by title.

Senator Stuart moved the following amendment:

Amendment 1—On pages 2-8, strike everything after the enacting clause and insert:

Section 1. Paragraph (f) is added to subsection (1) of section 497.003, Florida Statutes, to read:

497.003 Scope.—

(1) This chapter and all rules adopted pursuant to this chapter shall apply to all cemeteries except for:

(f) *A columbarium consisting of less than one-half acre which is owned by and immediately contiguous to an existing church facility and is subject to local government zoning. The church establishing such a columbarium shall ensure that the columbarium is perpetually kept and maintained in a manner consistent with the intent of this chapter. If the church relocates, the church shall relocate all of the urns and remains placed in the columbarium which were placed therein during its use by the church.*

Section 2. Subsection (17) is added to section 497.005, Florida Statutes, to read:

497.005 Definitions.—As used in this chapter:

(17) *"Monument" means any product used for identifying a grave site and cemetery memorials of all types, including monuments, markers, and vases.*

Section 3. Subsections (2), (3) and (5) of section 497.006, Florida Statutes, are amended to read:

497.006 Cemetery companies; license; application; fee.—

(2) Any person desiring to establish a cemetery company shall first:

(a) File an application, which shall state the exact location of the proposed cemetery, which site shall contain not less than 15 contiguous acres, and pay an the application fee of \$5,000, which shall be set by the department, by rule, in an amount not to exceed \$600;

(b) Create a legal entity; and

(c) Demonstrate to the satisfaction of the department that he possesses the ability, experience, financial stability, and integrity to operate a cemetery.

(3) The department shall determine the need for a new cemetery in the community by considering the adequacy of existing facilities; the solvency of the trust funds of the existing facilities; and the relationship between population, rate of population growth, death rate, and ratio of burials to deaths. In order to promote competition, the department may waive the criteria of this subsection so that each county may have at least six ~~two~~ cemeteries operated by different licensees.

(5) The department shall issue a license to operate a cemetery company to any applicant who, within 12 months after notice that a license may be issued, meets the criteria of subsection (4). *With respect to any application for which the department has given notice under subsection (4) on or after January 1, 1984, the department may, for good cause shown, grant up to two extensions of the 12-month period within which the applicant must meet the criteria of subsection (4).*

Section 4. Section 497.007, Florida Statutes, is amended to read:

497.007 License not assignable or transferable.—No license issued under s. 497.009 shall be transferable or assignable, and no licensee shall develop or operate any cemetery authorized by this chapter under any name or at any location other than that contained in the application for such license. *Any person who seeks to purchase or acquire control of an existing licensed cemetery shall first apply to the department for a certificate of approval for the proposed change of ownership. The application shall contain the name and address of the proposed new owner and other information required by the department. The department shall issue a certificate of approval only after it has conducted an investigation of the applicant and determined that the proposed new owner is qualified by character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner. The department may examine the records of the cemetery as part of the investigation in accordance with s. 497.011(2)(b). The application shall be accompanied by a fee of \$5,000.*

Section 5. Section 497.008, Florida Statutes, is amended to read:

497.008 Application for change of control among existing stockholders or partners; filing fee.—~~Any stockholders or partners person who intend intends to purchase or acquire control of an existing cemetery company from other stockholders or partners shall first apply to the department for a certificate of approval for the proposed change of control. The application shall contain the names name and addresses address of the stockholders or partners seeking to acquire control proposed new owner, and the department shall issue a certificate of approval only after it has conducted an investigation of the applicants applicant and determined that such individuals are the proposed new owner is qualified by character, experience, and financial responsibility to control and operate the cemetery company in a legal and proper manner and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The department may examine the records of the cemetery company as part of the investigation in accordance with s. 497.011(2)(b). The application shall be accompanied by an initial filing fee of \$2,500 set by the department, by rule, not to exceed \$600.~~

Section 6. Section 497.009, Florida Statutes, is amended to read:

497.009 Annual license fees.—

(1) The department shall collect from each cemetery company operating under the provisions of this chapter an annual license fee as follows:

(a) For a cemetery with less than \$25,000 annual gross sales \$250.

(b)(1) For a cemetery with at least \$25,000 but less than \$100,000 annual gross sales ~~income~~ \$350 \$100.

(c)(2) For a cemetery with an annual gross sales ~~income~~ of at least \$100,000 but less than \$250,000 ~~to \$500,000~~ \$600 \$300.

(d)(3) For a cemetery with an annual gross sales of at least \$250,000 but less than ~~income over~~ \$500,000 \$900 \$500.

(e) For a cemetery with annual gross sales of at least \$500,000 but less than \$750,000 \$1,350.

(f) For a cemetery with annual gross sales of at least \$750,000 but less than \$1,000,000 \$1,750.

(g) For a cemetery with annual gross sales of \$1,000,000 or more . . . \$2,650

(2) An application for license renewal shall be submitted on or before December 31 each year in the case of an existing cemetery company and before any sale of cemetery property in the case of a new cemetery company or a change of ownership or control pursuant to s. 497.008. If the renewal application is not received by December 31, the department shall collect a penalty in the amount of \$25 per month or fraction of a month for each month delinquent.

Section 7. Paragraph (b) of subsection (2) of section 497.011, Florida Statutes, is amended to read:

497.011 Department; powers.—

(2) In addition to other powers conferred by this chapter, the department may:

(b) Examine the financial affairs of any cemetery company and charge an examination fee of \$140 ~~not exceeding \$150~~ per day for each examiner engaged in the examination.

Section 8. Subsection (3) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(3) It shall not be necessary to make annual application for exemption on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and tombs owned by houses of public worship, *individually owned burial rights not held for speculation* or other such property not rented or hired out for other than religious or educational purposes at any time; household goods and personal effects of permanent residents of this state; and property of the state or any county, any municipality, or any school district or community college district thereof.

Section 9. Section 497.022, Florida Statutes, is amended to read:

497.022 Disposition of income of care and maintenance trust fund; notice to purchasers and depositors.—The net income of the care and maintenance trust fund shall be used solely for the care and maintenance of the cemetery, *including maintenance of monuments, which maintenance shall not be deemed to include the cleaning, refinishing, repairing or replacement of monuments*, for reasonable costs of administering the care and maintenance, and for reasonable costs of administering the trust fund. At the time of making a sale or receiving an initial deposit, the cemetery company shall deliver to the person to whom the sale is made, or who makes a deposit, a written instrument which shall specifically state the purposes for which the income of the trust fund shall be used.

Section 10. Subsection (1) of section 497.023, Florida Statutes, is amended to read:

497.023 Care and maintenance trust fund, percentage of payments for burial rights and monument maintenance to be deposited.—

(1) Each cemetery company shall set aside and deposit in its care and maintenance trust fund the following percentages or amounts for all sums received from sales of burial rights and from assessment of any monument maintenance fee as provided in s. 497.041(3):

(a) For graves, 10 percent of all payments received; however, for sales made after December 31, 1959, no deposit shall be less than \$10 per grave. For each burial right, grave, or space which is provided without charge, the deposit to the fund shall be \$10.

(b) For mausoleums or columbaria, 10 percent of payments received.

(c) For general endowments for the care and maintenance of the cemetery, the full amount of sums received when received.

(d) For special endowments for a specific lot or grave or a family mausoleum, memorial, marker, or monument, the cemetery company

may set aside the full amount received for this individual special care in a separate trust fund or by a deposit to a savings account in a bank or savings and loan association located within and authorized to do business in the state; however, if the licensee does not set up a separate trust fund or savings account for the special endowment, the full amount thereof shall be deposited into the care and maintenance trust fund as required of general endowments.

(e) For monument maintenance, the full amount of such sum when received.

Section 11. Section 497.041, Florida Statutes, is amended to read:

497.041 Monuments ~~and markers~~; ~~maximum~~ installation and maintenance fees.—

(1) No cemetery company shall charge a fee for the installation ~~and maintenance~~ of a ~~marker or~~ monument purchased or obtained from or to be installed by a person or firm other than the cemetery company or its agents.

(2) To verify that a monument is installed in accordance with cemetery bylaws, a cemetery company may charge an inspection fee not to exceed \$25 to inspect monuments which are not installed by the cemetery company or its agents. ~~which exceeds the maximum fee set by the department. The department, by rule, shall set a maximum installation and maintenance fee which a cemetery company may charge. The fee shall be based on the actual cost to a cemetery company to install and maintain a marker or monument, but shall not exceed 50 cents per square inch.~~

(3) A cemetery company may assess, at the time of installation, a charge not to exceed 10 cents per square inch of the size of the base of a monument for the maintenance of such monument. Such fee shall be assessed uniformly without regard to whether the installer is the cemetery company or a person or firm other than the cemetery company or its agent. All funds collected pursuant to this section shall be deposited by the cemetery company in its care and maintenance trust fund as provided in s. 497.023(2).

Section 12. Section 497.044, Florida Statutes, is amended to read:

497.044 Illegal tying arrangements.—

(1)(a) No person authorized to sell grave space shall tie the purchase of any grave space to the purchase of a ~~marker or~~ monument from or through the seller or any other designated person or corporation.

(b) Noncemetery licensed persons and firms shall have the right to sell monuments and to perform or provide on cemetery property foundation, preparation, and installation services for monuments.

1. A cemetery company shall be permitted to require that any person or firm who installs, places, or sets a monument be duly licensed in the county in which the cemetery is located, carry liability insurance for any vehicle brought onto cemetery property, and carry public liability insurance. Any such rules shall be conspicuously posted and readily accessible for inspection and copying by interested persons.

2. Nothing contained in this paragraph shall prohibit a cemetery from establishing reasonable rules regarding the style and size of a monument or its foundation, provided such rules are applicable to all monuments from whatever source obtained and are enforced uniformly as to all monuments. Such rules shall be conspicuously posted and readily accessible to inspection and copy by interested persons.

(c) No person who is authorized to sell grave space and no cemetery company shall:

1. Require the payment of a setting or service charge, by whatever name known, from third party installers for the placement of a monument except as provided in s. 497.041;

2. Refuse to provide care or maintenance for any portion of a gravesite on which a monument has been placed; or

3. Waive liability with respect to damage to a monument after installation,

where the monument or installation service is not purchased from the person authorized to sell grave space or the cemetery company providing grave space or from or through any other person or corporation designated by the person authorized to sell grave space or the cemetery

company providing grave space. No cemetery company may be held liable for the improper installation of a monument where the monument is not installed by the cemetery company or its agents.

(2) No program offering free burial rights shall be conditioned by any requirement to purchase additional burial rights or merchandise. Any program offering free burial rights shall comply with s. 817.415.

Section 13. Subsection (7) of section 497.048, Florida Statutes, is amended to read:

497.048 Receipts from sale of personal property or services; deposits into merchandise trust fund; refunds.—

(7) A contract entered into between a cemetery company and a purchaser shall be subject to cancellation and refund, *within 1 year from the date of execution only*, upon a showing by the purchaser of any intentional violation of any provision of this act which relates to the negotiation, sale, or performance of the contract. If the cemetery company wishes to enforce such contract after receipt of such showing, it may request the department to determine the sufficiency of the showing. Upon cancellation, the purchaser may demand from a person authorized under this chapter a refund of the entire amount actually paid on such contract. Such refund shall be made within 30 days after receipt by the authorized person of the request for refund. The company may not cancel a contract unless the purchaser is in default. In addition, a contract for a casket, vault, or other similar merchandise, or the portion of a contract that includes such a purchase subject to the trust requirements of this section, entered into between a cemetery company and a purchaser, shall be subject to cancellation and a 70-percent refund, *within 1 year from the date of execution of the contract only*, upon request by the purchaser or the purchaser's agent. Such refund shall be made within 30 days after receipt by the cemetery company of the request for refund.

Section 14. This act shall take effect upon becoming a law.

Senator Stuart moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 7, line 29, strike “*from or*” and insert: *from and*

Amendment 1B—On page 2, strike all of lines 10 and 11 and insert: *fee of \$5,000, which shall be set by the department, by rule; in an amount not to exceed \$600;*

Amendment 1 as amended was adopted.

Senator Stuart moved the following amendment which was adopted:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the “Florida Cemetery Act”; amending s. 497.003, F.S.; exempting certain columbaria from the Florida Cemetery Act; amending s. 497.005, F.S.; adding a definition of “monument”; amending s. 497.006, F.S.; requiring a certain acreage prior to the establishment of a cemetery; providing for waiver of need requirement in certain circumstances; authorizing extensions of time for certain applicants to comply with certain prerequisites for licensure; amending s. 497.022, F.S.; providing for care and maintenance of a cemetery including monuments; amending s. 497.023, F.S.; authorizing cemetery companies to assess a uniform monument maintenance fee; amending s. 497.041, F.S.; prohibiting certain installation and maintenance fees and limiting inspection fees; amending s. 497.044, F.S.; prohibiting certain tying arrangements between the sale of grave space in a cemetery and the provision of certain services or the imposition of certain fees with respect to monuments; permitting cemetery companies to provide certain rules regarding installation of monuments by noncemetery persons; providing civil penalties; amending s. 497.048, F.S.; limiting the period for refund for a cancellation of a contract; amending s. 497.006, F.S.; increasing the application fee for establishing a new cemetery; amending s. 497.007, F.S.; providing procedures for acquiring an existing cemetery and requiring payment of a fee; amending s. 497.008, F.S.; providing procedures to be followed and increasing the application fee when an existing cemetery company changes internal control; amending s. 497.009, F.S.; increasing the annual license fee for cemetery companies; amending s. 497.011, F.S.; prescribing a fee for the examination of the financial affairs of a cemetery company; amending s. 196.011, F.S.; providing for the tax exemption of burial rights sold to individuals; providing an effective date.

On motion by Senator Stuart, by two-thirds vote CS for CS for SB 34 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	Jennings	Neal
Barron	Fox	Johnson	Peterson
Beard	Frank	Kirkpatrick	Stuart
Carlucci	Girardeau	Kiser	Thomas
Castor	Gordon	Langley	Thurman
Childers, D.	Grant	Mann	Vogt
Childers, W. D.	Grizzle	Margolis	Weinstein
Crawford	Hill	McPherson	
Deratany	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Gersten

CS for SB 261—A bill to be entitled An act relating to fitting and dispensing of hearing aids; amending s. 484.0501, F.S.; transferring authority relating to the certification and inspection of testing equipment from the Department of Health and Rehabilitative Services to the Department of Professional Regulation; specifying standards; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 261 to conform the bill to CS for HB 421.

Pending further consideration of CS for SB 261 on motions by Senator Stuart, the rules were waived and by two-thirds vote CS for HB 421 was withdrawn from the Committees on Health and Rehabilitative Services; Economic, Community and Consumer Affairs; and Appropriations.

On motion by Senator Stuart—

CS for HB 421—A bill to be entitled An act relating to professional regulation; amending s. 484.0501, F.S., requiring the Department of Professional Regulation, rather than the Department of Health and Rehabilitative Services, to promulgate rules and standards providing for minimal procedures and equipment utilized in the fitting and dispensing of hearing aids; providing for inspection of testing equipment and facilities by the Department of Professional Regulation and the charge of a fee therefor; specifying standards; providing for issuance of general radiographer's certificates; providing an effective date.

—a companion measure, was substituted for CS for SB 261 and read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for HB 421 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

CS for SB 261 was laid on the table.

CS for SB 584—A bill to be entitled An act relating to trust funds; transferring, consolidating, and abolishing certain trust funds; providing for the disposition of assets and liabilities of certain trust funds; amending ss. 206.60, 206.875, 207.026, 265.26, F.S.; conforming language; amending s. 403.725, F.S.; deleting requirement that certain fines and permit and excise tax fees be deposited in the Hazardous Waste Management Trust Fund; conforming language; deleting authority to recover moneys expended from the fund; repealing s. 240.509, F.S., relating to the Agricultural College Trust Fund; repealing s. 288.32, F.S., relating to the Urban Planning Assistance Revolving Trust Fund; repealing s. 420.425, F.S., relating to the Neighborhood Housing Services Grant Trust Fund, providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 584 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

On motions by Senator Jenne, the rules were waived and by two-thirds vote HB 407 was withdrawn from the Committee on Rules and Calendar; Senate Bills 553, 1204 and 349 were withdrawn from the Committee on Finance, Taxation and Claims; CS for SB 693 was withdrawn from the Committee on Economic, Community and Consumer Affairs; and HB 793 was withdrawn from the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

On motion by Senator Jenne, 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 HB 1437 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Thompson—

HB 1437—A bill to be entitled An act relating to Gadsden County; providing a uniform time during which the sale and consumption of alcoholic beverages by licensed establishments is not allowed; providing that violation is a misdemeanor; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Rules and Calendar.

On motion by Senator Jenne, by two-thirds vote HB 1437 was withdrawn from the Committee on Rules and Calendar and placed on the local calendar.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed HB 1227 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Governmental Operations and Representative Kutun—

HB 1227—A bill to be entitled An act relating to the Treasurer; amending s. 18.10, F.S.; providing for investments in intermediate term notes of certain corporations; designating the Treasurer as cash management officer for the state; providing duties; amending s. 18.101, F.S.; providing for designation of account for transmittal of moneys collected by the state; providing an appropriation; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Grant, by two-thirds vote HB 1227, a companion measure, was substituted for CS for SB 1005 and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote HB 1227 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Neal, Thomas

CS for SB 1005 was laid on the table.

SB 1083—A bill to be entitled An act relating to anatomical gifts; amending s. 732.921, F.S.; providing for a continuing program to inform persons of laws relating to anatomical gifts and the need for anatomical gifts; creating a demonstration project within the program; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote SB 1083 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Fox	Johnson	Peterson
Beard	Frank	Kirkpatrick	Plummer
Castor	Gersten	Kiser	Scott
Childers, D.	Girardeau	Malchon	Thomas
Childers, W. D.	Grant	Mann	Thurman
Crawford	Grizzle	Margolis	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

CS for SB 1061—A bill to be entitled An act relating to commercial motor vehicles; amending s. 324.042, F.S., providing a cross reference; amending s. 324.26, F.S., providing liability insurance requirements for commercial motor vehicles; providing for proof of compliance to be submitted prior to registration of such vehicles; providing for enforcement; providing for rules; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment which was adopted:

Amendment 1—On page 1, line 26, after "207.002(6)" insert: *except governmentally owned and operated commercial motor vehicles subject to the provisions of s. 768.28, Florida Statutes*

On motion by Senator Gordon, by two-thirds vote CS for SB 1061 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fox	Johnson	Myers
Beard	Frank	Kirkpatrick	Neal
Castor	Gersten	Kiser	Peterson
Childers, D.	Girardeau	Malchon	Scott
Childers, W. D.	Gordon	Mann	Thomas
Crawford	Grant	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jennings	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne

SB 267—A bill to be entitled An act relating to automobile liability insurance; amending s. 626.9541, F.S., prohibiting increases in premiums for automobile liability insurance solely because of noncriminal traffic infractions; providing exceptions; providing an effective date.

—was read the second time by title.

Senator Plummer moved the following amendments which were adopted:

Amendment 1—On page 3, strike line 20 and insert: *an 18-month period.*

Amendment 2—On page 3, strike all of lines 15-24 and insert:

4. *Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle liability insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:*

a. *A second or subsequent infraction committed within an 18-month period.*

b. *A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.*

Amendment 3—In title, on page 1, strike all of lines 5-7 and insert: *, or refusal to renew, motor vehicle liability insurance solely because of noncriminal traffic infractions; providing exceptions; providing an effective date.*

On motion by Senator Plummer, by two-thirds vote SB 267 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	Frank	Kirkpatrick	Peterson
Barron	Gersten	Kiser	Plummer
Beard	Girardeau	Langley	Scott
Castor	Gordon	Mann	Thomas
Childers, D.	Grant	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Vogt
Crawford	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnson	Neal	

Nays—None

SB 386—A bill to be entitled An act relating to embalmers; amending s. 470.008, F.S.; providing requirements for embalmer interns; deleting certain requirements for such interns; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote SB 386 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Fox	Kirkpatrick	Peterson
Beard	Frank	Kiser	Scott
Castor	Gersten	Langley	Thomas
Childers, D.	Girardeau	Mann	Thurman
Childers, W. D.	Grant	Margolis	Vogt
Crawford	Hill	McPherson	Weinstein
Deratany	Jennings	Meek	
Dunn	Johnson	Neal	

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 218—A bill to be entitled An act relating to barbering and cosmetology; amending s. 476.034, F.S.; providing definitions; amending s. 476.044, F.S.; clarifying language; amending s. 476.054, F.S., and repealing subsection (3); deleting provisions relating to the initial Barbers' Board; amending s. 476.064, F.S.; defining a quorum for board meetings; amending s. 476.114, F.S.; revising qualifications and examination requirements for licensure of barbers; providing for licensure of persons licensed in another state; amending s. 476.134, F.S.; providing requirements relating to examinations; amending s. 476.154, F.S.; revising provisions relating to biennial renewal of licenses; amending s. 476.155, F.S.;

providing for inactive status for barbering instructors and deleting the continuing education requirement as a condition for reactivation of a license; creating s. 476.158, F.S.; providing for examination and licensure of barbering instructors; creating s. 476.178, F.S.; providing for licensure of barber schools; requiring a bond; providing requirements for operation of such schools; providing for inspections; amending s. 476.184, F.S.; providing requirements for licensure of barbershops; providing for inspections; creating s. 476.192, F.S.; providing a fee schedule and providing for disposition of fees; providing for excess moneys in the Professional Regulation Trust Fund; amending s. 476.194, F.S.; providing additional prohibited acts; providing a penalty; amending s. 476.204, F.S.; providing additional penalties; amending s. 476.254, F.S.; providing a saving clause for barber's assistants; repealing ss. 476.084, 476.164, and 476.174, F.S., relating to fees and disposition, registration of barber's assistants, and examination of barbers and apprentices from other states; saving chapter 476, F.S., from Sunset repeal and providing for future review and repeal; amending s. 477.013, F.S., providing definitions; amending s. 477.0135, F.S., exempting licensed masseurs and certain persons who apply cosmetics from application of the Florida Cosmetology Act; amending s. 477.015, F.S., modifying provisions relating to the Board of Cosmetology; deleting obsolete provisions; amending s. 477.019, F.S., clarifying qualifications for licensure as a cosmetologist; modifying license renewal requirements; creating s. 477.020, F.S., providing for licensure of specialists; providing qualifications; providing for license renewal; amending s. 477.021, F.S., modifying license renewal requirements for cosmetology instructors; amending s. 477.0212, F.S., deleting continuing education requirements for reactivating an inactive license; amending s. 477.022, F.S., eliminating provision for performance examinations; amending s. 477.024, F.S., deleting a student enrollment permit fee; requiring cosmetology schools to retain certain records; providing for inspection thereof; amending s. 477.025, F.S., providing for licensure of specialty salons; providing for license renewal; providing for inspection; amending s. 477.026, F.S., providing license fees for specialists; eliminating authority to charge certain fees for duplicate licenses; modifying provisions relating to disposition of fees collected; amending s. 477.0265, F.S., prohibiting certain unlawful acts in the practice of a specialty; amending s. 477.028, F.S., providing for disciplinary proceedings against a specialist; amending s. 477.029, F.S., providing penalties; repealing s. 477.0225, F.S., relating to continuing education; repealing ss. 477.035 and 477.039, F.S., relating to specialty licenses; amending s. 477.038, F.S., relating to a saving clause; saving chapter 477, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

Senator Frank moved the following amendments which were adopted:

Amendment 1—On page 4, strike all of lines 26-29 and insert:

Section 3. Subsection (3) of section 476.054, Florida Statutes, is hereby repealed, and subsections (2), (4), and (6) are amended to read:

476.054 Barbers' Board.—

(2) Five members of the board shall be practicing barbers who have practiced the occupation of barbering in this state for at least 5 years. The remaining two members of the board shall be citizens of the state who are not presently licensed barbers. ~~No person shall be appointed to the board who is in any way connected with the manufacture, rental, or wholesale distribution of barber equipment and supplies. No person who is financially or otherwise connected in any capacity with a school of barbering shall be eligible to serve.~~

Amendment 2—On page 7, strike all of lines 3-6 and insert:

Section 6. Subsections (1) and (2) of section 476.134, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

476.134 Time, place, and subjects of examination.—

(1) The department shall conduct examinations of applicants for licenses as barbers not less than four times each year at such time and place as the department may determine. The examination of applicants for licenses as barbers shall include a *written clinical examination both a practical demonstration and a written test theory examination.*

Amendment 3—On page 7, between lines 22 and 23, insert:

Section 7. Section 476.144, Florida Statutes, is amended to read:

476.144 Licenses.—A barber's license shall be issued by the department to any applicant who passes the required examination, achieving a grade of not less than 75 percent ~~on both the practical and the written parts thereof~~, and who possesses the other qualifications required by law. The department shall keep a record relating to the issuance, refusal, and renewal of licenses. Such record shall contain the name, place of business, and residence of each licensed barber and the date and number of his license.

(Renumber subsequent sections.)

Amendment 4—On page 16, strike all of lines 15-19 and insert: (e) For duplicate licenses and certificates, fees shall not exceed \$25.

Amendment 5—On page 19, line 11, after "department" insert: *and each barber instructor with the Department of Education*

Amendment 6—In title, on page 1, line 15, after "examinations;" insert: amending s. 476.144, F.S.; revising provisions establishing the form and composition of the barber's license examination;

Amendment 7—In title, on page 2, line 7, after "assistants" insert: and barber instructors

On motion by Senator Frank, by two-thirds vote CS for SB 218 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fox	Kiser	Neal
Beard	Gersten	Langley	Peterson
Castor	Girardeau	Malchon	Plummer
Childers, D.	Gordon	Mann	Scott
Childers, W. D.	Grant	Margolis	Thomas
Crawford	Hill	McPherson	Thurman
Deratany	Jennings	Meek	Vogt
Dunn	Kirkpatrick	Myers	Weinstein

Nays—3

Frank	Jenne	Johnson
-------	-------	---------

SB 600—A bill to be entitled An act relating to alcoholic beverage licenses; amending s. 561.20, F.S.; authorizing issuance of special alcoholic beverage licenses to certain historically significant hotels and motels; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 600 to conform the bill to HB 820.

On motions by Senator Plummer, by two-thirds vote HB 820 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Plummer—

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.

—a companion measure, was substituted for SB 600 and read the second time by title.

Senator Plummer moved the following amendments which were adopted:

Amendment 1—On page 9, between lines 17 and 18, insert:

Section 7. Section 562.46, Florida Statutes, is amended to read:

562.46 Legal remedies not impaired.—It is the declared legislative intention that no provision or provisions of the Beverage Law shall in any manner limit, modify, or preclude any person from instituting legal proceedings in courts of competent jurisdiction for the adjudication of any rights that such person may have under the Federal and State Constitutions and under laws now existing, or laws which may be hereinafter

enacted; further, an action involving a contractual dispute between a licensed distributor and its registered primary American source of supply, as defined in s. 564.045 or s. 565.095, may be filed in the courts of this state.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 14, after the semicolon (;) insert: providing for certain actions between licensed distributors and their registered primary American source of supply;

On motion by Senator Plummer, by two-thirds vote HB 820 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Girardeau	Langley	Peterson
Castor	Gordon	Mann	Plummer
Childers, W. D.	Grant	Margolis	Scott
Crawford	Hill	McPherson	Thomas
Dunn	Jennings	Meek	Thurman
Fox	Kirkpatrick	Myers	Vogt
Gersten	Kiser	Neal	Weinstein

Nays—None

Vote after roll call:

Yea—Deratany, Jenne

SB 600 was laid on the table.

On motion by Senator Kirkpatrick, the Senate reconsidered the vote by which SB 386 passed this day.

On motion by Senator Kirkpatrick, the rules were waived and by two-thirds vote HB 714 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Kirkpatrick—

HB 714—A bill to be entitled An act relating to embalmers; amending s. 470.008, F.S.; providing requirements for embalmer interns; deleting certain requirements for such interns; providing an effective date.

—a companion measure, was substituted for SB 386 and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 714 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Jenne

SB 386 was laid on the table.

On motion by Senator Hill—

HB 343—A bill to be entitled An act relating to wrongful death; amending s. 768.21, F.S., changing the circumstances in which the estate of a decedent may recover prospective net accumulations; providing an effective date.

—a companion measure, was substituted for CS for SB 287 and read the second time by title.

Senator Hill moved the following amendments which were adopted:

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

Section 1. Paragraph (a) of subsection (6) of section 768.21, Florida Statutes, is amended to read:

768.21 Damages.—All potential beneficiaries of a recovery for wrongful death, including the decedent's estate, shall be identified in the complaint, and their relationships to the decedent shall be alleged. Damages may be awarded as follows:

(6) The decedent's personal representative may recover for the decedent's estate the following:

(a) Loss of earnings of the deceased from the date of injury to the date of death, less lost support of survivors excluding contributions in kind, with interest. Loss of the prospective net accumulations of an estate, which might reasonably have been expected but for the wrongful death, reduced to present money value, may also be recovered:

1. If the decedent's survivors include a surviving spouse or lineal descendants; or

2. If the decedent is not a minor child as defined in s. 768.18(2), there are no lost support and services recoverable under subsection (1), and there is a surviving parent and does not have survivors as defined in s. 768.18(1).

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

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to wrongful death claims; amending s. 768.21, F.S.; providing for the recovery by the decedent's estate for loss of the prospective net accumulation of the estate; providing an effective date.

On motion by Senator Hill, by two-thirds vote HB 343 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

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

Nays—1

Mann

Vote after roll call:

Yea—Jenne, Neal

CS for SB 287 was laid on the table.

The President appointed Senators Gordon, Beard and Neal; and Senator Stuart, alternate, as conferees on CS for HB 1392.

CS for SB 618—A bill to be entitled An act relating to drug abuse prevention and control; amending s. 893.02, F.S., adding definitions; amending s. 893.03, F.S., changing the controlled substances in various schedules regulated pursuant to the "Florida Comprehensive Drug Abuse Prevention and Control Act"; creating s. 893.035, F.S.; providing findings of fact, intent, and application of section; authorizing the Attorney General to temporarily place by rule certain controlled substances within the purview of s. 893.03(1), F.S., requiring the Attorney General to adopt rules identical to federal rules adding, deleting, or rescheduling controlled substances contained within analogous federal schedules; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1—On page 9, line 22, strike everything through page 13, line 14 and insert:

893.035 Control of new substances; findings of fact; delegation of authority to control substances by rule.

(1)(a) New substances are being created which are not controlled under the provisions of chapter 893, but which have a potential for abuse similar to or greater than substances controlled under chapter 893. These new substances are sometimes called "designer drugs" because they can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Designer drugs are being manufactured, distributed, possessed and used as substitutes for controlled substances.

(b) The hazards attributable to the traffic in and use of these designer drugs are increased because their unregulated manufacture produces variations in purity and concentration.

(c) Many such new substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(d) The uncontrolled importation, manufacture, distribution, possession or use of these designer drugs has a substantial and detrimental impact on the health and safety of the people of Florida.

(e) These designer drugs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy and expert administrative determination of their proper classification under chapter 893. It is therefore necessary to delegate to an administrative agency restricted authority to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances currently controlled under chapter 893.

(2) The Attorney General shall apply the provisions of this section to any substance not currently controlled under the provisions of s. 893.03. The Attorney General may by rule:

(a) Add a substance to a schedule established by s. 893.03, or transfer a substance between schedules, if he finds that it has a potential for abuse, and makes with respect to it the other findings appropriate for classification in the particular schedule under s. 893.03 in which it is to be placed.

(b) Remove a substance previously added to a schedule if he finds the substance does not meet the requirements for inclusion in that schedule.

Rules adopted under this section shall be made pursuant to the rulemaking procedures prescribed by chapter 120.

(3)(a) The term "potential for abuse" in this section means that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen, that create a substantial likelihood of its being any of the following:

1. used in amounts that create a hazard to the user's health or the safety of the community;

2. diverted from legal channels and distributed through illegal channels; or

3. taken on the user's own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(b) The terms "immediate precursor" and "narcotic drug" shall be given the same meaning as provided by Section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 802, as amended and in effect on April 1, 1985.

(4) In making any findings under this section, the Attorney General shall consider the following factors with respect to each substance proposed to be controlled or removed from control:

(a) Its actual or relative potential for abuse.

(b) Scientific evidence of its pharmacological effect, if known.

(c) The state of current scientific knowledge regarding the drug or other substance.

(d) Its history and current pattern of abuse.

(e) The scope, duration, and significance of abuse.

(f) What, if any, risk there is to the public health.

(g) Its psychic or physiological dependence liability.

(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

The findings and conclusions of the United States Attorney General or his delegee, as set forth in the Federal Register, with respect to any substance pursuant to Section 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985, shall be admissible as evidence in any rulemaking proceeding under this section, including emergency rulemaking proceedings under subsection (7).

(5) Before initiating proceedings under subsection (2), the Attorney General shall request from the Department of Professional Regulation and the Department of Law Enforcement a medical and scientific evaluation of the substance under consideration, and a recommendation as to the appropriate classification, if any, of such substance as a controlled substance. In responding to this request, the Department of Professional Regulation and the Department of Law Enforcement shall consider the factors listed in subsection (4). The Department of Professional Regulation and the Department of Law Enforcement shall respond to this request promptly and in writing; provided, however, that their response shall not be subject to the provisions of chapter 120. If both the Department of Professional Regulation and the Department of Law Enforcement recommend that a substance not be controlled, the Attorney General shall not control that substance. If the Attorney General determines, based on the evaluations and recommendations of the Department of Professional Regulation and the Department of Law Enforcement and all other available evidence, that there is substantial evidence of potential for abuse, he shall initiate proceedings under paragraph (2)(a) of this section with respect to that substance.

(6)(a) The Attorney General shall by rule exempt any nonnarcotic substance controlled by rule under this section from the application of this section if such substance may, under the United States Food, Drug and Cosmetic Act, be lawfully sold over the counter without a prescription.

(b) The Attorney General may by rule exempt any compound, mixture or preparation containing a substance controlled by rule under this section from the application of this section if he finds that such compound, mixture or preparation meets the requirements of either of the following subcategories:

1. A mixture or preparation containing a nonnarcotic substance controlled by rule, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse.

2. A compound, mixture, or preparation which contains any substance controlled by rule, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

(7)(a) If the Attorney General finds that the scheduling of a substance in Schedule I of s. 893.03 on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may by rule and without regard to the requirements of subsection (5) relating to the Department of Professional Regulation and the Department of Law Enforcement, schedule such substance in Schedule I if the substance is not listed in any other schedule of s. 893.03. The Attorney General shall be required to consider, with respect to his finding of imminent hazard to the public safety, only those factors set forth in paragraph (a) of subsection (3), and paragraphs (d), (e) and (f) of subsection (4), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture or distribution.

(b) The Attorney General may use emergency rulemaking provisions under s. 120.54(9) in scheduling substances under this subsection. Notwithstanding the provisions of s. 120.54(9)(c), any rule adopted under this subsection shall not expire except as provided in subsection (9).

(8)(a) Upon the effective date of a rule adopted pursuant to this section adding or transferring a substance to a schedule under s. 893.03, such substance shall be deemed included in that schedule, and all provisions of this chapter applicable to substances in that schedule shall be deemed applicable to such substance.

(b) A rule adopted pursuant to this section shall continue in effect until it is repealed; or it is declared invalid in proceedings under s. 120.56 or in proceedings before a court of competent jurisdiction; or until it expires under the provisions of subsection (9).

(9) The Attorney General shall report to the Legislature by March 1 of each year concerning the rules adopted under this section during the previous year. Each rule so reported shall expire on the following June 30 unless the Legislature adopts the provisions thereof as an amendment to this chapter.

(10) The repeal, expiration or determination of invalidity of any rule shall not operate to create any claim or cause of action against any law enforcement officer or other enforcing authority for actions taken in good faith in reliance on the validity of the rule.

(11)(a) In construing this section, due consideration and great weight should be given to interpretations of the United States Attorney General and the federal courts relating to Section 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985. All substantive rules adopted under this part shall not be inconsistent with the rules of the United States Attorney General and the decisions of the federal courts interpreting the provisions of Section 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985.

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

(12) The adoption of a rule transferring a substance from one schedule to another or removing a substance from a schedule pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

(Renumber subsequent sections.)

Amendment 2—On page 13, lines 15-31, and on page 14, lines 1-13, strike all of said lines and insert:

Section 4. (1) The Legislature has determined that from time to time, additional testings, approvals, or scientific evidence may indicate that controlled substances listed in Schedules I, II, III, IV, and V hereof have a greater potential for beneficial medical use in treatment in the United States than was evident when such substances were initially scheduled. It is the intent of the Legislature to quickly provide a method for an immediate change to the scheduling and control of such substances to allow for the beneficial medical use thereof so that more flexibility will be available than is possible through rescheduling legislatively.

(2) The Attorney General is hereby delegated the authority to adopt rules rescheduling specified substances to a less controlled schedule, or deleting specified substances from a schedule, upon a finding that reduced control of such substances is in the public interest. In determining whether reduced control of a substance is in the public interest, the Attorney General shall consider the following:

(a) Whether the substance has been rescheduled or deleted from any schedule by rule adopted by the United States Attorney General pursuant to Section 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811.

(b) The substance's actual or relative potential for abuse;

(c) Scientific evidence of the substance's pharmacological effect, if known;

(d) The state of current scientific knowledge regarding the substance;

(e) The substance's history and current pattern of abuse;

(f) The scope, duration and significance of abuse;

(g) What, if any, risk there is to the public health;

(h) The substance's psychic or physiological dependence liability.

(3) In making the public interest determination, the Attorney General shall give great weight to the scheduling rules adopted by the United States Attorney General subsequent to such substances being listed in

Schedules I, II, III, IV, and V hereof, to achieve the original legislative purpose of the Florida Comprehensive Drug Abuse Prevention and Control Act of maintaining uniformity between the laws of Florida and the laws of the United States with respect to controlled substances.

(4) Rulemaking under this section shall be in accordance with the procedural requirements of chapter 120 including the emergency rule provisions found in s. 120.54. The Attorney General may initiate proceedings for adoption, amendment, or repeal of any rule on his own motion or upon the petition of any interested party.

(5) Upon the effective date of a rule adopted pursuant to this section, the rule's rescheduling or deletion of a substance shall be effective for all purposes under Chapter 893.

(6) Rules adopted pursuant to this section shall be reviewed each year by the Legislature. The rules shall remain in effect until the effective date of legislation that provides for a different scheduling of a substance than that set forth in such rules.

(7) The adoption of a rule rescheduling a substance or deleting a substance from control pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

(8) The provisions of this section apply only to substances controlled expressly by statute, and not to substances controlled by rule adopted under the authority granted in the provisions of s. 893.035.

Amendment 3—On page 3, line 16, after the period (.) following "Alfentanil" insert: *Alfentanil is listed in Schedule I because it is presently scheduled in the same way in rules adopted by the United States Attorney General pursuant to Section 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811. Alfentanil is currently the subject of an application to the Food and Drug Administration, which if approved, will cause the United States Attorney General to consider adopting a rule rescheduling alfentanil. In order to allow medical use of alfentanil as soon as possible, alfentanil is hereby listed on Schedule II, and deleted from Schedule I, effective upon alfentanil being rescheduled by rule adopted by the United States Attorney General.*

Amendment 4—On page 3, line 23, strike "Alphaprodine" and insert: *Alphameprodine Alphapradine*

Senator Crawford presiding

Senator Frank moved the following amendments which were adopted:

Amendment 5—On page 14, between lines 13 and 14, renumber and insert a new section:

Section 5. Paragraph (a) of subsection (2) of section 893.13, Florida Statutes, 1984 Supplement, is amended to read:

893.13 Prohibited acts; penalties.—

(2)(a) It is unlawful for any person:

1. To distribute or dispense a controlled substance in violation of the provisions of this chapter relating thereto.

2. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.

3. To refuse an entry into any premises for any inspection or to refuse to allow any inspection authorized by this chapter.

4. To distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.

5. To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. To use to his own personal advantage, or to reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

~~7. To possess a controlled substance lawfully dispensed to him by a pharmacist or practitioner, in a container other than that in which the controlled substance was originally delivered.~~

7.8. To withhold information from a practitioner from whom he seeks to obtain a controlled substance or a prescription for a controlled substance that such person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days.

8.9. To possess a prescription form which has not been completed and signed by the practitioner whose name appears printed thereon, unless the person is such practitioner, is an agent or employee of such practitioner, is a pharmacist, or is a supplier of prescription forms who is authorized by such practitioner to possess such forms.

(Renumber subsequent sections.)

Amendment 6—In title, on page 1, strike line 2 and on line 3 strike "control;" and insert: An act relating to possession of a controlled substance; amending s. 893.13, F.S.; repealing the prohibition against a person possessing a controlled substance lawfully dispensed to him in a container other than that in which the substance was originally delivered;

Senator Myers moved the following amendment which was adopted:

Amendment 7—In title, on page 1, lines 11-16, strike all of said lines and insert: temporarily place by rule certain substances within the purview of s. 893.03, F.S.; providing for the rescheduling of certain controlled substances by the Attorney General under certain circumstances; requiring the Attorney General to give great weight to the scheduling rules adopted by the United States Attorney General to maintain uniformity between the laws of Florida and the laws of the United States;

Senator Neal presiding

On motion by Senator Myers, by two-thirds vote CS for SB 618 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Carlucci, Jenne

On motion by Senator Kirkpatrick, 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 893 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Bell—

HB 893—A bill to be entitled An act relating to trust funds; transferring, consolidating, and abolishing certain trust funds; providing for the disposition of assets and liabilities of certain trust funds; amending ss. 206.60, 206.875, 207.026, 265.26, F.S.; conforming language; amending s. 403.725, F.S.; deleting requirement that certain fines and permit and excise tax fees be deposited in the Hazardous Waste Management Trust Fund; conforming language; deleting authority to recover moneys expended from the fund; repealing s. 240.509, F.S., relating to the Agricultural College Trust Fund; repealing s. 288.32, F.S., relating to the Urban Planning Assistance Revolving Trust Fund; repealing s. 420.425, F.S., relating to the Neighborhood Housing Services Grant Trust Fund; providing an effective date.

—was read the first time by title.

On motions by Senator Kirkpatrick, the rules were waived and by two-thirds vote HB 893 was placed on the special order calendar.

SPECIAL ORDER, continued

On motion by Senator Kirkpatrick, by unanimous consent HB 893 was taken up out of order and by two-thirds vote read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 26, strike all of lines 3 and 4 and insert:

Section 8. Paragraph (b) of subsection (2), and subsection (3), of section 215.44, Florida Statutes, are amended to read:

215.44 Board of Administration; powers and duties in relation to investment of trust funds.—

(2)(a) The board shall have the power to make purchases, sales, exchanges, investments, and reinvestments for and on behalf of the funds referred to in subsection (1), and it shall be the duty of the board to see that moneys invested under the provisions of ss. 215.44-215.53 are at all times handled in the best interests of the state.

(b) In exercising investment authority pursuant to ss. s. 215.47 and 215.475, the board may retain investment advisers or managers, or both, external to in-house staff, to assist the board in carrying out the power specified in paragraph (a).

(3) Notwithstanding any law to the contrary, all investments made by the State Board of Administration pursuant to ss. 215.44-215.53 shall be subject to the restrictions and limitations contained in s. 215.47, *except for the System Trust Fund which shall be invested in accordance with the provisions of s. 215.475.*

Section 9. Section 215.475, Florida Statutes, is created to read:

215.475 Investments; authorized securities for the System Trust Fund.—Moneys of the System Trust Fund, as defined in s. 121.021(36), available for investment under ss. 215.44-215.53, may be expended by the board to acquire, invest, reinvest, exchange, retain, manage, contract, or sell every kind of property, real, personal or mixed, and every kind of investment, domestic or foreign, specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common. The board in performing the above investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A) through (C), to wit: A fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and

(1) For the exclusive purpose of:

(a) Providing benefits to participants and their beneficiaries; and

(b) Defraying reasonable expenses of administering the plan.

(2) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(3) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

Section 10. Subsection (2) of section 280.03, Florida Statutes, is amended to read:

280.03 Public deposits to be secured; exceptions.—

(2) Every public deposit held in trust or in escrow pursuant to the provisions of any trust indenture or escrow agreement authorized by law is, unless provided otherwise in the documents or proceedings authorizing the terms of and the execution of the trust indenture or escrow agreement, *and moneys of the System Trust Fund, as defined in s. 121.021(36), and securities acquired with such moneys pursuant to s. 215.475, are exempt from the requirements of this chapter.*

Section 11. This act shall take effect upon becoming a law.

Amendment 2—On page 25, line 31, after the period (.) insert:

Section 7. Subsection (3) of section 517.221, Florida Statutes, is amended to read:

517.221 Cease and desist orders.—

(3) The department may impose an administrative fine not to exceed \$1,000 against any person found to have violated any cease and desist order of the department. All fines collected under this section shall be paid to ~~into~~ the regulatory trust fund under the Division of Securities of the department State Treasury and credited to the General Revenue Fund.

Section 8. Section 517.315, Florida Statutes, is amended to read:

517.315 Securities Regulatory Trust Fund Fees.—

(1) There is created a Securities Regulatory Trust Fund within the Division of Securities of the Department of Banking and Finance. All fees and charges of any nature collected by the department pursuant to this chapter, except the fees and charges collected pursuant to s. 517.131, shall be paid directly to the department, which shall deposit such fees and charges in the Securities Regulatory Trust Fund and shall be used for the purposes prescribed in subsection (2).

(2) The Legislature shall appropriate from the fund such amounts as it deems necessary for the operation of the division.

(3) There is hereby appropriated from the General Revenue Fund, \$1 million for transfer to the Securities Regulatory Trust Fund. This is a one-time appropriation to provide working capital for the operational expenditures of the division.

(4) The unencumbered balance in the trust fund at the close of each quarter within the fiscal year may not exceed one-fourth of the division's Approved Operating Budget. Any funds in excess of this amount shall be transferred unallocated to the General Revenue Fund. ~~All fees and charges of any nature collected by the department pursuant to this chapter, except the fees and charges collected pursuant to s. 517.131, shall be paid into the State Treasury and credited to the General Revenue Fund; and an appropriation shall be made annually of necessary funds for the administration of the provisions of this chapter.~~

Amendment 3—On page 1, line 18, after the semicolon (;) insert: amending s. 517.221, F.S., to provide that all fines collected by the Division of Securities of the Department of Banking and Finance shall be paid into a regulatory trust fund in the department; amending s. 517.315, F.S., to create a Securities Regulatory Trust Fund into which all fees and charges collected by the Division of Securities shall be deposited;

Amendment 4—In title, on page 1, lines 18 and 19, after "Fund;" strike the rest of line 18 and all of line 19 and insert: and relating to the investment of state funds; amending s. 215.44, F.S.; authorizing powers and duties of the Board of Administration; creating s. 215.475, F.S.; authorizing investments for the Florida Retirement System Trust Fund; establishing the "prudent expert rule" as the standard of judgment and care regarding investments made by the State Board of Administration on behalf of the Florida Retirement System Trust Fund; amending s. 280.03, F.S.; exempting Florida Retirement System Trust Fund deposits and securities from public deposit security requirements under Ch. 280, F.S.; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote HB 893 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Frank	Johnson	Peterson
Castor	Gersten	Kirkpatrick	Stuart
Childers, D.	Girardeau	Kiser	Thomas
Childers, W. D.	Gordon	Mann	Thurman
Crawford	Grant	Margolis	Vogt
Deratany	Grizzle	McPherson	
Dunn	Hill	Meek	
Fox	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Carlucci, Jenne

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 has passed as amended CS for HB 1308 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Retirement, Personnel and Collective Bargaining and Representative Young—

CS for HB 1308—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.111, F.S., revising conditions for receiving creditable service for military service; providing "wartime service" at total actuarial cost for certain persons; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Dunn, by two-thirds vote CS for HB 1308, a companion measure, was substituted for CS for SB 865 and by two-thirds vote read the second time by title.

Senator Dunn moved the following amendments which were adopted:

Amendment 1—On page 1, line 10, strike everything after the enacting clause and insert:

Section 1. Subsection (2) of section 121.111, Florida Statutes, 1984 Supplement, is amended to read:

121.111 Credit for military service.—

(2) Any member whose initial date of employment is before July 1, 1985, who has military service as defined in s. 121.021(20)(b), and who does not claim such service under subsection (1) may receive creditable service for such military service if:

(a) The member has completed a minimum of 10 years of creditable service of employment;

(b) Creditable service, not to exceed a total of 4 years, including any service claimed under subsection (1), is claimed only as service earned in the Regular Class of membership; and

(c) ~~The 1.—If the member claims such military service only in the Florida Retirement System, such member pays into the proper retirement trust fund 4 percent of gross salary, based upon his first year of salary subsequent to July 1, 1945, that he has credit for under this system, plus 4 percent interest thereon compounded annually from the date of first creditable service under this chapter until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until payment is made to the proper retirement trust fund.~~

~~2.—If the member also claims such military service in a pension system under chapter 67 of Title 10 of the United States Code, such member pays into the proper retirement trust fund an amount equal to the total actuarial cost of providing the additional benefit resulting from such military service credit.~~

Section 2. Paragraph (d) of subsection (1) of section 121.052, Florida Statutes, 1984 Supplement, is amended to read:

121.052 Membership class of certain elected state officers.—

(1)

(d) On and after July 1, 1972, participation in the Elected State Officers' Class shall be optional within the time provided herein for any Governor, Lieutenant Governor, Cabinet officer, legislator, Supreme Court justice, district court of appeal judge, circuit judge, state attorney, public defender, or public service commissioner who is already a member of any existing system, the Judicial Retirement System, or the regular or special risk classes of the Florida Retirement System when elected or appointed to such office, except that, effective July 1, 1979, no public service commissioner shall be eligible for membership in the Elected State Officers' Class. Participation in the Elected State Officers' Class shall be optional within the time provided herein for any county court judge who assumed office prior to October 1, 1974. After July 1, 1980, participation in the Elected State Officers' Class shall be optional for each legislator within

the time provided in paragraph (c), provided such legislator meets the requirements in paragraph (c). Any such officer may, upon application to the administrator of the Florida Retirement System, within 1 year from the date he first becomes eligible to be a member of the Elected State Officers' Class by virtue of the office he holds, except for a legislator who shall apply to the administrator within the time period provided in paragraph (c), transfer to and participate in the Elected State Officers' Class, subject to the following provisions:

1. He shall transfer and carry with him such retirement credit as he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers; and

2. He may, through June 30, 1984, purchase additional retirement credit in the Elected State Officers' Class for all creditable service as an officer within the purview of this class, which service he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers, upon the payment into the system trust fund of a sum equal to the difference between 8 percent of the gross salary he received for the period of his tenure in the office, or 8 percent of \$1,000 per month, whichever is greater, for which he seeks additional retirement credit and the actual amount of his retirement contributions for such period, based on such salary, plus interest thereon at the rate of 4 percent per year compounded annually from the date of such service until July 1, 1975, and 6.5 percent per year thereafter until the date of payment. An amount equal to the member's contributions and interest payments shall be paid to the system trust fund from the General Revenue Fund. A county court judge or any other member of the Elected State Officers' Class may purchase additional retirement credit for service prior to January 1, 1973, as a county solicitor; elected county prosecuting attorney; county judge; judge of a court of record; judge of a criminal or civil court of record; judge of any metropolitan court established pursuant to s. 6, Art. VIII of the State Constitution; judge of a small claims court; or justice of the peace, provided an amount equal to the member's contributions and interest payments shall be paid to the system trust fund by the county or by the individual. Service as a county court judge from January 1, 1973, to October 1, 1974, may be purchased as additional retirement credit in the Elected State Officers' Class by any member of this class having such service, in the same manner as other additional retirement credit is purchased in this class.

3. He may, through June 30, 1984, if he is an elected county officer as described in paragraph (g), purchase at his own expense at the time of his retirement additional retirement credit in the Elected State Officers' Class for all the creditable service as an officer within the purview of this class, for service he has accumulated in the retirement system or class within the Florida Retirement System from which he transfers, upon the payment into the system trust fund of a sum equal to the total actuarial cost of the credit being purchased for such service.

4. Effective July 1, 1984, he may, as an elected state officer specified in this paragraph or an elected county officer specified in paragraph (g), purchase at his own expense or as provided in subparagraph 5. if he is an elected state officer, additional retirement credit in the Elected State Officers' Class for all creditable service as an officer within the purview of this class and such other creditable service as authorized by subparagraph 2. for which he has accumulated credit in the retirement system or class within the Florida Retirement System from which he transfers. To receive such additional retirement credit, he shall pay a sum equal to the difference between the total employee and employer contribution rate actually paid on the gross salary received, but not less than \$1,000 per month for the period of his tenure in the office, and the total contribution rate which was required at the time the service was rendered for the class of elected state officers service being purchased, or the rate in effect on July 1, 1972, for such service rendered before that date, and for service as an elected county officer before July 1, 1981, the contribution rate applicable for the legislative subclass of the Elected State Officers' Class, plus interest thereon at the rate of 4 percent per year compounded annually each June 30 from the date of such service until July 1, 1975, and at the rate of 6.5 percent per year thereafter until the date of payment.

5. An elected state officer who purchases additional retirement credit in the Elected State Officers' Class pursuant to this paragraph from July 1, 1985 through September 30, 1985 shall be required to pay one-half the contributions and interest due the Florida Retirement System Trust Fund and an equal amount shall be paid from the General Revenue Fund. No contributions shall be paid from the General Revenue Fund on behalf of any elected state officer who purchases such retirement credit after September 30, 1985.

Section 3. There is hereby appropriated from the General Revenue Fund an amount necessary to make the payments required by this act.

Section 4. Paragraph (b) of subsection (9) of section 121.091, Florida Statutes, 1984 Supplement, as amended by section 20 of chapter 84-266, Laws of Florida, is amended to read:

121.091 Benefits payable under the system.—

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. *However, a district school board may reemploy a retired member as a substitute teacher on a non-contractual basis after he has been retired for 1 calendar month. Any retired member who is reemployed within 1 calendar month after retirement shall forfeit his right to retirement benefits during that month. District school boards reemploying such teachers are subject to the retirement contribution required by subparagraph 3. Reemployment of a retired member as a substitute teacher is limited to 780 hours during the first 12 months of his retirement. Any retired member reemployed for more than 780 hours during his first 12 months of retirement shall give timely notice in writing to his employer and to the division of the date he will exceed the limitation. The division shall suspend his retirement benefits for the remainder of his first 12 months of retirement. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.*

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to his employer and to the division and shall have his retirement benefits suspended for the balance of the 12-month limitation period. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. The employment by an employer of any retiree of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree. Any employer upon employment of any person who has been retired under any state-administered retirement program shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System.

4. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office on or after July 1, 1969, may have his membership in the Florida Retirement System reinstated by making the necessary contributions to the retirement fund for the period of reemployment. Any person who elects this alternative shall not be eligible for retirement benefits during the period of employment. During this period of employment, such compensation shall be included in the computation of the employee's average final compensation and his years of creditable service.

5. Any person who has retired and subsequently is elected or appointed to an elective public office which is covered by the Florida Retirement System and who does not elect to reinstate his membership in the Florida Retirement System shall continue to receive his retirement benefits in addition to the compensation of the elective office to which he is elected or appointed without regard to the time limitations otherwise provided in this subsection.

6. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office, provided that he shall be required to terminate his nonelected covered employment. Any person who exercises this election shall receive his retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection; however, no additional creditable service will be earned for such continued employment. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

7. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

Section 5. Paragraph (a) of subsection (2) of section 238.181, Florida Statutes, 1984 Supplement, as amended by section 22 of chapter 84-266, Laws of Florida, is amended to read:

238.181 Reemployment after retirement; conditions and limitations.

(2)(a) Any person retired under this chapter, except under the disability retirement provisions of s. 238.07, may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his employer without limitation, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. *However, a district school board may reemploy a retired member as a substitute teacher on a noncontractual basis after he has been retired for 1 calendar month. Any retired member who is reemployed within 1 calendar month after retirement shall forfeit his right to retirement benefits during that month. District school boards reemploying such teachers are subject to the retirement contribution required by paragraph c. Reemployment of a retired member as a substitute teacher is limited to 780 hours during the first 12 months of his retirement. Any retired member reemployed for more than 780 hours during his first 12 months of retirement shall give timely notice in writing to his employer and to the division of the date he will exceed the limitation. The division shall suspend his retirement benefits for the remainder of his first 12 months of retirement. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during his first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.*

Section 6. This act shall take effect July 1, 1985.

Amendment 2—In title, on page 1, strike all of lines 1-7 and insert: A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.111, F.S.; revising conditions of eligibility for claiming credit for military service; amending s. 121.052, F.S.; providing that when an elected state officer purchases additional retirement credit in the Elected State Officers' Class under certain provisions, that one-half of the contributions and interest due the Florida Retirement System Trust Fund for the purchase of such additional retirement credit shall be paid from the General Revenue Fund; providing that such payment from the General Revenue Fund shall be made only on behalf of those elected state officers who purchase such additional retirement credit from July 1, 1985 through September 30, 1985; providing an appropriation; amending s. 121.091 and 238.181, 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.

On motion by Senator Dunn, by two-thirds vote CS for HB 1308 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Frank	Kiser	Plummer
Carlucci	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Gordon	Margolis	Thurman
Crawford	Grizzle	McPherson	Vogt
Deratany	Hill	Meek	
Dunn	Jennings	Myers	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Kirkpatrick

CS for SB 865 was laid on the table.

On motion by Senator Myers, 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 452 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representative Messersmith—

CS for HB 452—A bill to be entitled An act relating to drainage and water control; amending s. 298.22, F.S.; authorizing boards of supervisors of water control districts to adopt rules and assess fees; amending s. 298.29, F.S.; authorizing such boards to borrow money at recommended interest rates; amending s. 403.812, F.S.; relating to stormwater delegation; providing an effective date.

—was read the first time by title.

SPECIAL ORDER, continued

On motions by Senator Myers, by two-thirds vote CS for HB 452, a companion measure, was substituted for SB 161 and by two-thirds vote read the second time by title.

On motion by Senator Myers, by two-thirds vote CS for HB 452 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Frank	Kiser	Plummer
Carlucci	Gersten	Malchon	Stuart
Childers, D.	Girardeau	Mann	Thomas
Childers, W. D.	Gordon	Margolis	Thurman
Crawford	Hill	McPherson	Vogt
Deratany	Jennings	Meek	
Dunn	Johnson	Myers	
Fox	Kirkpatrick	Peterson	

Nays—1

Grizzle

Vote after roll call:

Yea—Castor, Jenne

SB 161 was laid on the table.

CS for CS for SB 99—A bill to be entitled An act relating to the cigarette tax; amending s. 210.02, F.S.; increasing the tax rate on cigarettes; providing for a credit against such tax; amending s. 210.20, F.S.; providing for distribution of the tax; providing an effective date.

—was read the second time by title.

Senator Crawford moved the following amendments which were adopted:

Amendment 1—On page 3, line 21, insert a new section 2 to read as follows:

Section 2. Section 210.11, Florida Statutes, is amended to read:

210.11 Refunds; sales of stamps and payment of tax.—Whenever any cigarettes upon which stamps have been placed, or upon which the tax has been paid by metering machine, have been sold and shipped into another state for sale or use therein, or have become unfit for use and consumption or unsalable, or have been destroyed, the dealer involved shall be entitled to a refund or credit of the actual amount of the tax paid with respect to such cigarettes less any discount allowed by the division in the sale of the stamps or payment of the tax by metering machine upon receipt of satisfactory evidence of the dealer's right to receive such refund or credit, provided application for refund or credit is made within 3 months of the date the cigarettes were shipped out of the state, became unfit or were destroyed. Only the division shall sell, or offer for sale, any stamp or stamps issued under this chapter. The division may redeem unused stamps lawfully in the possession of any person. The division may prescribe necessary rules and regulations concerning refunds, credits, sales of stamps, and redemptions under the provisions of this chapter. Appropriation is provided hereby made out of revenues collected under this chapter for payment of such allowances.

(Renumber subsequent sections.)

Amendment 2—On page 1, line 5, after "tax," insert: amending s. 210.11, F.S.; providing for a credit for taxes paid on cigarettes unfit for use and consumption;

On motion by Senator Crawford, by two-thirds vote CS for CS for SB 99 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Vote after roll call:

Yea—Castor, Kirkpatrick

CS for SB 99 was laid on the table.

On motion by Senator Stuart, 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's 382 and 804 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce and Representative Sample and others—

CS for HB's 382 and 804—A bill to be entitled An act relating to the "Florida Cemetery Act"; amending s. 497.005, F.S.; adding a definition of "monument"; amending s. 497.006, F.S., relating to cemetery site locations; amending s. 497.041, F.S.; prohibiting certain installation and maintenance fees and limiting inspection fees; amending s. 497.044, F.S.; prohibiting certain tying arrangements between the sale of grave space in a cemetery and the provision of certain services or the imposition of certain fees with respect to monuments; permitting certain noncemetery persons and firms to sell monuments and perform certain work; permitting cemetery companies to provide certain rules regarding installation of monuments by noncemetery persons; amending s. 497.048, F.S.; providing a period of time for cancellation and refunds on contracts with cemetery companies; providing an effective date.

—was read the first time by title.

On motions by Senator Stuart, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

On motions by Senator Stuart, by unanimous consent, CS for HB's 382 and 804 was taken up out of order and by two-thirds vote read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Paragraph (f) is added to subsection (1) of section 497.003, Florida Statutes, to read:

497.003 Scope.—

(1) This chapter and all rules adopted pursuant to this chapter shall apply to all cemeteries except for:

(f) A columbarium consisting of less than one-half acre which is owned by and immediately contiguous to an existing church facility and is subject to local government zoning. The church establishing such a columbarium shall ensure that the columbarium is perpetually kept and maintained in a manner consistent with the intent of this chapter. If the church relocates, the church shall relocate all of the urns and remains placed in the columbarium which were placed therein during its use by the church.

Section 2. Subsection (17) is added to section 497.005, Florida Statutes, to read:

497.005 Definitions.—As used in this chapter:

(17) "Monument" means any product used for identifying a grave site and cemetery memorials of all types, including monuments, markers, and vases.

Section 3. Subsections (2), (3) and (5) of section 497.006, Florida Statutes, are amended to read:

497.006 Cemetery companies; license; application; fee.—

(2) Any person desiring to establish a cemetery company shall first:

(a) File an application, which shall state the exact location of the proposed cemetery, which site shall contain not less than 15 contiguous acres, and pay an the application fee of \$5,000, which shall be set by the department, by rule, in an amount not to exceed \$600;

(b) Create a legal entity; and

(c) Demonstrate to the satisfaction of the department that he possesses the ability, experience, financial stability, and integrity to operate a cemetery.

(3) The department shall determine the need for a new cemetery in the community by considering the adequacy of existing facilities; the solvency of the trust funds of the existing facilities; and the relationship between population, rate of population growth, death rate, and ratio of burials to deaths. In order to promote competition, the department may waive the criteria of this subsection so that each county may have at least six two cemeteries operated by different licensees.

(5) The department shall issue a license to operate a cemetery company to any applicant who, within 12 months after notice that a license may be issued, meets the criteria of subsection (4). With respect to any application for which the department has given notice under subsection (4) on or after January 1, 1984, the department may, for good cause shown, grant up to two extensions of the 12-month period within which the applicant must meet the criteria of subsection (4).

Section 4. Section 497.007, Florida Statutes, is amended to read:

497.007 License not assignable or transferable.—No license issued under s. 497.009 shall be transferable or assignable, and no licensee shall develop or operate any cemetery authorized by this chapter under any name or at any location other than that contained in the application for such license. Any person who seeks to purchase or acquire control of an existing licensed cemetery shall first apply to the department for a certificate of approval for the proposed change of ownership. The application shall contain the name and address of the proposed new owner and other information required by the department. The department shall issue a certificate of approval only after it has conducted an investiga-

tion of the applicant and determined that the proposed new owner is qualified by character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner. The department may examine the records of the cemetery as part of the investigation in accordance with s. 497.011(2)(b). The application shall be accompanied by a fee of \$5,000.

Section 5. Section 497.008, Florida Statutes, is amended to read:

497.008 Application for change of control among existing stockholders or partners; filing fee.—Any stockholders or partners ~~person~~ who intend ~~intends~~ to purchase or acquire control of an existing cemetery company from other stockholders or partners shall first apply to the department for a certificate of approval for the proposed change of control. The application shall contain the names ~~name~~ and addresses ~~address~~ of the stockholders or partners seeking to acquire control ~~proposed new owner~~, and the department shall issue a certificate of approval only after it has conducted an investigation of the applicants ~~applicant~~ and determined that such individuals are the ~~proposed new owner~~ is qualified by character, experience, and financial responsibility to control and operate the cemetery company in a legal and proper manner and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The department may examine the records of the cemetery company as part of the investigation in accordance with s. 497.011(2)(b). The application shall be accompanied by an initial filing fee of \$2,500 ~~set by the department, by rule, not to exceed \$600.~~

Section 6. Section 497.009, Florida Statutes, is amended to read:

497.009 Annual license fees.—

(1) The department shall collect from each cemetery company operating under the provisions of this chapter an annual license fee as follows:

(a) For a cemetery with less than \$25,000 annual gross sales \$250.

(b)(1) For a cemetery with at least \$25,000 but less than \$100,000 annual gross sales ~~income~~ \$350 ~~\$100~~.

(c)(2) For a cemetery with an annual gross sales ~~income~~ of at least \$100,000 but less than \$250,000 ~~to \$500,000~~ \$600 ~~\$300~~.

(d)(3) For a cemetery with an annual gross sales of at least \$250,000 but less than ~~income over~~ \$500,000 \$900 ~~\$500~~.

(e) For a cemetery with annual gross sales of at least \$500,000 but less than \$750,000 \$1,350.

(f) For a cemetery with annual gross sales of at least \$750,000 but less than \$1,000,000 \$1,750.

(g) For a cemetery with annual gross sales of \$1,000,000 or more \$2,650.

(2) An application for license renewal shall be submitted on or before December 31 each year in the case of an existing cemetery company and before any sale of cemetery property in the case of a new cemetery company or a change of ownership or control pursuant to s. 497.008. If the renewal application is not received by December 31, the department shall collect a penalty in the amount of \$25 per month or fraction of a month for each month delinquent.

Section 7. Paragraph (b) of subsection (2) of section 497.011, Florida Statutes, is amended to read:

497.011 Department; powers.—

(2) In addition to other powers conferred by this chapter, the department may:

(b) Examine the financial affairs of any cemetery company and charge an examination fee of \$140 ~~not exceeding \$150~~ per day for each examiner engaged in the examination.

Section 8. Subsection (3) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(3) It shall not be necessary to make annual application for exemption on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and

tombs owned by houses of public worship, individually owned burial rights not held for speculation or other such property not rented or hired out for other than religious or educational purposes at any time; household goods and personal effects of permanent residents of this state; and property of the state or any county, any municipality, or any school district or community college district thereof.

Section 9. Section 497.022, Florida Statutes, is amended to read:

497.022 Disposition of income of care and maintenance trust fund; notice to purchasers and depositors.—The net income of the care and maintenance trust fund shall be used solely for the care and maintenance of the cemetery, including maintenance of monuments, which maintenance shall not be deemed to include the cleaning, refinishing, repairing, or replacement of monuments, for reasonable costs of administering the care and maintenance, and for reasonable costs of administering the trust fund. At the time of making a sale or receiving an initial deposit, the cemetery company shall deliver to the person to whom the sale is made, or who makes a deposit, a written instrument which shall specifically state the purposes for which the income of the trust fund shall be used.

Section 10. Subsection (1) of section 497.023, Florida Statutes, is amended to read:

497.023 Care and maintenance trust fund, percentage of payments for burial rights and monument maintenance to be deposited.—

(1) Each cemetery company shall set aside and deposit in its care and maintenance trust fund the following percentages or amounts for all sums received from sales of burial rights and from assessment of any monument maintenance fee as provided in s. 497.041(3):

(a) For graves, 10 percent of all payments received; however, for sales made after December 31, 1959, no deposit shall be less than \$10 per grave. For each burial right, grave, or space which is provided without charge, the deposit to the fund shall be \$10.

(b) For mausoleums or columbaria, 10 percent of payments received.

(c) For general endowments for the care and maintenance of the cemetery, the full amount of sums received when received.

(d) For special endowments for a specific lot or grave or a family mausoleum, memorial, marker, or monument, the cemetery company may set aside the full amount received for this individual special care in a separate trust fund or by a deposit to a savings account in a bank or savings and loan association located within and authorized to do business in the state; however, if the licensee does not set up a separate trust fund or savings account for the special endowment, the full amount thereof shall be deposited into the care and maintenance trust fund as required of general endowments.

(e) For monument maintenance, the full amount of such sum when received.

Section 11. Section 497.041, Florida Statutes, is amended to read:

497.041 Monuments and markers; maximum installation and maintenance fees.—

(1) No cemetery company shall charge a fee for the installation and maintenance of a marker or monument purchased or obtained from and to be installed by a person or firm other than the cemetery company or its agents.

(2) To verify that a monument is installed in accordance with cemetery bylaws, a cemetery company may charge an inspection fee not to exceed \$25 to inspect monuments which are not installed by the cemetery company or its agents. ~~which exceeds the maximum fee set by the department. The department, by rule, shall set a maximum installation and maintenance fee which a cemetery company may charge. The fee shall be based on the actual cost to a cemetery company to install and maintain a marker or monument, but shall not exceed 50 cents per square inch.~~

(3) A cemetery company may assess, at the time of installation, a charge not to exceed 10 cents per square inch of the size of the base of a monument for the maintenance of such monument. Such fee shall be assessed uniformly without regard to whether the installer is the cemetery company or a person or firm other than the cemetery company or its agent. All funds collected pursuant to this section shall be deposited by the cemetery company in its care and maintenance trust fund as provided in s. 497.023(2).

Section 12. Section 497.044, Florida Statutes, is amended to read:

497.044 Illegal tying arrangements.—

(1)(a) No person authorized to sell grave space shall tie the purchase of any grave space to the purchase of a ~~marker or~~ monument from or through the seller or any other designated person or corporation.

(b) *Noncemetery licensed persons and firms shall have the right to sell monuments and to perform or provide on cemetery property foundation, preparation, and installation services for monuments.*

1. *A cemetery company shall be permitted to require that any person or firm who installs, places, or sets a monument be duly licensed in the county in which the cemetery is located, carry liability insurance for any vehicle brought onto cemetery property, and carry public liability insurance. Any such rules shall be conspicuously posted and readily accessible for inspection and copying by interested persons.*

2. *Nothing contained in this paragraph shall prohibit a cemetery from establishing reasonable rules regarding the style and size of a monument or its foundation, provided such rules are applicable to all monuments from whatever source obtained and are enforced uniformly as to all monuments. Such rules shall be conspicuously posted and readily accessible to inspection and copy by interested persons.*

(c) *No person who is authorized to sell grave space and no cemetery company shall:*

1. *Require the payment of a setting or service charge, by whatever name known, from third party installers for the placement of a monument except as provided in s. 497.041;*

2. *Refuse to provide care or maintenance for any portion of a gravesite on which a monument has been placed; or*

3. *Waive liability with respect to damage to a monument after installation,*

where the monument or installation service is not purchased from the person authorized to sell grave space or the cemetery company providing grave space or from or through any other person or corporation designated by the person authorized to sell grave space or the cemetery company providing grave space. No cemetery company may be held liable for the improper installation of a monument where the monument is not installed by the cemetery company or its agents.

(2) No program offering free burial rights shall be conditioned by any requirement to purchase additional burial rights or merchandise. Any program offering free burial rights shall comply with s. 817.415.

Section 13. Subsection (7) of section 497.048, Florida Statutes, is amended to read:

497.048 Receipts from sale of personal property or services; deposits into merchandise trust fund; refunds.—

(7) A contract entered into between a cemetery company and a purchaser shall be subject to cancellation and refund, *within 1 year from the date of execution only*, upon a showing by the purchaser of any intentional violation of any provision of this act which relates to the negotiation, sale, or performance of the contract. If the cemetery company wishes to enforce such contract after receipt of such showing, it may request the department to determine the sufficiency of the showing. Upon cancellation, the purchaser may demand from a person authorized under this chapter a refund of the entire amount actually paid on such contract. Such refund shall be made within 30 days after receipt by the authorized person of the request for refund. The company may not cancel a contract unless the purchaser is in default. In addition, a contract for a casket, vault, or other similar merchandise, or the portion of a contract that includes such a purchase subject to the trust requirements of this section, entered into between a cemetery company and a purchaser, shall be subject to cancellation and a 70-percent refund, *within 1 year from the date of execution of the contract only*, upon request by the purchaser or the purchaser's agent. Such refund shall be made within 30 days after receipt by the cemetery company of the request for refund.

Section 14. This act shall take effect upon becoming a law.

Amendment 2—In title strike everything before the enacting clause and insert: A bill to be entitled An act relating to the "Florida Cemetery Act"; amending s. 497.003, F.S.; exempting certain columbaria from the

Florida Cemetery Act; amending s. 497.005, F.S.; adding a definition of "monument"; amending s. 497.006, F.S.; requiring a certain acreage prior to the establishment of a cemetery; providing for waiver of need requirement in certain circumstances; authorizing extensions of time for certain applicants to comply with certain prerequisites for licensure; amending s. 497.022, F.S.; providing for care and maintenance of a cemetery including monuments; amending s. 497.023, F.S.; authorizing cemetery companies to assess a uniform monument maintenance fee; amending s. 497.041, F.S.; prohibiting certain installation and maintenance fees and limiting inspection fees; amending s. 497.044, F.S.; prohibiting certain tying arrangements between the sale of grave space in a cemetery and the provision of certain services or the imposition of certain fees with respect to monuments; permitting cemetery companies to provide certain rules regarding installation of monuments by noncemetery persons; providing civil penalties; amending s. 497.048, F.S.; limiting the period for refund for a cancellation of a contract; amending s. 497.006, F.S.; increasing the application fee for establishing a new cemetery; amending s. 497.007, F.S.; providing procedures for acquiring an existing cemetery and requiring payment of a fee; amending s. 497.008, F.S.; providing procedures to be followed and increasing the application fee when an existing cemetery company changes internal control; amending s. 497.009, F.S.; increasing the annual license fee for cemetery companies; amending s. 497.011, F.S.; prescribing a fee for the examination of the financial affairs of a cemetery company; amending s. 196.011, F.S.; providing for the tax exemption of burial rights sold to individuals; providing an effective date.

On motion by Senator Stuart, by two-thirds vote CS for HB's 382 and 804 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

SB 86—A bill to be entitled An act relating to abuse, neglect, or exploitation of aged or disabled persons; creating s. 415.113, F.S.; providing that a person is not abused or neglected or in need of emergency or protective services solely because he is furnished or relies upon treatment by certain spiritual means alone; providing that medical care or treatment is not authorized or permitted in contravention of a person's objection; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 86 to conform the bill to CS for HB 12.

On motion by Senator Dunn, the rules were waived and by two-thirds vote CS for HB 12 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Dunn—

CS for HB 12—A bill to be entitled An act relating to abuse, neglect, or exploitation of aged or disabled persons; creating s. 415.113, F.S.; providing that a person is not abused or neglected or in need of emergency or protective services solely because he relies upon and is therefore being furnished treatment by certain spiritual means alone; providing that medical care or treatment is not authorized or permitted in contravention of a person's objection; clarifying that certain actions are not precluded; amending s. 415.104, F.S.; providing clarifying language with respect to certain protective investigations; providing an effective date.

—a companion measure, was substituted for SB 86 and read the second time by title. On motion by Senator Dunn, by two-thirds vote CS for HB 12 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Dunn	Jennings	Plummer
Beard	Fox	Johnson	Scott
Carlucci	Frank	Kirkpatrick	Stuart
Castor	Gersten	Kiser	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	Margolis	Vogt
Crawford	Grant	Myers	
Deratany	Hill	Peterson	

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SB 86 was laid on the table.

On motions by Senator Thurman, the rules were waived and by unanimous consent, HB 1383 was withdrawn from the Committees on Transportation and Appropriations.

On motion by Senator Thurman—

HB 1383—A bill to be entitled An act relating to motor vehicle license plates; amending s. 320.06, F.S., providing for replacement license plates every 5 years; providing a fee; providing for the disposition of the fee; eliminating a provision prohibiting reissuance of license plates more frequently than at 8-year intervals providing an effective date.

—a companion measure, was substituted for SB 1012 and read the second time by title.

Senator Dunn moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of line 23 and insert:

Section 2. Subsection (1) of section 319.24, Florida Statutes, is amended to read:

319.24 Issuance in duplicate; delivery; liens and encumbrances.—

(1) The department shall assign a number to each certificate of title and shall issue each certificate of title and each corrected certificate in duplicate. *The data base record shall serve as the duplicate title certificate required herein. One printed copy may shall be retained on file by the department.*

Section 3. Section 320.131, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 320.131, F.S., for present text.)

320.131 Temporary tags.—

(1) The department is authorized and empowered to design, issue, and regulate the use of temporary tags to be designated "temporary tags" for use in the following cases:

(a) Where a dealer license plate may not be lawfully used.

(b) For a casual or private sale. A "casual or private sale" means any sale other than that by a licensed dealer or a marine boat trailer dealer.

(c) For certified common carriers or drive-away companies who transport motor vehicles, mobile homes, or recreational vehicles from one place to another for persons other than themselves.

(d) For banks, credit unions, and other financial institutions which are not required to be licensed under the provisions of s. 320.27 or s. 320.77, but need temporary tags for the purpose of demonstrating reposessions for sale.

(e) Where a motor vehicle is sold in this state to a resident of another state for registration therein and the motor vehicle is not required to be registered under the provisions of s. 320.38.

(f) Where a motor vehicle is required to be weighed prior to registration.

(g) Where an out-of-state resident, subject to registration in this state, must secure ownership documentation from the home state.

(h) For a rental car company which possesses a motor vehicle dealer license and which may use temporary tags on vehicles offered for lease by

such company in accordance with the provisions of rules established by the department. However, the original issuance date of a temporary tag shall be the date which determines the applicable license plate fee.

(2) The department is authorized to sell temporary tags, in addition to those listed above, to their agents and where need is demonstrated by a consumer complainant. The fee shall be \$1 each with the proceeds being deposited into the General Revenue Fund. Agents of the department shall sell temporary tags for \$1 each and shall charge the service charge authorized by s. 320.04 per transaction, regardless of the quantity sold. Requests for purchase of temporary tags to the department or its agents shall be made, where applicable, on letterhead stationery and notarized. A temporary tag shall be valid for 20 days and no more than two shall be issued to the same person for the same vehicle.

(3) For the purpose of requiring proof of personal injury protection or liability insurance, the issuance of a temporary tag by a licensed motor vehicle dealer does not constitute registration of the vehicle. However, prior to the expiration of the first temporary tag issued to any person by a motor vehicle dealer, proof of personal injury protection or liability insurance shall be accomplished.

(4) Any person or corporation who unlawfully issues or uses the temporary tag or violates this section or any rule adopted by the department to implement this section is guilty of a misdemeanor of the second degree punishable as provided in s. 775.082 or s. 775.083 in addition to other administrative action by the department.

Section 4. Paragraphs (c) and (d) of subsection (1) and subsections (2), (3), (5), (7), and (10) of section 320.27, Florida Statutes, 1984 Supplement, are amended to read:

320.27 Motor vehicle dealers.—

(1) **DEFINITIONS.**—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail. Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business. The terms "selling" and "sale" include lease-purchase transactions. The classifications of motor vehicle dealers are defined as follows:

1. "Franchised motor vehicle dealer" means any person who engages in the business of buying, selling, or dealing in motor vehicles pursuant to an agreement as defined in s. 320.60(1).

2. "Independent motor vehicle dealer" means any person other than a franchised or wholesale motor vehicle dealer who engages in the business of buying, selling, or dealing in motor vehicles.

3. "Wholesale motor vehicle dealer" means any person who engages exclusively in the business of buying, selling, or dealing in motor vehicles at wholesale or with motor vehicle automobile auctions. *Such person shall be licensed to do business in the state, shall not sell or auction a vehicle to any person who is not a licensed dealer and shall not have the privilege of the use of dealer license plates. Such dealer shall be exempt from the display provisions of this section but shall maintain an office wherein records are kept in order that those records may be inspected.*

4. "Motor vehicle auction" means any person offering for sale to the highest bidder where both sellers and buyers are licensed motor vehicle dealers. *Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.*

The term "motor vehicle dealer" does not include persons not engaged in the purchase or sale of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are businesses when the same were acquired and sold used in good faith and not for the purpose of avoiding the provisions of this law; public officers while performing their official duties; receivers; trustees; administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; new motor vehicle brokers; and motor vehicle rental and leasing companies that sell motor vehicles to motor vehicle dealers licensed under this section.

(d) "New Motor vehicle broker" means any person engaged in the business of offering to procure or procuring new motor vehicles for the general public, or who holds himself out through solicitation, advertisement, or otherwise as one who offers to procure or procures new motor vehicles for the general public, and who does not store, or display, or take ownership of any new or used vehicles for the purpose of selling such vehicles.

(2) LICENSE REQUIRED.—No person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a license therefor as provided in this section. Any person selling or offering a motor vehicle for sale in violation of the licensing requirements of this subsection shall be deemed guilty of an unfair and deceptive trade practice as defined in part II of chapter 501.

(3) APPLICATION AND FEE.—The application for the license shall be in such form as may be prescribed by the department and subject to such rules and regulations with respect thereto as may be so prescribed by it. Such application shall be verified by oath or affirmation and shall contain a full statement of the name and birth date of the person or persons applying therefor; the name of the firm or copartnership, with the names and places of residence of all members thereof, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or places of residence of the applicant; and prior business in which the applicant has been engaged and the location thereof. Such application shall describe the exact location of the place of business and shall state whether the place of business is owned in fee simple by the applicant and when acquired, or, if leased, a true copy of the lease shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a the residence of the applicant, that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale, and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department, or any of its inspectors, or other employees, or by any law enforcement officer. The applicant shall certify that the business of a motor vehicle dealer is the principal business which shall be conducted at that location. Such certification shall not apply to any applicant who held a current license as a motor vehicle dealer on January 1, 1964. Such application shall contain a statement that the applicant is either franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell shall be included, or an independent (nonfranchised) motor vehicle dealer. Such application shall contain such other relevant information as may be required by the department including a statement that the applicant is insured under a garage liability insurance policy, which shall include, at a minimum, \$25,000 combined single limit liability coverage including bodily injury and property damage protection, \$10,000 personal injury protection, and \$20,000 uninsured motorist coverage. The application shall be accompanied by an official credit report and a sworn statement of two reputable persons of the community in which the principal place of business is to be located certifying to the good moral character of the applicant and that the facts set forth in the application are true. Upon making such initial application, the person applying therefor shall pay to the department a fee of \$300 \$190 in addition to any other fees now required by law; upon making a subsequent renewal application, the person applying therefor shall pay to the department a fee of \$75 \$25 in addition to any other fees now required by law. Upon making an application for a change of location, the person shall pay a fee of \$50 \$25 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. At a minimum, The department shall verify those items in the application relating to the applicant's past criminal record by way of, but not limited to, the complete records available through the Florida and national crime information centers and his financial references; and the department shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

(5) SUPPLEMENTAL LICENSE.—Any person licensed hereunder shall obtain a supplemental license for each permanent additional place or places of business not contiguous to the premises for which the original license is issued, on a form to be furnished by the department, and upon payment of a fee of \$50 \$10 for each such additional location. Upon

making renewal applications for such supplemental licenses, such applicant shall pay \$50 \$10 for each additional location. No license is required when one or more franchised motor vehicle dealers wish to display their vehicles for a limited time of not more than 7 days at a location other than their established places of business.

(7) CERTIFICATE OF TITLE REQUIRED.—For each used motor vehicle in the possession of a licensee and offered for sale by him, the licensee either shall have in his possession a duly assigned certificate of title from the owner in accordance with the provisions of chapter 319, from the time when the motor vehicle is delivered to him until it has been disposed of by him, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of chapter 319. In order to facilitate the chain of ownership of a motor vehicle, all licensees shall execute dealer reassignments.

(10) SURETY BOND OR IRREVOCABLE LETTER OF CREDIT REQUIRED BOND.—

(a) Annually, before any license shall be issued to a motor vehicle dealer, the applicant-dealer of new or used motor vehicles shall deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the applicant-dealer as principal and by a surety company qualified to do business in the state as surety, in the sum of \$25,000 \$5,000.

(b) Surety bonds and irrevocable letters of credit Such bond shall be in a form to be approved by the department and shall be conditioned that the motor vehicle dealer shall comply with the conditions of any written contract made by such dealer in connection with the sale or exchange of any motor vehicle and shall not violate any of the provisions of chapters 319 and 320 in the conduct of the business for which he is licensed. Such bonds and letters of credit bond shall be to the department and in favor of any person in a retail or wholesale transaction customer who shall suffer any loss as a result of any violation of the conditions hereinabove contained. When the department determines that a person retail or wholesale customer has incurred a loss as a result of a violation of chapter 319 or chapter 320, it shall notify the person customer in writing of the existence of the bond or letter of credit. Such bonds and letters of credit bond shall be for the license period, and a new bond or letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one year shall, in no event, exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit.

(c) Surety bonds shall be executed by a surety company authorized to do business in the state as surety and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

(e)(a) The department shall, upon denial, suspension, or revocation of any license, notify the surety company of the licensee, or bank issuing an irrevocable letter of credit for the licensee, in writing, that the license has been denied, suspended, or revoked and shall state the reason for such denial, suspension, or revocation.

(f)(b) Any surety company which pays any claim against the bond of any licensee or any bank which honors a demand for payment as a condition specified in a letter of credit of a licensee shall notify the department, in writing, that such action has been taken it has paid such a claim and shall state the amount of the claim or payment.

(g)(e) Any surety company which cancels the bond of any licensee or any bank which cancels an irrevocable letter of credit shall notify the department, in writing, of such cancellation, giving reason for the cancellation.

Section 5. Section 320.62, Florida Statutes, is amended to read:

320.62 Licenses; amount; disposition of proceeds.—The initial annual license for each manufacturer, factory branch, distributor, or importer shall be \$300 \$190 and shall be in addition to all other licenses or taxes now or hereafter levied, assessed, or required of the applicant. The annual renewal license fee shall be \$100. The proceeds from all licenses under ss. 320.60-320.70 shall be paid into the State Treasury to the credit of the General Revenue Fund. All licenses shall be payable on or before October 1 of each year and shall expire, unless sooner revoked or suspended, on the following September 30.

Section 6. Subsections (4) and (7) of section 320.77, Florida Statutes, are amended to read:

320.77 License required of mobile home and recreational vehicle dealers.—

(4) FEES.—Upon making initial application, the applicant shall pay to the department a fee of \$300 ~~\$100~~ in addition to any other fees now required by law. The fee for renewal application shall be \$100. The fee for application for change of location shall be \$25. Any applicant for renewal who has failed to submit his renewal application by October 1 shall pay a renewal application fee equal to *the original* ~~twice the amount of the regular renewal~~ application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

(7) SUPPLEMENTAL LICENSE.—Any person licensed pursuant to this section shall be entitled to operate one or more additional places of business under a supplemental license for each such business if the ownership of each business is identical to that of the principal business for which the original license is issued. Each supplemental license shall run concurrently with the original license and shall be issued upon application by the licensee on a form to be furnished by the department and payment of a fee of \$50 ~~\$25~~ for each such license. Only one licensed dealer shall operate at the same place of business.

Section 7. Subsection (3) of section 320.8225, Florida Statutes, is amended to read:

320.8225 Mobile home and recreational vehicle manufacturer's license.—

(3) FEES.—Upon making initial application ~~or renewal application~~, the applicant shall pay to the department a fee of \$300 ~~\$100~~. *Upon making renewal application, the applicant shall pay the department a fee of \$100.* Any applicant for renewal who has failed to submit his renewal application by October 1 shall pay a renewal application fee equal to *the original* ~~twice the amount of the regular~~ application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

Section 8. Section 320.132, Florida Statutes, is hereby repealed.

Section 9. This act shall take effect July 1, 1985, except that section 1 shall take effect January 1, 1986.

Amendment 2—In title, on page 1, strike all of lines 2 and 3 and insert: An act relating to motor vehicles; amending s. 319.24, F.S., relating to certificates of title, providing for duplicates; amending s. 320.131, F.S., providing for temporary tags; amending s. 320.27, F.S., providing definitions; providing that certain acts constitute an unfair and deceptive trade practice; requiring proof of certain information with respect to license applications; increasing fees; increasing bond requirements; providing for surety bonds or irrevocable letters of credit; amending s. 320.62, F.S., increasing the initial license fee for motor vehicle manufacturers, factory branches, distributors or importers; amending s. 320.77, F.S., increasing the initial fee for mobile home and recreational vehicle dealers; increasing the fee for supplemental licenses; amending s. 320.8225, F.S., increasing the initial fee for a mobile home or recreational vehicle manufacturer's license; repealing s. 320.132, F.S., relating to in-transit tags; amending s. 320.06, F.S.; providing for

On motion by Senator Thurman, by two-thirds vote HB 1383 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Neal

SB 1012 was laid on the table.

CS for CS for SB 235—A bill to be entitled An act relating to nursing home financial disclosure; creating ss. 400.341-400.346, F.S.; providing legislative intent; providing definitions; providing for a uniform system of financial reporting; providing for reporting certain resident information; providing for an analysis of nursing home financial reports and of certain resident information; providing for an annual report; providing funding; providing for assessments against nursing homes; providing penalties; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendment which was adopted:

Amendment 1—On page 4, line 16, strike "that report" and insert: the Medicare cost report

On motion by Senator Malchon, by two-thirds vote CS for CS for SB 235 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28

Mr. President	Dunn	Jenne	Myers
Beard	Fox	Johnson	Peterson
Carlucci	Frank	Kirkpatrick	Plummer
Castor	Girardeau	Kiser	Stuart
Childers, D.	Gordon	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Deratany	Hill	Meek	Vogt

Nays—2

Jennings Scott

Vote after roll call:

Yea—Gersten, Neal

ENROLLING REPORTS

Senate Bills 852, 539, 337, 484, 951 and CS for SB 511 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 29, 1985.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 28 was corrected and approved.

CO-INTRODUCERS

Senator Deratany—SB 502; Senator Beard—SB 1221; Senator Malchon—SB 1270

RECESS

On motion by Senator Jenne, the Senate recessed at 7:34 p.m. to reconvene at 9:00 a.m., Thursday, May 30.