



Journal of the Senate

Number 17

Thursday, May 28, 1987

CALL TO ORDER

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

Mr. President	Frank	Johnson	Peterson
Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson

Excused periodically: Members of the various conference committees

PRAYER

The following prayer was offered by the Rev. Robert K. Davis, Jr., Pastor, First Baptist Church, Lake City:

Our Lord and our God, we remember your promise that whosoever two or three are gathered in your name, there you are in the midst of them. We claim that promise this morning, and pray that each one of us may be aware of your presence, for you know our needs and how inadequate we feel ourselves to be in the presence of state and world problems and the challenges of this hour. Help us, O Lord, that we will be better than we are, wiser than we know, and stronger than we dream. Deliver us from the foolishness of impatience. Let us not be in such a hurry as to run on without you. Lord, help us to pause and take time to think, time to pray and time out to find out your will. Let us then do what we should do because it is right and it is best for the good of our state and our country and for the glory of your name.

In this prayer, I bring unto you the members of this Senate body, its officers and its servants for you to guide them and bless them. They feel the weight of responsibilities and the need of divine guidance. Give them courage to do what is right and make it clear to us all.

We pray for our great state, for our Governor, Robert Martinez, and his co-laborers and assistants. We pray for our country and for President Ronald Reagan. Help us to depend upon you this day and help us to do everything in accordance to your divine will, is my prayer, and I pray it in the strong and mighty and matchless name of our Lord and our Savior, Jesus Christ. Amen.

Consideration of Resolutions

On motion by Senator Hill, by two-thirds vote SR 1337 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Hill—

SR 1337—A resolution commending the Hialeah Junior High Jazz Ensemble for its superior musical achievements.

WHEREAS, the Hialeah Junior High Jazz Ensemble will perform in the Capitol courtyard today, May 28, 1987, as part of the "Live at the Capitol" series, and

WHEREAS, this ensemble of dedicated and talented musicians includes 27 students in grades 7, 8, and 9, and

WHEREAS, the group is part of the Hialeah Junior High Band, which for the past 4 years has been rated superior by the Florida Band Masters Association, and

WHEREAS, in addition to native talent, the level of achievement that these students display requires intense dedication and persistence, and

WHEREAS, such traits are vital to self-realization and to the continuation of civilized culture, NOW, THEREFORE,

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

That the Hialeah Junior High Jazz Ensemble and band director George Walters are commended for their outstanding musical accomplishments and that the appreciation of the Florida Senate is extended to them for performing in the 1987 "Live at the Capitol" series.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to the Hialeah Junior High principal, Kennard Davis, as a tangible token of the sentiments of the Florida Senate.

—was read the second time in full and unanimously adopted.

On motion by Senator Thurman, by two-thirds vote SR 1335 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Thurman—

SR 1335—A resolution recognizing "Project Graduation."

WHEREAS, there is a growing awareness of the problems associated with illegal and excessive use of alcohol and drugs throughout the nation and in the State of Florida, and

WHEREAS, the Florida Legislature has shown its concern for providing solutions to these problems and continuing to express support for groups working on such solutions, and

WHEREAS, concerned students, parents, and community leaders across Florida have established programs popularly known as "Project Graduation," and

WHEREAS, scores of individuals and groups in Citrus, Hernando, Hillsborough, Pasco, Pinellas, and Polk Counties will celebrate Project Graduation on June 3-5, 1987, by sponsoring a variety of fun-filled activities including "Senior Splash at Adventure Island," some good clean fun at Waterslide World, and more, and

WHEREAS, "Project Graduation" is designed to provide a very special graduation night for seniors graduating from high school within a controlled setting of good entertainment, without the use of alcohol or drugs, NOW, THEREFORE,

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

That the Florida Senate, in session assembled, does hereby recognize "Project Graduation" and commends the efforts of all those involved in the activities to be held on June 3-5, 1987.

—was read the second time in full and unanimously adopted.

The President requested Senator Thurman to escort Roger Christie, president of "Project Graduation", to the rostrum where he was presented a copy of the resolution.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, May 28, 1987: HB 1286, HB 1287, HB 1288, HB 1289, HB 1293, HB 1290, HB 1291, HB 1292, HB 1294, HB 463, CS for CS for SB 399, CS for SB 1264, SB 1107, SB 1124, CS for SB 631, CS for SB 401, SB 380, SB 1152, CS for SB 866, HB 162, CS for SB 210, CS for SB 592, CS for SB 659, SB 713, SB 789, SJR 135, SB 594, SB 776, CS for SB 824, CS for SB 1125, CS for SB 1132, CS for SB 1222, SB 844, CS for SB's 468, 549 and 648, SJR 459, SB 456, CS for SB 242, CS for SB 222, SB 68, CS for SB 287, CS for SB 239, SB 367, CS for SB 377, SJR 356, SB 812, CS for SB 941, SB 466, CS for SB

383, CS for SB 1074, HB 285, CS for SB 552, CS for CS for SB 589, CS for SB 749, SB 864, SB 939, SB 940, SB 1095, CS for SB 524, CS for SB 600, CS for SB 1218, CS for HB 124, CS for SB 750, CS for SB 1087, SB 957

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, May 28, 1987: SB 1322, SB 1324, SB 1327, SB 1330, SB 1332, SB 1333, SB 1334, SB 1336, SB 1340, SB 1347, SB 1348, SB 1351, SB 1352, SB 1353, SB 1355, SB 1358, SB 1360, HB 333, HB 581, HB 626, HB 629, HB 674, HB 676, HB 887, HB 889, HB 928, HB 948, HB 961

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Governmental Operations recommends the following pass: SB 1257

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

The Committee on Health and Rehabilitative Services recommends the following pass: SB 1183

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

The Committee on Appropriations recommends the following pass: CS for SB's 385 and 122 with 2 amendments

The Committee on Health and Rehabilitative Services recommends the following pass: SB 455

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

The Special Master on Claims recommends the following not pass: CS for HB 23, SB 23

The bills were referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: CS for SB 392, CS for SB 834

The Committee on Governmental Operations recommends a committee substitute for the following: SB 1211

The Committee on Health and Rehabilitative Services recommends committee substitutes for the following: CS for SB 501, SB 847, SB 1290

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Governmental Operations recommends a committee substitute for the following: SB 1179

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

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 644

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

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committees on Finance, Taxation and Claims; and Natural Resources and Conservation and Senator Kirkpatrick—

CS for CS for SB 392—A bill to be entitled An act relating to saltwater fisheries; amending s. 327.28, F.S.; changing distribution of certain moneys in the Motorboat Revolving Trust Fund; amending s. 370.01, F.S.; defining "restricted species"; amending s. 370.06, F.S.; specifying persons who must have a saltwater products license; requiring a restricted species endorsement on a saltwater products license, for certain purposes; providing restrictions on issuance of such endorsement; providing exemptions; limiting persons to whom saltwater products may be sold; prohibiting certain purchase of restricted species; requiring a saltwater products license for certain harvest levels; amending s. 370.14, F.S.; providing a fee

for certain harvest by any other method; changing fee disposition; requiring a saltwater products license for certain harvest of crawfish; authorizing the Department of Natural Resources to implement a trap retrieval program; providing a retrieval fee; conditioning renewal of a trap number upon payment of such fees; providing for waiver under certain circumstances; providing that this act does not affect the scheduled repeal of certain provisions of the Florida Statutes or Laws of Florida; providing an effective date.

By the Committees on Health and Rehabilitative Services and Education and Senator Hollingsworth—

CS for CS for SB 501—A bill to be entitled An act relating to schools; creating s. 230.335, F.S.; requiring notification of the appropriate superintendent of schools of a student who commits certain offenses or an employee of the school district who is arrested; providing for release of information; providing an effective date.

By the Committee on Finance, Taxation and Claims and Senator McPherson—

CS for SB 644—A bill to be entitled An act relating to saltwater products dealers; amending s. 370.07, F.S., providing definitions; revising license fees; requiring retail dealers to keep certain records; amending s. 370.06, F.S.; providing criteria for saltwater products license; amending s. 370.14, F.S.; requiring a saltwater products license for certain harvest of crawfish; changing fee disposition; requiring certain display of licenses and trap numbers; providing a fee for certain harvest by any other method; authorizing the Department of Natural Resources to implement a trap retrieval program; providing a retrieval fee; conditioning renewal of a trap number upon payment of such fees; providing for waiver under certain circumstances; defining the term "licensed saltwater fisheries trap"; prohibiting the unlawful possession of such traps; providing penalties; providing exceptions; requiring owners of such traps to provide the Department of Natural Resources with certain information; providing an effective date.

By the Committees on Finance, Taxation and Claims; and Economic, Community and Consumer Affairs and Senators Margolis and Dudley—

CS for CS for SB 834—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S.; revising the amount of the initial licensing fee that may be charged by the Department of Professional Regulation; providing for the period of an initial license; amending s. 455.217, F.S.; prohibiting a person from retaking a license examination that he has passed, except for specified purposes; amending s. 455.218, F.S.; modifying eligibility requirements for examination for licensure of foreign-trained professionals; deleting provisions relating to a special license for podiatric technicians; amending s. 455.219, F.S.; requiring licensing boards within the Department of Professional Regulation to charge license application fees and examination fees; providing for refunding of examination fees; authorizing such licensing boards to charge a fee to verify the license and disciplinary status of a person who applies for a license in another jurisdiction; amending s. 455.232, F.S.; providing penalties for unlawful acts; amending s. 455.24, F.S.; requiring licensed acupuncturists to publish a prescribed statement respecting patients' rights in certain advertisements; amending s. 455.241, F.S.; providing for reports of psychiatric examination and treatment; providing for exception to confidentiality of patient-psychiatrist communications in order to warn of patient threats; repealing s. 455.2182, F.S., relating to construction of chapter 86-290, Laws of Florida; providing an effective date.

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

CS for SB 847—A bill to be entitled An act relating to handicap prevention; amending s. 411.103, F.S.; providing a definition; creating s. 411.1071, F.S.; requiring the establishment of community resource mother pilot programs by the Department of Health and Rehabilitative Services; providing for location of pilot programs; providing for contracts; providing criteria; authorizing the department to require other criteria; requiring the department to create a community resource mother advisory committee; requiring the committee to establish certain program guidelines in conjunction with the department; establishing a time limit for guideline development; providing for per diem and travel expenses; providing for terms and membership of committee; requiring preservice training; providing for assignment of caseloads; providing for supervision; providing for a report; providing an effective date.

By the Committee on Governmental Operations and Senator Kiser—

CS for SB 1179—A bill to be entitled An act relating to the Administrative Procedure Act; amending s. 120.59, F.S.; providing for the recovery of costs by a prevailing party in an administrative proceeding and providing recovery of attorney's fees in certain circumstances; providing an effective date.

By the Committee on Governmental Operations and Senator Langley—

CS for SB 1211—A bill to be entitled An act relating to investigative and security services; amending s. 493.30, F.S., providing a definition; amending s. 493.304, F.S., requiring any person who bears a firearm to have a Class "G" license; amending s. 493.306, F.S., providing training requirements for a Class "D" license; creating s. 493.3061, F.S., providing for approval of schools, training facilities, and instructors; amending s. 493.307, F.S., relating to notice of change in the officers of a security agency; amending s. 493.308, F.S., conforming provisions relating to possession of a concealed weapon; creating s. 493.3095, F.S., providing license reciprocity; amending s. 493.31, F.S., authorizing temporary bond or surety in lieu of insurance for certain licensees or applicants; amending s. 493.315, F.S., authorizing possession of a concealed weapon under certain circumstances; amending s. 493.319, F.S., providing disciplinary actions; modifying grounds for disciplinary action; amending s. 493.322, F.S., relating to department investigations; amending s. 493.3284, F.S., prohibiting certain use of the state seal; reenacting s. 493.568, F.S., relating to insurance for detection deception examiners, to incorporate amendment to s. 493.31, F.S., in a reference; reenacting s. 493.575, F.S., relating to disciplinary proceedings for detection deception examiners, to incorporate amendment to s. 493.319, F.S., in a reference; amending s. 790.25, F.S., correcting cross references; providing for review and repeal; providing an effective date.

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

CS for SB 1290—A bill to be entitled An act relating to medical assistance; amending s. 409.266, F.S.; requiring the Department of Health and Rehabilitative Services to pay the cost of drugs to treat AIDS and AIDS-related conditions in specified circumstances; providing for future repeal and review; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Kiser, by two-thirds vote CS for SB 1057 and CS for SB 988 were withdrawn from the Committee on Governmental Operations.

On motions by Senator Beard, by two-thirds vote HB 1151 was withdrawn from the Committee on Transportation and referred to the Committee on Appropriations.

On motions by Senator Scott, by two-thirds vote CS for SB 757 and SB 770 were withdrawn from the Committee on Appropriations.

On motions by Senator Langley, by two-thirds vote SB 736 and CS for SB 546 were withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Deratany, by two-thirds vote CS for SB 930 was withdrawn from the Committee on Finance, Taxation and Claims.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 656; has passed as amended CS for HB 277, HB 1034; and has passed by the required Constitutional three-fifths vote of the Membership of the House HJR 214 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Appropriations and Representatives Bass and Burke—

CS for HB 656—A bill to be entitled An act relating to currency transaction reports; amending s. 655.50, F.S.; requiring the Department of Banking and Finance to provide reports of transactions involving currency pursuant to an order of a judge or pursuant to a subpoena duces

tecum under certain circumstances; providing a fine; providing an effective date.

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

By the Committee on Transportation and Representative Webster and others—

CS for HB 277—A bill to be entitled An act relating to transportation-related contracting; amending s. 337.11, F.S.; allowing the Department of Transportation to enter into contracts which combine the design and construction of a road, structure, or a building and appurtenant facilities or equipment; providing factors for determining the best interest of the public; providing procedures for administering design and construction contracts; providing criteria for evaluating contract proposals; requiring certain projects to be in the 5-year transportation plan; authorizing a demonstration program; setting limit on total contract amount; requiring certain information in an annual report; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Representative Silver—

HB 1034—A bill to be entitled An act relating to motor vehicle racing events; amending s. 549.08, F.S.; providing conditions for the issuance of a permit to conduct a racing event on a public highway or street or in a public park; providing for restoration of asphalt or paving under certain circumstances; providing an effective date.

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

By Representative McEwan and others—

HJR 214—A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution relating to taxation.

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

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 154 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 154—A bill to be entitled An act relating to security of communications; amending s. 934.03, F.S.; authorizing entities providing emergency services to intercept and record certain outgoing wire communications; providing an effective date.

Amendment 1—On page 2, line 2, after the period (.) insert:

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

501.059 *Residential telephone solicitation.*—

(1) *As used in this section:*

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

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

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

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

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

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

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

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

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

(2) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

(a) Identify himself or herself and the business on whose behalf he or she is soliciting immediately upon making contact by telephone with the person who is the object of the telephone solicitation; and

(b) Within 30 seconds after beginning the conversation, inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response.

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

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

(5) No telephone solicitor shall attempt to contact by telephone any person whose residential telephone number is not included in the most recently published telephone directory as the result of a request for an unpublished telephone number, unless the person making such solicitation has had previous business experience with the person solicited.

(6) The division shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the division finds that there has been a violation of this section, it may bring an action to impose a civil penalty and to seek such other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty shall not exceed \$10,000 per violation and shall be deposited in the General Revenue Fund, unallocated.

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

Section 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared severable.

(and renumber subsequent sections.)

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

On motions by Senator Beard, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 168 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 168—A bill to be entitled An act relating to records of residents of nursing home facilities; requiring nursing homes to provide a copy of records to certain persons; providing an exception for certain psychiatric records; providing that such copies shall not be considered part of a deceased resident's estate; providing for a fee; authorizing the inspection of original records; providing an effective date.

Amendment 1—On page 1, line 14, after "Section 1.," insert: (1)

Amendment 2—On page 2, after line 5, insert: Subsection (2) as follows: (2) No person shall be allowed to obtain copies of residents' records pursuant to this section more often than once per month, except that physician's reports in the residents' records may be obtained as often as necessary to effectively monitor the residents' condition.

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

CS for SB 168 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	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	
Frank	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Girardeau

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 26 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 26—A bill to be entitled An act relating to law enforcement; authorizing a law enforcement officer to order telephone lines to be cut, rerouted, or diverted in certain hostage and barricade situations; providing immunity to telephone companies for certain civil, criminal, or administrative actions which arise from such an incident; providing an effective date.

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

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

501.059 Residential telephone solicitation.—

(1) As used in this section:

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

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

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

1. In response to an express request of the person called;
2. Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or
3. To any person with whom the telephone solicitor has an existing business relationship.

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

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

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

(2) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

(a) Identify himself or herself and the business on whose behalf he or she is soliciting immediately upon making contact by telephone with the person who is the object of the telephone solicitation; and

(b) Within 30 seconds after beginning the conversation, inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response.

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

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

(5) No telephone solicitor shall attempt to contact by telephone any person whose residential telephone number is not included in the most recently published telephone directory as the result of a request for an unpublished telephone number, unless the person making such solicitation has had previous business experience with the person solicited.

(6) The division shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the division finds that there has been a violation of this section, it may bring an action to impose a civil penalty and to seek such other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty shall not exceed \$10,000 per violation and shall be deposited in the General Revenue Fund, unallocated.

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

Section 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared severable.

(and renumber subsequent sections.)

Amendment 2—On page 1 in the title, line 8, after the semi-colon (;) insert: creating s. 501.059, F.S.; providing definitions; providing restrictions upon unsolicited consumer telephone calls to residences; prohibiting the making of unsolicited consumer telephone calls to certain subscribers; authorizing the Division of Consumer Services of the Department of Agriculture and Consumer Services to investigate complaints of violations and institute civil proceedings; providing severability;

Amendment 3—On page 2, lines 12 and 13, strike all of said lines and insert: *criminal or administrative action directly arising out of such cutting, rerouting or diversion of telephone lines.*

On motions by Senator Kiser, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 312 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 312—A bill to be entitled An act relating to state lands; amending s. 253.025, F.S.; providing that purchase negotiations for certain lands be initiated within 6 months of the approval of appraisals; authorizing the waiver of evidence of marketability for certain acquisitions of property; adding s. 253.03(15), F.S.; providing for procedures to establish a price for the disposition of state lands; providing for rulemaking; providing an effective date.

Amendment 1—On page 2, line 19, strike: July 1, 1987 and insert: upon becoming law

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

SB 312 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—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB's 1096, 963 and 654 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 1096, 963 and 654—A bill to be entitled An act relating to civil liability; amending s. 607.014, F.S.; authorizing corporations to indemnify directors, officers, employees, agents, and volunteers against liability and related expenses; providing for a procedure to pay such expenses; providing limitations on such indemnity; amending s. 617.028, F.S.; providing civil immunity to such persons associated with corporations not for profit and rural electric cooperatives; providing limitations on such immunity; providing for the approval and authorization of certain transactions negotiated by such persons; creating s. 607.1645, F.S.; providing officers, directors, and volunteers of a corporation immunity from civil liability; providing limitations; creating s. 607.165, F.S.; providing for the approval and authorization of certain transactions negotiated by an officer or director, the board of directors, or shareholders of a corporation; providing directors, officers, committee members, chief operating officers, executive officers and volunteers, of credit unions immunity from civil liability; providing limitations; providing trustees, officers, or volunteers of a self-insurance trust fund immunity from civil liability; providing limitations; providing trustees, directors, officers, members, or volunteers of a nonprofit organization immunity from civil liability; providing limitations; providing an effective date.

Amendment 1—On page 2, line 6, through page 19, line 21, strike everything after the enacting clause and insert:

Section 1. (1) *The Legislature finds that the service of qualified persons on the governing boards of nonprofit corporations and associations is critical to the efficient and effective conduct of such organizations in the provision of services and other benefits to the citizens of the state. The Legislature further finds that, within reasonable limits, persons offering their services as directors of such nonprofit organizations should be permitted to perform without undue concern for the possibility of litigation arising from the discharge of their duties as policy makers.*

(2) *The Legislature further finds that the service of qualified persons on the governing boards of corporations, credit unions, and self-insurance trust funds is in the public interest and that within reasonable limitations, such persons should be permitted to perform without undue concern for the possibility of litigation arising from the discharge of their duties as policy makers. The Legislature further finds that the case law of the state does not adequately delineate the liability of those serving on governing boards, and that such delineation through the clarification of the appropriate standard of care due an individual and a corporation by a member of a governing board is essential in encouraging the continued service of qualified persons on such governing boards.*

Section 2. *Officers and directors of certain corporations and associations not for profit; immunity from civil liability.—*

(1) *An officer or director of a nonprofit organization recognized under section 501(c)(3) or section 501(c)(4) or section 501(c)(6), or of an agricultural or a horticultural organization recognized under section 501(c)(5), of the Internal Revenue Code of 1986, as amended, is not personally liable for monetary damages to any person for any action, statement, vote, decision, or failure to take an action, regarding corporate management or policy by an officer or director, unless:*

(a) *The officer or director breached or failed to perform his duties as an officer or director; and*

(b) *The officer's or director's breach, or failure to perform, his duties constitutes:*

1. *A violation of the criminal law, unless the trustee had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a trustee in any criminal proceeding for violation of the criminal law estops that trustee from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the trustee from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;*

2. *A transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or*

3. *Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.*

(2) *For the purposes of this section, the term:*

(a) *"Recklessness" means acting or failing to act, in disregard of a risk:*

1. *Known, or so obvious that they should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.*

2. *The consequences of which are known to the officer or director, or so obvious that they should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.*

(b) *"Director" means a person who serves as a director, trustee, or member of the governing board of an organization.*

(c) *"Officer" means a person who serves as an officer without compensation except reimbursement for actual expenses incurred or to be incurred.*

Section 3. Section 607.014, Florida Statutes, is amended to read:

607.014 Indemnification of officers, directors, employees, and agents.—

(1) A corporation shall have power to indemnify any person who was or is a party, ~~or is threatened to be made a party,~~ to any ~~threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative~~ (other than an action by, or in the right of, the corporation), by reason of the fact that he is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against ~~liability expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him~~ in connection with such ~~action, suit, or proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.~~ The termination of any ~~action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.~~

(2) A corporation shall have power to indemnify any person, who was or is a party, ~~or is threatened to be made a party,~~ to any ~~proceeding threatened, pending, or completed action or suit~~ by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses ~~and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, including attorneys' fees,~~ actually and reasonably incurred by him in connection with the defense or settlement of such ~~proceeding action or suit,~~ including any appeal thereof. ~~Such indemnification shall be authorized if such person, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be made under this subsection in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless, and only to the extent that, the court in which such proceeding action or suit was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.~~

(3) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any ~~action, suit, or proceeding~~ referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses ~~(including attorneys' fees)~~ actually and reasonably incurred by him in connection therewith.

(4) Any indemnification under subsection (1) or subsection (2), unless pursuant to a determination by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsection (1) or subsection (2). Such determination shall be made:

(a) By the board of directors by a majority vote of a quorum consisting of directors who were not parties to such ~~action, suit, or proceeding;~~

(b) If such a quorum is not obtainable or, even if obtainable, by majority vote of a committee duly designated by the board of directors (in which directors who are parties may participate) consisting solely of two or more directors not at the time parties to the proceeding;

(c) By independent legal counsel:

1. Selected by the board of directors prescribed in paragraph (a) or the committee prescribed in paragraph (b); or

2. If a quorum of the directors cannot be obtained for paragraph (a) and the committee cannot be designated under paragraph (b), selected by majority vote of the full board of directors (in which directors who are parties may participate) ~~a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or~~

(d)(e) By the shareholders by a majority vote of a quorum consisting of shareholders who were not parties to such action, suit, or proceeding or, if no such quorum is obtainable, by a majority vote of shareholders who were not parties to such proceeding.

(5) Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible. However, if the determination of permissibility is made by independent legal counsel, persons specified by paragraph (4)(c) shall evaluate the reasonableness of expenses and may authorize indemnification.

(6) Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the corporation in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if he is ultimately found not to be entitled to indemnification by the corporation pursuant to this section. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the board of directors deems appropriate.

~~(5) Expenses, including attorneys' fees, incurred in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding upon a preliminary determination following one of the procedures set forth in subsection (4) that the director, officer, employee, or agent met the applicable standard of conduct set forth in subsection (1) or subsection (2) or as authorized by the board of directors in the specific case and, in either event, upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.~~

(7)(6) The indemnification and advancement of expenses provided pursuant to this section are not exclusive, and a corporation may ~~shall~~ have the power to make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, ~~except an indemnification against gross negligence or willful misconduct.~~ However, indemnification or advancement of expenses shall not be made to or on behalf of any director, officer, employee, or agent if a judgment or other final adjudication establishes that his actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

(a) A violation of the criminal law, unless the director, officer, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;

(b) A transaction from which the director, officer, employee, or agent derived an improper personal benefit;

(c) In the case of a director, a circumstance under which the liability provisions of s. 607.144 are applicable; or

(d) Willful misconduct or a conscious disregard for the best interests of the corporation in a proceeding by or in the right of the corporation to procure a judgment in its favor or in a proceeding by or in the right of a shareholder.

(8)(7) Indemnification and advancement of expenses as provided in this section shall continue as, unless otherwise provided when authorized or ratified, to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

(9) Unless the corporation's articles of incorporation provide otherwise, notwithstanding the failure of a corporation to provide indemnification, and despite any contrary determination of the board or of the shareholders in the specific case, a director, officer, employee, or agent of the corporation who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court-ordered indemnification or advancement of expenses, if it determines that:

(a) The director, officer, employee, or agent is entitled to mandatory indemnification under subsection (3), in which case the court shall also order the corporation to pay the director reasonable expenses incurred in obtaining court-ordered indemnification or advancement of expenses;

(b) The director, officer, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the corporation of its power pursuant to subsection (7); or

(c) The director, officer, employee, or agent is fairly and reasonably entitled to indemnification or advancement of expenses, or both, in view of all the relevant circumstances, regardless of whether such person met the standard of conduct set forth in subsection (1), subsection (2), or subsection (7).

(10) For purposes of this section, the term "corporation" includes, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, officer, employee, or agent of a constituent corporation, or is or was serving at the request of a constituent corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, is in the same position under this section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(11) For purposes of this section, the term "other enterprises" includes employee benefit plans; the term "expenses" includes counsel fees, including those for appeal; the term "liability" includes obligations to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to any employee benefit plan), and expenses actually and reasonably incurred with respect to a proceeding; the term "proceeding" includes any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal; the term "agent" includes a volunteer; and the term "serving at the request of the corporation" includes any service as a director, officer, employee, or agent of the corporation that imposes duties on such persons, including duties relating to an employee benefit plan and its participants or beneficiaries; and the term "not opposed to the best interest of the corporation" describes the actions of a person who acts in good faith and in a manner he reasonably believes to be in the best interests of the participants and beneficiaries of an employee benefit plan.

(12)(8) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

(13)(9) If any expenses or other amounts are paid by way of indemnification otherwise than by court order or action by the shareholders or by an insurance carrier pursuant to insurance maintained by the corporation, the corporation shall, not later than the time of delivery to shareholders of written notice of the next annual meeting of shareholders, unless such meeting is held within 3 months from the date of such payment, and, in any event, within 15 months from the date of such payment, deliver either personally or by mail to each shareholder of record at the time entitled to vote for the election of directors a statement specifying the persons paid, the amounts paid, and the nature and status at the time of such payment of the litigation or threatened litigation.

Section 4. Section 617.028, Florida Statutes, is amended to read:

617.028 Indemnification and liability of officers, directors, managers, trustees, employees, and agents.—The provisions of ss. s. 607.014, 607.1645, and 607.165 apply to corporations not for profit and rural electric cooperatives organized under chapter 425. Any reference to "directors" in those sections ~~that section~~ includes the directors, managers, or trustees of a corporation not for profit or of a rural electric cooperative organized under chapter 425, provided that the term "director" as used in s. 607.1645 shall not include a director appointed by the developer to the board of directors of a condominium association under chapter 718 or a cooperative association under chapter 719. Any reference to "shareholders" in those sections includes members of a corporation not for profit and members of a rural electric cooperative organized under chapter 425.

Section 5. Section 607.1645, Florida Statutes, is created to read:

607.1645 *Liability of directors.*—

(1) A director is not personally liable for monetary damages to the corporation or any other person for any statement, vote, decision, or failure to act, regarding corporate management or policy, by a director, unless:

(a) The director breached or failed to perform his duties as a director; and

(b) The director's breach of, or failure to perform, those duties constitutes:

1. A violation of the criminal law, unless the director had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a director in any criminal proceeding for a violation of the criminal law estops that director from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;

2. A transaction from which the director derived an improper personal benefit, either directly or indirectly;

3. A circumstance under which the liability provisions of s. 607.144 are applicable;

4. In a proceeding by or in the right of the corporation to procure a judgment in its favor or by or in the right of a shareholder, conscious disregard for the best interest of the corporation, or willful misconduct; or

5. In a proceeding by or in the right of someone other than the corporation or a shareholder, recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term "recklessness" means acting, or failing to act, in disregard of a risk:

1. Known, or so obvious that it should have been known, to the director; and

2. The consequences of which are known to the director, or so obvious that they should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Section 6. Section 607.165, Florida Statutes, is created to read:

607.165 *Director deemed not to have derived improper personal benefit.*—

(1) For purposes of ss. 607.014 and 607.1645, a director is deemed not to have derived an improper personal benefit from any transaction if the transaction and nature of any personal benefit derived by the director is not prohibited by state or federal law or regulation and, without further limitation:

(a) In an action other than a derivative suit regarding a decision by the director to approve, reject, or otherwise affect the outcome of an offer to purchase the stock of, or to effect a merger of, the corporation, the transaction and the nature of any personal benefits derived by a director are disclosed or known to all directors voting on the matter, and the transaction was authorized, approved, or ratified by at least two directors who comprise a majority of the disinterested directors (whether or not such disinterested directors constitute a quorum);

(b) The transaction and the nature of any personal benefits derived by a director are disclosed or known to the shareholders entitled to vote, and the transaction was authorized, approved, or ratified by the affirmative vote or written consent of such shareholders who hold a majority of the shares, the voting of which is not controlled by directors who derived a personal benefit from or otherwise had a personal interest in the transaction; or

(c) The transaction was fair and reasonable to the corporation at the time it was authorized by the board, a committee, or the shareholders, notwithstanding that a director received a personal benefit.

(2) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors which authorizes, approves, or ratifies such a transaction.

(3) The circumstances set forth in subsection (1) are not exclusive and do not preclude the existence of other circumstances under which a director will be deemed not to have derived an improper benefit.

Section 7. *Liability of directors or supervisory committee members of credit unions.*—

(1) A director of a credit union organized under state or federal law, or a member of the supervisory committee of such credit union, is not personally liable for monetary damages to the credit union, its members, or any other persons for any statement, vote, decision, or failure to act, regarding corporate management or policy, by a director, unless:

(a) The director or the member of the supervisory committee, breached or failed to perform his duties as a director or as a member of the supervisory committee; and

(b) The breach or failure to perform by the director or the member of the supervisory committee constitutes:

1. A violation of the criminal law, unless the director or the member of the supervisory committee had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a director or a member of a supervisory committee in any criminal proceeding for a violation of the criminal law estops that director or member from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director or member of the supervisory committee from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;

2. A transaction from which the director or the member of the supervisory committee derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term "recklessness" means acting, or failing to act, in disregard of a risk:

1. Known, or so obvious that it should have been known, to the director or member of the supervisory committee; and

2. The consequences of which are known to the director or the member of the supervisory committee, or so obvious that they should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Section 8. *Liability of trustees of self-insurance trust fund.*—

(1) A trustee of any self-insurance trust fund organized under the laws of this state is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to act, regarding the management or policy of the fund, by a trustee, unless:

(a) The trustee breached or failed to perform his duties as a trustee; and

(b) The trustee's breach of, or failure to perform, his duties constitutes:

1. A violation of the criminal law, unless the trustee had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a trustee in any criminal proceeding for violation of the criminal law estops that trustee from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the trustee from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;

2. A transaction from which the trustee derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term "recklessness" means acting or failing to act, in disregard of a risk:

(a) Known, or so obvious that it should have been known, to the trustee; and

(b) The consequences of which are known to the trustee, or so obvious that they should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Section 9. Section 627.9122, Florida Statutes, is created to read:

627.9122 Officers' and directors' liability claims; reports by insurers.—

(1) Each insurer providing coverage for officers' and directors' liability coverage shall report to the Department of Insurance any claim or action for damages claimed to have been caused by error, omission, or negligence in the performance of the officer's or director's services, if the claim resulted in:

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department no later than 60 days following the occurrence of any event listed in paragraphs (a), (b), or (c).

(2) The reports required by subsection (1) shall contain:

(a) The name, address, and position held by the insured, and the type of corporation or organization, including classifications as provided in section 501 (c) of the Internal Revenue Code of 1954, as amended.

(b) The insured's policy number.

(c) The date of the occurrence which created the claim.

(d) The date the claim was reported to the insurer.

(e) The name of the injured person. This information shall be privileged and confidential and shall not be disclosed by the department without the consent of the injured person. This information may be used by the department for purposes of identifying multiple or duplicate claims arising out of the same occurrence.

(f) The date of suit, if filed.

(g) The total number and names of all defendants involved in the claim.

(h) The date and amount of judgment or settlement, together with a copy of the settlement or judgment.

(i) In the case of a settlement, such information as the department may require with regard to the claimant's anticipated future losses.

(j) The loss adjustment expense paid to defense counsel, and all other allocated loss adjustment expenses paid.

(k) The date and reason for final disposition, if no judgment or settlement.

(l) A summary of the occurrence which created the claim, which shall include:

1. Whether the injuries claimed were the result of physical damage to the claimant, or were the result of damage to the reputation of the claimant, or were based on self-dealing by the defendant, or were in the nature of a shareholder dispute.

2. A description of the type of activity which caused the injury.

3. The steps taken by the officers or directors to assure that similar occurrences are less likely in the future.

(m) Any other information required by the department to analyze and evaluate the nature, causes, costs, and damages involved in officers' and directors' liability cases.

(3) The department shall include a summary of this information in its annual report.

Section 10. Subsection (2) of section 627.915, Florida Statutes, 1986 Supplement, is amended to read:

627.915 Insurer experience reporting.—

(2) Each insurer transacting fire, homeowner's multiple peril, commercial multiple peril, medical malpractice, products liability, workers' compensation, private passenger automobile liability, commercial automobile liability, private passenger automobile physical damage, commercial automobile physical damage, officers' and directors' liability insurance, or other liability insurance shall report, for each such line of insurance, the information specified in this subsection to the department. The information shall be reported for direct Florida business only and shall be reported on a calendar-year basis annually by April 1 for the preceding calendar year:

(a) Direct premiums written.

(b) Direct premiums earned.

(c) Loss reserves for all known claims:

1. At beginning of the year.

2. At end of the year.

(d) Reserves for losses incurred but not reported:

1. At beginning of the year.

2. At end of the year.

(e) Allocated loss adjustment expense:

1. Reserve at beginning of the year.

2. Reserve at end of the year.

3. Paid during the year.

(f) Unallocated loss adjustment expense:

1. Reserve at beginning of the year.

2. Reserve at end of the year.

3. Paid during the year.

(g) Direct losses paid.

(h) Underwriting income or loss.

(i) Commissions and brokerage fees.

(j) Taxes, licenses, and fees.

(k) Other acquisition costs.

(l) General expenses.

(m) Policyholder dividends.

(n) Net investment gain or loss and other income gain or loss allocated pro rata by earned premium to Florida business utilizing the investment allocation formula contained in the National Association of Insurance Commissioner's Profitability Report by line by state.

Section 11. Nothing in this act shall be construed as increasing or decreasing the liability of any person not herein specifically delineated.

Section 12. The Legislature of the State of Florida believes that the public policy of this State shall be to encourage the provision of services by volunteers and recognizes that in serving the public, volunteers may be submitting themselves to the possibility of suit by those served. The Legislature further finds that it would be in the public interest to remove unnecessary deterrents to service and that within the constraints of the state and federal constitutions, the Legislature should consider modifications in the tort, indemnity, and insurance laws of this State. The Legislature, having established the Academic Task Force for Review of the Insurance and Tort Systems, and having directed the task force to review and to recommend changes to the tort and insurance laws of this state, does hereby direct that the review of said task force shall be expanded, as necessary, to include a consideration of the effect, and the extent of the effect, of tort and insurance laws on the provision of volunteer services in this State, and to include its findings and recommendations resulting from its consideration of these issues in its report to the Legislature to be reported no later than March 1, 1988.

Section 13. This act shall take effect July 1, 1987, or upon becoming a law, whichever occurs later.

Amendment 2—On page 1, line 1, in the title, through page 2, line 2, strike everything before the enacting clause and insert: A bill to be entitled An act relating to civil liability; providing legislative findings; providing limited civil immunity to directors and certain officers of certain nonprofit organizations; amending s. 607.014, F.S.; authorizing corporations to indemnify directors, officers, employees, agents, and volunteers against liability and related expenses; providing for a procedure to pay such expenses; providing limitations on such indemnity; amending s. 617.028, F.S.; providing civil immunity to certain persons associated with corporations not for profit; providing limitations on such immunity; creating s. 607.1645, F.S.; providing directors of a corporation immunity from civil liability; providing limitations; creating s. 607.165, F.S.; providing for the approval and authorization of certain transactions negotiated by a director; providing directors and members of supervisory committees of credit unions immunity from civil liability; providing limitations; providing trustees of a self-insurance trust fund immunity from civil liability; providing limitations; creating s. 627.9122, F.S.; requiring insurers to report additional information regarding officers' and directors' liability claims; amending s. 627.915, F.S.; requiring insurers to separately report certain information for officers' and directors' liability insurance; directing the Academic Task Force for the Review of the Insurance and Tort Systems to make certain recommendations; providing an effective date.

Senator Jennings moved the following amendments to House Amendment 1 which were adopted:

Amendment 1—On page 2, line 15, strike "action"

Amendment 2—On page 2, line 17, strike "corporate" and insert: organizational

Amendment 3—On page 2, lines 23, 26, 28, and 30, strike "trustee" and insert: officer or director

Amendment 4—On page 3, strike all of lines 11-19 and insert:

(a) "Recklessness" means the acting, or omission to act, in conscious disregard of a risk:

1. Known, or so obvious that it should have been known, to the officer or director; and

2. Known to the officer or director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Amendment 5—On page 11, line 31, before "The" insert: Except as provided in section 2 of this act,

Amendment 6—On page 13, strike all of lines 19-26 and insert: "recklessness" means the action, or omission to act, in conscious disregard of a risk:

1. Known, or so obvious that it should have been known, to the director; and

2. Known to the director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Amendment 7—On page 15, between lines 6 and 7, insert:

(4) The provisions of this section shall also apply to officers of nonprofit organizations as provided in section 2 of this act.

Amendment 8—On page 15, strike line 14 and insert: regarding the management or policy of the credit union, by a director or member of the supervisory committee,

Amendment 9—On page 15, line 28, after "member" insert: of the supervisory committee

Amendment 10—On page 16, strike all of lines 11-20 and insert:

"recklessness" means the acting, or omission to act, in conscious disregard of a risk:

1. Known, or so obvious that it should have been known, to the director or member of the supervisory committee; and

2. Known to the director or member of the supervisory committee, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Amendment 11—On page 17, strike all of lines 19-26 and insert: "recklessness" means the acting, or omission to act, in conscious disregard of a risk:

1. Known, or so obvious that it should have been known, to the trustee; and

2. Known to the trustee, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

Amendment 12—On page 18, line 20, strike "1954" and insert: 1986

Amendment 13—On page 22, line 4, before the period (.) insert: and shall apply to all causes of action accruing on or after the effective date of this act. Nothing in this act shall affect the validity of any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise pursuant to s. 607.014, F.S., before the effective date of this act

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

Amendment 1—In title, on page 1, lines 15-31, and on page 2, lines 1-17, strike all of said lines and insert: A bill to be entitled An act relating to civil liability; providing legislative findings; providing limited civil immunity to directors and certain officers of certain nonprofit organizations; amending s. 607.014, F.S.; authorizing corporations to indemnify directors, officers, employees, and agents against liability and related expenses; providing for a procedure to pay such expenses; providing limitations on such indemnity; amending s. 617.028, F.S.; providing civil immunity to certain persons associated with corporations not for profit; providing limitations on such immunity; creating s. 607.1645, F.S.; providing directors of a corporation immunity from civil liability; providing limitations; creating s. 607.165, F.S.; providing for the approval and authorization of certain transactions negotiated by certain directors and officers; providing directors and members of supervisory committees of credit unions immunity from civil liability; providing limitations; providing trustees of a self-insurance trust fund immunity from civil liability; providing limitations; creating s. 627.9122, F.S.; requiring insurers to report additional information regarding officers' and directors' liability claims; amending s. 627.915, F.S.; requiring insurers to separately report certain information for officers' and directors' liability insurance; expanding the review of the Academic Task Force for Review of the Insurance and Tort Systems; providing an effective date.

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

CS for SB's 1096, 963 and 654 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Grant	Langley	Ros-Lehtinen
Beard	Grizzle	Lehtinen	Scott
Brown	Hair	Malchon	Stuart
Childers, D.	Hill	Margolis	Thomas
Childers, W. D.	Jenne	McPherson	Thurman
Crenshaw	Jennings	Meek	Weinstein
Deratany	Johnson	Myers	Weinstock
Dudley	Kirkpatrick	Peterson	Woodson
Gordon	Kiser	Plummer	

Nays—1

Frank

Vote after roll call:

Yea—Girardeau, Hollingsworth

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 18 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 18—A bill to be entitled An act relating to housing authorities; amending s. 421.08, F.S.; providing that a housing authority may appear in court through any of its officers, agents, or employees; providing an effective date.

Amendment 1—On page 1, line 24, after the semicolon (;) insert: for the exclusive purpose of filing eviction papers;

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

SB 18 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—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 878 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 878—A bill to be entitled An act relating to veterinary medicine; amending s. 474.207, F.S., relating to education and examination requirements for licensure; amending s. 474.214, F.S., relating to grounds for disciplinary actions; amending s. 474.217, F.S., relating to education and examination requirements for licensure by endorsement; creating s. 499.033, F.S., making animal rabies vaccine a legend drug; amending ss. 455.241 and 474.2141, F.S., correcting cross-references; providing for review and repeal; providing an effective date.

Amendment 1—On page 6, lines 30 and 31, and on page 7, lines 1-3, strike all of said lines and renumber the subsequent sections.

Amendment 2—In title, on page 1, strike all of lines 9 and 10, and insert: endorsement; amending

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

CS for SB 878 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—38

Mr. President	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Stuart
Childers, D.	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 370 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 370—A bill to be entitled An act relating to contractors; amending s. 489.127, F.S.; prohibiting any person from advertising himself as available to engage in the business or act in the capacity of a contractor without being duly registered or certified; providing penalties; creating s. 489.5331, F.S.; providing for award of treble damages, costs, and attorney's fees against certain contractors for certain injuries; creating s. 624.447, F.S.; requiring insurers, upon request, to verify a certificate of insurance on any contractor; amending s. 713.01, F.S.; redefining the terms "contractor," "subcontractor," and "sub-subcontractor" for purposes of the mechanics' lien law; providing for review and repeal; providing an effective date.

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

Section 1. *Definitions.*—As used in this act:

(1) "Septic tank contractor" means a contractor whose services are unlimited in the septic tank trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, or design, where not prohibited by law, and use material and items used in the installation and maintenance of, all kinds of onsite sewage disposal systems, septic tanks, drainfields, and aerobic systems.

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

Section 2. *Registration of septic tank contractors.*—A person shall not hold himself out as a septic tank contractor in this state unless he is registered by the department in accordance with the provisions of this act. However, nothing in this act prohibits any person licensed, pursuant to s. 489.105(3)(m) in this state from engaging in the profession for which he is licensed.

Section 3. *Administration of this act; registration qualifications; examination.*—

(1) Each person desiring to be registered pursuant to this act shall apply to the department in writing upon forms prepared and furnished by the department.

(2) The department shall administer, coordinate, and enforce the provisions of this act, provide qualifications for applicants, administer the examination for applicants, and be responsible for the granting of certificates of registration to qualified persons.

(3) The department shall adopt reasonable rules, including, but not limited to, rules which establish ethical standards of practice, and may amend or repeal the same in accordance with the Florida Administrative Procedure Act.

(4) To be eligible for registration by the department as a septic tank contractor, the applicant must:

(a) Be of good moral character.

(b) Pass an examination approved by the department which demonstrates that the applicant has a fundamental knowledge of the state laws relating to the installation and maintenance of onsite sewage disposal systems.

(5) The department shall provide each applicant for registration pursuant to this act with a copy of this act and any rules adopted hereunder. The department may also prepare and disseminate such other material and questionnaires as it deems necessary to effectuate the registration provisions of this act.

(6) Any person who was employed in this state as a septic tank contractor on or before October 1, 1987, has until October 1, 1988, to be registered by the department in accordance with the provisions of this act and may continue to perform septic tank contracting service until that time.

Section 4. *Registration renewal.*—The department shall prescribe by rule the method for renewal of annual registration which shall include continuing education requirements not to exceed 12 classroom hours annually as set forth in s. 381.262, Florida Statutes.

Section 5. *Certification of partnerships and corporations.*—

(1) The practice of or the offer to practice septic tank contracting services by registrants through a corporation or partnership offering septic tank contracting services to the public through registrants under this chapter as agents, employers, officers, or partners is permitted, pro-

vided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as septic tank contractors in this state are registered as provided by this act, and further provided that the corporation or partnership has been issued a certificate of authorization by the department as provided in this section. Nothing in this section shall be construed to mean that a certificate of registration to practice septic tank contracting shall be held by a corporation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing septic tank contracting be relieved of responsibility for professional services performed by reason of his employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering septic tank contracting services to the public, except that when an individual is practicing septic tank contracting in his own given name, he shall not be required to register under this section.

(3) Each certification of authorization shall be renewed every 2 years. Each partnership and corporation certified under this section shall notify the department within 1 month of any change in the information contained in the application upon which the certification is based.

(4) Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered septic tank contractor.

Section 6. *Suspension or revocation of registration.*—A certificate of registration may be suspended or revoked upon a showing that the registrant has:

- (1) Violated any provision of this act.
- (2) Violated any lawful order or rule rendered or adopted by the department.
- (3) Obtained his registration or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.
- (4) Been found guilty of gross misconduct in the pursuit of his profession.

Section 7. *Fees, establishment; disposition.*—

(1) The department shall, by rule, establish fees for the described purposes and within the ranges specified herein:

- (a) Application fee: not less than \$25 or more than \$75.
- (b) Initial registration fee: not less than \$50 or more than \$100.
- (c) Renewal of registration fee: not less than \$50 or more than \$100
- (d) Certification of partnerships and corporations: not less than \$100 or more than \$250.

(2) Fees established pursuant to subsection (1) shall be based on the actual costs incurred by the department in carrying out its registration and other related responsibilities under this act.

Section 8. *Penalties and prohibitions.*—

(1) Any person who violates any provision of this act is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

(2) The department may deny a registration if it determines that an applicant does not meet all requirements of this act or has violated any provision of this act. Any applicant aggrieved by such denial shall be entitled to a hearing, after reasonable notice thereof, upon filing a written request for such hearing in accordance with chapter 120, Florida Statutes.

Section 9. *Prosecution of criminal violations.*—The department shall report any criminal violation of this act to the proper prosecuting authority for prompt prosecution.

Section 10. *Sections 1 through 9 of this act are repealed on October 1, 1997, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

(and renumber the subsequent sections)

Amendment 2—On page 1 in the title, line 2, after the semi-colon, insert: providing definitions; providing for the registration of septic tank contractors with the Department of Health and Rehabilitative Services; providing for the administration of the act; providing for registration qualifications; providing for examination; providing for registration renewal; providing for certification of partnerships and corporations; providing for certification renewal; providing for disciplinary actions; providing for the suspension or revocation of registration; providing for fees; providing penalties and prohibitions; providing for prosecution of criminal violations; providing for review and repeal;

Amendment 3—On page 3, lines 4-25, strike all of said lines and insert: Section 4. Subsection (7) is added to Section 713.02, Florida Statutes, to read:

713.02 Types of lienors and exemptions.--

(7) Notwithstanding any other provision of this part, no lien shall exist in favor of any contractor, subcontractor, or sub-subcontractor, unless such contractor, subcontractor, or sub-subcontractor is licensed as a contractor pursuant to the laws of the jurisdiction within which he is doing business.

Amendment 4—On page 1 in the title, lines 14-17, strike all of said lines and insert: 713.02, providing that mechanics' liens shall not exist in favor of certain unlicensed persons;

Amendment 5—On page 2, line 28, after the period, insert:

Section 3. Subsection (3) of section 489.113, Florida Statutes, 1986 Supplement, is amended to read:

489.113 Qualifications for practice; restrictions.—

(3) A contractor shall subcontract the electrical, mechanical, plumbing, roofing, sheet metal, *commercial swimming pool*, and air conditioning work for which a local examination for a certificate of competency or a license is required, unless such contractor holds a state certificate of competency or license of the respective trade category, as required by the appropriate local authority. However, a general, building, or residential contractor shall not be required to subcontract the installation of *wood shingles, wood shakes, or asphalt or fiberglass shingle roofing materials on a new building of his own construction, and a general contractor shall not be required to subcontract structural swimming pool work shingle roofing materials.* Further, a general contractor, on new site development work, site redevelopment work, mobile home parks, and commercial properties, shall not be required to subcontract the construction of the main sanitary sewer collection system and the water distribution system, not including the continuation of utility lines from the mains to the buildings. Further, as to mobile home parks, the general contractor shall not be required to subcontract the continuation of utility lines from the mains, and the continuations are to be considered a part of the main sewer collection and main water distribution systems. This subsection does not apply if the local authority does not require a certificate of competency or license for such trade. *However, no general, building, or residential contractor certified after 1973 shall act as, hold himself out to be, or advertise himself to be, a roofing contractor unless he is certified or registered as a roofing contractor. Nothing in this act shall be construed to require the subcontracting of asphalt roofing shingles.*

(and renumber the subsequent sections)

Amendment 6—On page 1 in the title, line 7, after the semi-colon, insert: amending s. 489.113, F.S.; specifying requirements relating to subcontracting of certain swimming pool work; specifying requirements relating to subcontracting of certain roofing; prohibiting certain persons from acting as roofing contractors;

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

CS for SB 370 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—38

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 433, 474, CS for SB 655, Senate Bills 704, 840, CS for SB's 1061 and 1054, CS for SB 1184.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments 1 and 2 and passed CS for SB's 1096, 963 and 654, as further amended.

John B. Phelps, Clerk

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

SPECIAL ORDER

HB 1286—A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 1987 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 1987 shall be effective immediately upon publication; providing that general laws enacted at the 1985 regular legislative session and prior thereto and not included in the Florida Statutes 1987 are repealed; providing that general laws enacted during the 1986 regular and special sessions, the February 1987 special session, and the 1987 regular session are not repealed by this adoption act.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1286 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

HB 1287—A reviser's bill to be entitled An act relating to the Florida Statutes; amending s. 697.206, Florida Statutes, and ss. 697.203(1), (3), (5), 697.204(1), (2)(a), (b), (g), (h), (5)-(7), and 697.205(1)(b), (c), (2)(b), Florida Statutes (1986 Supplement); conforming such sections to ch. 86-267, Laws of Florida, which requires substitution of the term "department" for the terms "agency" and "Florida Housing Finance Agency" and the term "Department of Insurance" for the term "Department of Community Affairs."

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1287 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

HB 1288—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 27.25(1), 27.53(1), 27.57, 27.705(4), 215.3205(1)(e), and 282.309(2), Florida Statutes; conforming such sections to ch. 85-46, Laws of Florida, which renamed the "Judicial Administrative Commission" as the "Justice Administrative Commission."

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1288 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 1289—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 210.01(9), (18), 210.04(3), (5), (7), (8), 210.06(1), 210.07(2), 210.09(1), (3), 210.10(1), (2), 210.11, 210.12(4), 210.13, 210.14(1), 210.15(1)(g), (5), 210.16(1), (2), (3), (4), 210.18(1), (2), (3), (6)(a), (b), (8)(a), and 210.22, Florida Statutes, and ss. 210.05(1), (2), (3)(a), (4), (5) and 210.20(1), (3), Florida Statutes (1986 Supplement); replacing references to "chapter" with "part" to conform to ch. 85-141, Laws of Florida, which designated sections 210.01-210.22 as part I of chapter 210.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1289 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Kiser	Scott
Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Plummer	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

HB 1293—A reviser's bill to be entitled An act relating to the Florida Statutes; repealing ss. 15.091(3), 102.081, 106.20, 193.507, 197.012, 197.0121, 197.0124, 197.0125, 197.0126, 197.0127, 197.0129, 197.0134, 197.0135, 197.0136, 197.0138, 197.0146, 197.0147, 197.0151, 197.0152, 197.062, 197.066, 197.072, 197.076, 197.077, 197.086, 197.092, 197.101, 197.106, 197.116, 197.121, 197.136, 197.141, 197.151, 197.156, 197.161, 197.176, 197.181, 197.186, 197.191, 197.196, 197.201, 197.206, 197.216, 197.221, 197.226, 197.231, 197.236, 197.241, 197.297, 197.351, 199.072, 199.112, 199.122, 199.252, 203.011, 372.576, 372.61, 372.62, 372.69, 401.413, 531.55, 944.063, 945.025(1)(e), and 946.30, Florida Statutes, and ss. 212.02(19) and 290.015(2), Florida Statutes (1986 Supplement), all of which provisions have become inoperative by noncurrent repeal or expi-

ration and, pursuant to s. 11.242(5)(b) and (i), may not be omitted from publication in the Florida Statutes 1987 except through the process of reviser's bill duly enacted by the Legislature.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1293 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Johnson	Myers	Woodson

Nays—None

Vote after roll call:

Yea—Peterson

HB 1290—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 25.073(1), 27.14(1), 30.09(4), 39.09(1)(a), 57.111(3)(c), 63.212(1)(c), 73.072(1), 77.083, 90.803(23)(b), (c), 92.54(2), 106.1435(1), 112.51(1), 120.55(1)(a), 125.485, 129.011(1), 145.021(1), 145.071(1), 161.57(2), 163.3211, 163.3213(8), 163.387(7), 163.566(12), 163.805(2), (8), 163.808(3)(a), 163.809(4), 177.101(3), 186.021(3), 190.004(2), 197.192, 197.2301(5), 197.532, 199.175(1), 199.185(1)(e), 200.132(1), 203.62, 205.054(2), (4), 206.026(4), 206.03(2), 206.09(3), 206.18(4), 213.29, 215.422(5), 218.21(8), 218.60(1)(a), 222.061(5), 228.074(4), 240.331(3), 240.409(2)(c), 242.62(1), 252.61, 255.503(1), (2), (8), 255.507, 255.51, 282.403(1), and 288.709(14), Florida Statutes, and ss. 106.07(9)(b), 110.403(3)(c), 161.58(1), 163.3178(1), 197.413(5), 203.01(3), 203.012(5), 206.59(2), 210.60, 210.65(1), 212.67(1)(e), 213.053(2), 215.22(28), 216.181(7), 229.565(4), 231.532(3)(e), 232.23(3), 240.209(3)(a), 255.518(6)(f), (g), 265.606(6)(a), and 282.308(2), Florida Statutes (1986 Supplement); repealing s. 27.3455(3)(c), Florida Statutes (1986 Supplement); and reenacting ss. 190.005(2)(e), 240.299(1), and 283.422, Florida Statutes, and s. 20.315(8), (13), Florida Statutes (1986 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have served their purpose or have been impliedly repealed or superseded; replacing incorrect cross-references; correcting grammatical, typographical, and like errors; removing inconsistencies; improving the clarity of the statutes and facilitating their correct interpretation; correcting errors in the editing, publishing, and printing of the Florida Statutes; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On page 44, lines 4 and 5, and on page 45, line 23, strike "(1986 Supplement)"

Amendment 2—On page 47, lines 11-29, strike all of section 55, including the reviser's note, and renumber subsequent sections.

Amendment 3—In title, on page 1, line 21, strike "210.60, 210.65(1)," and on line 14, after "206.18(4)," insert: 210.60, 210.65(1),

Amendment 4—In title, on page 1, line 22, strike "213.053(2),"

On motion by Senator Hair, by two-thirds vote HB 1290 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Childers, W. D.	Frank	Grizzle
Beard	Crenshaw	Girardeau	Hair
Brown	Deratany	Gordon	Hill
Childers, D.	Dudley	Grant	Hollingsworth

Jenne	Malchon	Plummer	Weinstein
Johnson	Margolis	Ros-Lehtinen	Weinstock
Kirkpatrick	McPherson	Scott	Woodson
Kiser	Meek	Stuart	
Langley	Myers	Thomas	
Lehtinen	Peterson	Thurman	

Nays—None

HB 1291—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 320.0807(1), 350.06(9), 373.409(3), and 383.325(2), Florida Statutes, and ss. 316.545(9)(a), 390.026(1), (2), and 402.33(8)(b), Florida Statutes (1986 Supplement); repealing s. 321.13, Florida Statutes; and reenacting ss. 316.1955(1), 316.262(2), 316.6135(2), 320.015, 320.822(16), 321.203(1), 322.13(1)(b), 324.031, 328.17(4)(c), (7)(b), 330.38, 336.023, 336.505(1), 341.051(2)(a), 341.344(1), 341.361, 341.366, 341.369(2), 365.171(13)(a), 367.081(4)(d), 373.109, 374.975(1), 383.18, 383.32(1)(c), (d), (e), 399.061(1), 400.162(6), 400.619(3), 400.622(1), 401.30(2), 402.305(1)(c), 402.310(2), 402.3125(5)(d), 402.313(6), (7)(c), 403.772, 403.815, 403.913(5), (7), 410.2015, 420.424(7), 426.002(3), (4), (6)(a), 426.005(1)(a), 442.111(4), 462.13, 471.003(2)(i), 474.2141(2), 474.217(1)(a), 479.107(1), 480.041(1)(b), 501.012(3)(d), 513.114, 513.115, 514.021, 514.025(2), 517.141(4), 517.201(4), 520.34(3), 526.305(1), 546.006, and 550.262(3)(g), (4), Florida Statutes, and ss. 316.545(7), 320.01, 330.30(2)(a), 370.07(3)(c), 376.11(6), 380.055(7), (10), 403.771(3), (5)(b), 459.015(1)(k), (v), (x), (gg), (ii), and 465.186(1), Florida Statutes (1986 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions inadvertently omitted from republication in the amendatory process.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On pages 57 and 58, lines 27-13, strike all of section 51, including the reviser's note, and renumber subsequent sections.

Amendment 2—On page 64, line 10, strike "(1986 Supplement)"

Amendment 3— On page 2, line 18; page 5, line 24; page 6, line 23; page 14, line 19; page 16, line 7; page 17, line 11; page 17, line 30; page 19, line 2; page 20, line 8; page 22, line 2; page 22, line 27; page 23, line 28; page 24, line 19; page 25, line 13; page 26, line 10; page 27, line 25; page 28, line 21; page 31, line 5; page 32, line 12; page 33, line 2; page 33, line 22; page 34, line 29; page 35, line 16; page 36, line 11; page 37, line 20; page 38, line 9; page 41, line 2; page 41, line 29; page 43, line 23; page 44, line 6; page 44, line 24; page 45, line 9; page 47, line 5; page 47, line 29; page 48, line 20; page 51, line 16; page 53, line 11; page 54, line 15; page 55, line 24; page 57, line 5; page 57, line 28; page 58, line 17; page 59, line 25; page 61, line 6; page 61, line 30; page 63, line 22; page 64, line 10; page 67, line 5; page 67, line 20; page 68, line 22; page 69, line 27; page 70, line 15; page 71, line 2; page 72, line 10; page 72, line 24; page 73, line 12; page 73, line 28; page 74, line 11; page 76, line 2; page 76, line 29; page 77, line 26; and page 79, line 3, strike "reenacted" and insert: amended

Amendment 4—In title, on page 1, line 8, strike "reenacting" and insert: amending or reenacting

Amendment 5—In title, on page 1, lines 29 and 30, strike "and 465.186(1)," and on line 21, after "462.13," insert: 465.186(1),

Amendment 6—In title, on page 1, line 19, strike "420.424(7),"

On motion by Senator Hair, by two-thirds vote HB 1291 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Childers, D.	Crenshaw	Dudley
Brown	Childers, W. D.	Deratany	Frank

Girardeau	Jenne	Margolis	Stuart
Gordon	Johnson	McPherson	Thomas
Grant	Kirkpatrick	Meek	Thurman
Grizzle	Kiser	Myers	Weinstein
Hair	Langley	Plummer	Weinstock
Hill	Lehtinen	Ros-Lehtinen	Woodson
Hollingsworth	Malchon	Scott	

Nays—None

HB 1292—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 561.42(8), 626.945(1)(e), 631.62(2), 638.081(2), 731.201(31), 733.604(2), 945.025(1), 946.009(2), 948.031(2)(d), and 951.22(1), Florida Statutes, and s. 626.843(3), Florida Statutes (1986 Supplement); repealing ss. 624.501(21), 634.405(8), and 712.02(2), Florida Statutes; and reenacting ss. 581.185(11), 601.16(4)(c), 607.325(1)(b), 616.001(3), (5), (7), (12), (14), 616.05, 624.402(3), 624.4081(1), (2), 624.411(2)(d), 624.418(2)(d), 624.509(3)(b), 626.101(1), 626.112(5)(b), 626.621(6), 626.6215(5)(h), 626.741(4)(a), 626.752(3), 626.797(2), 626.909(2), 627.031(3), 627.736(1), 627.776(2), 628.607(3), 628.611(6), 629.518, 634.191(5), 635.051(3), 635.091, 637.144(5), 637.152, 637.303(5), 637.315, 637.415(3), 638.125, 638.201, 638.241, 641.37(5), 641.412(2), 641.448, 642.043(5), 651.107(1), 651.121(1), 663.03, 686.41, 710.108(3), 710.124, 718.403(1), (7), 721.10(1), 732.402(6), 733.707(1)(b), 752.01, 768.61(1), (2), 893.035(1)(a), 916.107(2)(a), (10)(a), 916.145, 944.10(2)(a), 944.31, and 959.225(1), (2), Florida Statutes, and ss. 564.06(10)(a), (b), (12), (13), 624.610(8), 626.8443(3), 626.8457(1), 626.9541(1)(o), 627.356(1), 627.357(4), 628.461(8), 629.501(6), and 651.095(5), Florida Statutes (1986 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; and improving the clarity of the statutes and facilitating their correct interpretation.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On page 25, line 23; on page 26, line 16; and on page 26, line 28, strike "(1986 Supplement)"

Amendment 2—On page 45, strike line 18

Amendment 3—On pages 70 and 71, lines 23-17, strike all of section 75, including the reviser's note, and renumber subsequent sections.

Amendment 4—On pages 73 and 74, lines 27-14, strike all of section 78, including the reviser's note, and renumber subsequent sections.

Amendment 5—On page 3, line 3; page 6, line 21; page 7, line 23; page 8, line 16; page 10, line 14; page 12, line 7; page 12, line 25; page 13, line 12; page 14, line 25; page 15, line 21; page 16, line 24; page 17, line 16; page 18, line 6; page 18, line 24; page 21, line 8; page 22, line 10; page 23, line 7; page 24, line 16; page 25, line 2; page 26, line 16; page 26, line 28; page 27, line 21; page 29, line 12; page 33, line 17; page 34, line 2; page 35, line 12; page 35, line 31; page 38, line 8; page 39, line 23; page 40, line 28; page 41, line 16; page 42, line 6; page 42, line 27; page 44, line 20; page 45, line 27; page 46, line 12; page 46, line 31; page 47, line 28; page 48, line 15; page 49, line 12; page 49, line 29; page 50, line 17; page 52, line 12; page 53, line 23; page 54, line 6; page 54, line 26; page 55, line 13; page 56, line 14; page 57, line 10; page 57, line 27; page 58, line 11; page 59, line 7; page 59, line 26; page 60, line 16; page 60, line 31; page 61, line 28; page 62, line 28; page 64, line 11; page 65, line 20; page 66, line 12; page 67, line 17; page 68, line 12; page 69, line 3; page 70, line 7; page 70, line 24; page 71, line 20; and page 76, line 5, strike "reenacted" and insert: amended

Amendment 6—In title, on page 1, line 7, strike "(1986 Supplement)" and on lines 28 and 29, strike "626.8443(3), 626.8457(1)," and at the end of line 15, insert: 626.8443(3), 626.8457(1),

Amendment 7—In title, on page 1, line 26, strike "944.10(2)(a),"

Amendment 8—In title, on page 1, line 5, strike "946.009(2),"

Amendment 9—In title, on page 1, line 9, strike "reenacting" and insert: amending

On motion by Senator Hair, by two-thirds vote HB 1292 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	
Girardeau	Kiser	Ros-Lehtinen	

Nays—None

HB 1294—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 413.22, 413.23, 413.24, 413.26(1), (3), 413.27(1), (2)(b), 413.28, 413.29, 413.30(1), 413.32, 413.36, 413.37, 413.38(4), 413.39, 413.40, 413.41, 413.42, 413.43, 413.46, 413.47(1), 413.48, and 413.49, Florida Statutes; conforming such sections to ss. 20, 21, and 26, ch. 86-220, Laws of Florida, which transferred all powers and duties of the Department of Health and Rehabilitative Services relating to vocational rehabilitation as provided in ss. 413.30-413.612, except ss. 413.50, 413.501, 413.502, and 413.503, to the Department of Labor and Employment Security and assigned the powers and duties to the Division of Vocational Rehabilitation of the Department of Labor and Employment Security.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On pages 15, 16, and 17, strike all of sections 18, 19, 20 and 21, including the reviser's notes

Amendment 2—In title, on page 1, lines 6 and 7, strike "413.46, 413.47(1), 413.48, and 413.49,"

On motion by Senator Hair, by two-thirds vote HB 1294 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

On motions by Senator Hair, the rules were waived and House Bills 1286, 1287, 1288, 1289, 1293, 1290, 1291, 1292 and 1294 were ordered immediately certified to the House.

HB 463—A bill to be entitled An act relating to the Criminal Justice Information Systems Council; amending s. 943.05, F.S.; revising crime report procedures; amending s. 943.052, F.S.; revising disposition report procedures; amending s. 943.06, F.S.; providing for designated assistants; specifying appointing authority; requiring majority for official action; amending s. 943.08, F.S.; requiring recommendations in meeting minutes; saving ss. 943.045, 943.06, and 943.08, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Johnson and adopted:

Amendment 1—On page 10, lines 29 and 30, and on page 11, lines 1 and 2, strike all of said lines and insert:

Section 7. Sections 943.045, 943.06, and 943.08, Florida Statutes, are repealed effective October 1, 1997, and shall be reviewed prior to that date pursuant to section 11.611, Florida Statutes.

(Renumber subsequent section.)

On motion by Senator Johnson, by two-thirds vote HB 463 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Grant	Langley	Scott
Beard	Grizzle	Lehtinen	Stuart
Brown	Hair	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

CS for CS for SB 399—A bill to be entitled An act relating to retired public officers and employees; amending s. 112.0801, F.S.; requiring state agencies to allow retired employees or their dependents to participate in the agency's group insurance programs or self-insurance plans; requiring such retirees or their dependents to be offered the same health insurance coverage that is offered to active employees and at the same cost; requiring commingling of claims experience under certain circumstances; providing an exception; providing for notification; providing a date certain to accept or reject health insurance program participation; creating s. 112.363, F.S.; providing for a monthly health insurance subsidy payment for all persons retired under a state-supported retirement system; providing for eligibility; specifying health insurance subsidy amount; creating the Retiree Health Insurance Subsidy Trust Fund; providing for investment of the trust fund; providing for administration of the health insurance subsidy payments by the Division of Retirement of the Department of Administration; providing an appropriation; providing for administration of the health insurance subsidy payments by the Division of Retirement of the Department of Administration; providing payment of benefits; amending ss. 121.052, 121.055, and 121.071, F.S.; increasing the employer contributions for members of the Florida Retirement System; amending s. 121.35, F.S.; providing the contribution for the health insurance subsidy shall be paid to the annuity company for members of the optional retirement program for the State University System; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 4, between lines 6 and 7, insert:

Section 3. Section 112.363, Florida Statutes, as created by this act, may be cited as the "Fay Kirtland Retirement Act."

(Renumber subsequent section.)

On motion by Senator W. D. Childers, by two-thirds vote CS for CS for SB 399 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Barron

On motion by Senator W. D. Childers, the rules were waived and CS for CS for SB 399 was ordered immediately certified to the House.

CS for SB 1264—A bill to be entitled An act relating to high-speed rail transportation; amending s. 341.322, F.S.; revising and adding definitions; amending s. 341.332, F.S.; prescribing additional standards in the award of franchises; amending s. 341.338, F.S.; providing rulemaking authority with respect to requests for proposals; amending s. 341.343, F.S.; providing for extensions of time in review of applications; amending s. 341.355, F.S.; providing rulemaking authority with respect to assessment of franchise components; amending s. 341.363, F.S.; providing that franchise conditions take precedence over nonprocedural standards, rules, or regulations; amending s. 341.368, F.S.; revising procedures for modifications of franchise; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote CS for SB 1264 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

On motions by Senator Hollingsworth, by two-thirds vote HB 371 was withdrawn from the Committees on Agriculture and Appropriations.

On motion by Senator Hollingsworth—

HB 371—A bill to be entitled An act relating to the marketing of agricultural commodities; creating the Florida Agricultural Commodities Marketing Law; providing legislative purpose; providing definitions; requiring industry consent with respect to marketing orders; requiring a petition of producers; providing for petitioner's expense; providing for public hearings; providing findings required to issue an order; providing a procedure for referendum; providing for referendum; providing for a notice of effective date of a marketing order; providing for an advisory council and its duties and exemption from liability; providing for possible subjects of marketing orders; authorizing cooperation with other governments; providing for limited marketing orders; providing a marketing agreement; providing for assessments, funds, audit, and loans; establishing powers and duties of the Department of Agriculture and Consumer Services; providing for certificates of exemption; providing for termination of orders; providing for inspections; requiring certain records; providing penalties; providing for hearings; providing that parts IV, V, and VI of chapter 573, F.S., relating to the Florida Soybean Marketing Law, the Florida Flue-cured Tobacco Marketing Law, and the Florida Peanut Marketing Law, respectively, shall stand repealed upon the date that the Department of Agriculture and Consumer Services adopts marketing orders pursuant to the act; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for SB 1107 and read the second time by title.

Senator Hollingsworth moved the following amendments which were adopted:

Amendment 1—On page 8, line 27, and on page 9, line 6, strike "65" and insert: 51

Amendment 2—On page 7, between lines 29 and 30, insert:

(5) Provided that no marketing order would be issued wherein the commodity addressed is subject to regulation by any other state agency unless a memorandum of agreement is executed between the department and the regulating agency.

On motion by Senator Hollingsworth, by two-thirds vote HB 371 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Kiser	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

SB 1107 was laid on the table.

Senator Hair presiding

SB 1124—A bill to be entitled An act relating to the State Comprehensive Plan; amending s. 187.201, F.S.; specifying an additional policy with respect to the portion of the plan relating to agriculture; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community and Consumer Affairs recommended the following amendment which was moved by Senator Thomas and adopted:

Amendment 1—On page 1, strike all of lines 22-25 and insert:

1. *Ensure that goals and policies contained in state and regional plans are not interpreted to permanently restrict the conversion of agricultural lands to other uses.*

Senator Frank moved the following amendments which were adopted:

Amendment 2—On page 1, strike all of lines 10-15 and insert:

Section 1. Present subsections (17) through (25) of section 187.201, Florida Statutes, are renumbered as subsections (18) through (26), respectively, a new subsection (17) is added to said section, and subsection (22) of said section, renumbered as subsection (23), is amended to read:

187.201 State Comprehensive Plan adopted.—The Legislature hereby adopts as the State Comprehensive Plan the following specific goals and policies:

(17) DOWNTOWN REVITALIZATION.—

(a) *Goal.—In recognition of the importance of Florida's developing and redeveloping downtowns to the state's ability to use existing infrastructure and to accommodate growth in an orderly, efficient, and environmentally acceptable manner, Florida shall encourage the centralization of commercial, governmental, retail, residential, and cultural activities within downtown areas.*

(b) Policies.—

1. *Provide incentives to encourage private sector investment in the preservation and enhancement of downtown areas.*

2. *Assist local governments in the planning, financing, and implementation of development efforts aimed at revitalizing distressed downtown areas.*

3. *Promote state programs and investments which encourage redevelopment of downtown areas.*

(23)(22) AGRICULTURE.—

Amendment 3—In title, on page 1, line 3, after "s. 187.201, F.S.," insert: adopting the revitalization of downtown areas as a goal of the State Comprehensive Plan and establishing policies to further that goal;

On motion by Senator Thomas, by two-thirds vote SB 1124 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Barron	Girardeau	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	
Frank	Kiser	Ros-Lehtinen	

Nays—1

Gordon

Vote after roll call:

Yea—Hair

On motion by Senator Thomas, the rules were waived and SB 1124 was ordered immediately certified to the House.

CS for SB 631—A bill to be entitled An act relating to child support; amending s. 61.13, F.S.; postponing until January 1, 1989, the transmitting of certain information by the clerks of court to the Department of State; amending s. 61.1301, F.S.; modifying the statement of rights provided to an obligor; providing for filing interstate income deduction documents with the depository under certain circumstances; establishing child support guidelines; amending s. 61.1352, F.S.; providing that as to support orders filed with the Secretary of State after January 1, 1989, failure to make support payments creates a lien in favor of an obligee on real and personal property of an obligor; amending s. 61.14, F.S.; providing that unpaid support payments become judgments by operation of law; providing notice; providing procedures for enforcement of the judgments; prohibiting a court from retroactively modifying an order of support; amending s. 88.012, F.S.; providing legislative intent as to collecting support arrearages after a child is no longer dependent; amending s. 88.031, F.S.; defining "petitioner's representative"; amending s. 88.065, F.S.; providing that the Governor may require a petitioner's representative to satisfy certain conditions before initiating interstate rendition proceedings; amending s. 88.121, F.S.; providing that when this state is the initiating state the Department of Health and Rehabilitative Services shall represent petitioners in reciprocal support enforcement proceedings only in cases certified pursuant to Title IV-D, Social Security Act; providing that the IV-D agency shall be a party only to certain actions; amending s. 88.181, F.S.; providing duty of petitioner's representative to prosecute cases promptly; amending s. 88.191, F.S.; providing additional duties of petitioner's representative; amending s. 88.211, F.S.; providing that payments be made to the local depository for forwarding to the Department of Health and Rehabilitative Services in certain circumstances; providing enforcement powers to petitioner's representative; requiring petitioner's representative's reports; amending s. 88.297, F.S.; providing that petitioner's representative may commence an appeal of a support order; amending s. 88.345, F.S.; providing that when this state is acting either as a rendering or a registering state in reciprocal support enforcement proceedings, the Department of Health and Rehabilitative Services shall represent petitioners only in cases certified pursuant to Title IV-D, Social Security Act; amending s. 409.2554, F.S.; modifying the definition of "dependent child"; amending s. 409.2561, F.S.; providing that recipients of public assistance assign to the Department of Health and Rehabilitative Services any right to certain support owed to the recipient; providing that public assistance recipients appoint the department as attorney in fact to perform certain acts related to support; amending s. 409.2567, F.S.; providing that the state shall pay the application fee for IV-D services for applicants who are not public assistance recipients; amending s. 409.2571, F.S.; providing that certain fees and bond not be required of the Department of Health and Rehabilitative Services in proceedings pursuant to the IV-D program; amending s. 409.2572, F.S.; modifying the definition of noncooperation by public assistance applicants or recipients; amending s. 409.2577, F.S.; providing that payors and state agencies shall provide certain information to the parent locator service; amending s. 741.30, F.S.; providing that temporary support may be awarded for a minor child or children or the petitioner under an injunction for protection against domestic violence; amending s. 28.24, F.S.; providing an additional service charge by the clerk of the circuit court; repealing s. 409.245, F.S., relating to actions for support of dependent children; providing that this act shall not affect causes of action which accrued prior to or pending upon the effective

date; providing that child support guidelines shall apply to cases modified on or after the effective date of this act; providing an effective date.

—was read the second time by title.

Senator Langley moved the following amendments which were adopted:

Amendment 1—On page 13, strike all of lines 22-25 and insert:

(i) Any other adjustment which is needed to achieve an equitable result which may include, but not be limited to, a reasonable and necessary existing expense or debt.

Amendment 2—On page 14, line 25, after “obligor” insert: *and the time for response contained therein*

Amendment 3—On page 23, line 22, strike “\$25” and insert: *10 cents*

Amendment 4—On page 24, line 23, strike “of the department”

On motion by Senator Langley, by two-thirds vote CS for SB 631 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	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	McPherson	Thurman
Childers, W. D.	Hill	Meek	Weinstein
Crenshaw	Hollingsworth	Myers	Weinstock
Deratany	Jenne	Peterson	Woodson
Dudley	Johnson	Plummer	
Frank	Kirkpatrick	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Girardeau, Kiser

On motion by Senator Langley, the rules were waived and CS for SB 631 was ordered immediately certified to the House.

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1049 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1049—A bill to be entitled An act relating to the corporate tax; amending s. 214.425, F.S.; providing for annual rate of interest for overpayments or underpayments; amending s. 220.03, F.S.; clarifying definitions; adopting the most recent federal Internal Revenue Code; amending s. 220.11, F.S.; providing for an alternative tax rate; amending s. 220.13, F.S.; defining taxable income as used in calculating the alternative minimum tax; amending s. 220.131, F.S.; providing for the apportionment of income by certain corporations; amending s. 220.02, F.S.; providing for application of tax credits; amending s. 220.186, F.S.; providing a tax credit for the alternative minimum tax; amending s. 220.222, F.S.; correcting a cross-reference; clarifying provisions relating to filing returns by certain corporations; amending s. 220.53, F.S.; clarifying application of certain provisions to ch. 220, F.S.; amending ss. 221.01, 221.02, 221.04, F.S.; limiting application of the emergency excise tax; deleting certain automatic repeal provisions; requiring the Department of Revenue to conduct a study; providing for retroactive effect; providing an effective date.

Amendment 1—On page 14, line 23, through page 15, line 2, strike all of section 7.

(and renumber subsequent sections.)

Amendment 2—On page 11, lines 13-25, strike all new language and: reinstate current language

Amendment 3—On page 15, lines 15 and 16, strike all new language

Amendment 4—On page 7, lines 6-14, strike all of said lines and insert: *(f) Any taxpayer who made an election pursuant to paragraphs (b) and (c) for any prior taxable year shall recompute tax for all prior years for which such election was effective by determining the tax for all such taxable years as if the election had not been made, except for differences attributable to depreciation methods. The aggregate of the changes in the tax liabilities resulting from such recomputation shall be treated as an addition to tax or credit against tax, as the case may be, ratably over the five succeeding taxable years beginning after December 31, 1986. Any ratable portion of a credit against tax which cannot be utilized in any taxable year may be carried over to subsequent taxable years until fully utilized.*

Amendment 5—On page 1, in the title, lines 11, 12 and 13, strike: amending s. 220.131, F. S.; providing for the apportionment of income by certain corporations;

Amendment 6—On page 1, in the title, lines 18 and 19 strike: clarifying provisions relating to filing returns by certain corporations;

Senator Deratany moved the following amendment to House Amendment 4 which was adopted:

Amendment 1—On page 1, line 20, strike “five” and insert: *three*

On motions by Senator Deratany, the Senate concurred in House Amendments 1, 2, 3, 5 and 6; concurred in House Amendment 4 as amended and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 1049 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Gordon	Lehtinen	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	McPherson	Thurman
Crenshaw	Hill	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Dudley	Jennings	Peterson	Woodson
Frank	Johnson	Plummer	

Nays—2

Hollingsworth Langley

Vote after roll call:

Yea—Kiser

SPECIAL ORDER, continued

Consideration of CS for SB 401 was deferred.

SB 380—A bill to be entitled An act relating to Medicaid prepaid health care plans; amending s. 409.266, F.S.; prohibiting the disclosure of certain information provided to the Department of Health and Rehabilitative Services by health care entities and health insurers; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote SB 380 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Beard	Dudley	Hill	Lehtinen
Brown	Frank	Hollingsworth	Malchon
Childers, D.	Girardeau	Jenne	Margolis
Childers, W. D.	Gordon	Johnson	McPherson
Crawford	Grant	Kirkpatrick	Meek
Crenshaw	Grizzle	Kiser	Myers
Deratany	Hair	Langley	Peterson

Plummer	Stuart	Weinstein
Ros-Lehtinen	Thomas	Weinstock
Scott	Thurman	Woodson

Nays—None

On motion by Senator Hill, by two-thirds vote HB 1355 was withdrawn from the Committee on Corrections, Probation and Parole.

On motion by Senator Hill—

HB 1355—A bill to be entitled An act relating to corrections; providing for the awarding of gain-time to inmates who owe court costs; providing a limitation; providing an effective date.

—a companion measure, was substituted for SB 1152 and read the second time by title. On motion by Senator Hill, by two-thirds vote HB 1355 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Barron	Gordon	Kiser	Scott
Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

SB 1152 was laid on the table.

CS for SB 866—A bill to be entitled An act relating to civil procedure; creating s. 45.061, F.S.; providing for offers of settlement in civil cases; providing for sanctions in the case of offers which are unreasonably rejected; providing for set off; providing exceptions; providing exclusive remedy; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1—On page 3, between lines 23 and 24, insert:

Section 2. Section 45.062, Florida Statutes, is created to read:

45.062 Settlements, conditions, or orders when an agency of the executive branch is a party.—In any civil action in which a state executive branch agency or officer is a party in state or federal court, no officer, agent, official or attorney who represents or is acting on behalf of such agency or officer may settle such action, consent to any condition, or agree to any order in connection therewith, if the settlement, condition, or order requires the expenditure of or obligation to expend any state funds or other state resources, or the establishment of any new program, unless:

- (1) The expenditure is provided for by an existing appropriation or program established by law; and
- (2) Reasonable prior written notification is given to the President of the Senate and the Speaker of the House of Representatives.

(Renumber subsequent section.)

On motion by Senator Dudley, by two-thirds vote CS for SB 866 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Barron	Crawford	Girardeau	Hill
Beard	Crenshaw	Gordon	Hollingsworth
Brown	Deratany	Grant	Jenne
Childers, D.	Dudley	Grizzle	Jennings
Childers, W. D.	Frank	Hair	Johnson

Kirkpatrick	McPherson	Ros-Lehtinen	Weinstein
Langley	Meek	Scott	Weinstock
Lehtinen	Myers	Stuart	Woodson
Malchon	Peterson	Thomas	
Margolis	Plummer	Thurman	

Nays—None

On motion by Senator Dudley, the rules were waived and CS for SB 866 was ordered immediately certified to the House.

Motions

On motion by Senator Barron, House Bills 1114 and 1115 were added to the end of the local bill calendar.

LOCAL CALENDAR

Consideration of SB 1322 was deferred.

SB 1324—A bill to be entitled An act relating to Lee County; amending s. 15, chapter 74-522, Laws of Florida; requiring the Lee County Sheriff's Department to pay a portion of the health insurance costs of certain retired personnel; providing for eligibility for such benefit; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote SB 1324 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1327—A bill to be entitled An act relating to Lee County; providing for liens in favor of operators of hospitals upon causes of actions, suits, claims, counterclaims, and demands accruing to patients therein, or their legal representatives, and upon amounts due or payable under hospital insurance or the like, and upon judgments, settlements, and settlement agreements, related to illness or injuries to such patients, for all reasonable charges for hospital care, treatment, and maintenance necessitated by such illness or injuries; and upon amounts due under hospitalization, public liability, and other indemnity policies; providing for method of perfecting and enforcing such liens; providing for recovery of costs, attorney's fees, and expenses; requiring claims for liens to be recorded; providing for fees for recording; providing for method of satisfaction of such liens; providing that a release or satisfaction is not valid as against such a lien unless the lienholder joins therein or executes a release; providing that acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment, or any settlement in absence of release or satisfaction of lien, prima facie constitutes impairment of such lien; giving the lienholder a right of action at law for damages on account of such impairment; providing for recovery from one accepting a release or satisfaction or making settlement; exempting from provisions of this act matters within the purview of the Worker's Compensation Law of this state; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote SB 1327 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Childers, W. D.	Dudley	Grant
Beard	Crawford	Frank	Grizzle
Brown	Crenshaw	Girardeau	Hair
Childers, D.	Deratany	Gordon	Hill

Hollingsworth	Langley	Myers	Thomas
Jenne	Lehtinen	Peterson	Thurman
Jennings	Malchon	Plummer	Weinstein
Johnson	Margolis	Ros-Lehtinen	Weinstock
Kirkpatrick	McPherson	Scott	Woodson
Kiser	Meek	Stuart	

Nays—None

SB 1330—A bill to be entitled An act relating to Lee and Charlotte Counties; amending s. 2, chapter 22372, Laws of Florida, as amended; making the office member of the Boca Grande Fire Control Board elective instead of appointive; amending s. 2, chapter 30929, Laws of Florida; making the office of member of the Captiva Island Fire Control Board elective instead of appointive; amending s. 2, chapter 29240, Laws of Florida, as amended; making the office of member of the North Fort Myers Fire Control Board elective instead of appointive; providing that standards for the conduct of elections in special districts in Lee County will apply to the Boca Grande Fire Control District, Captiva Island Fire Control District, and North Fort Myers Fire Control District; providing for extension of current board members' terms until an election is held; providing for removal by recall election of fire control district board members; repealing provisions which require a referendum on the continuation or abolition of the Alva Fire Protection and Rescue Service District, Bayshore Fire Protection and Rescue Service District, Estero Fire Protection and Rescue Service District, Fort Myers Beach Fire Control District, Fort Myers Shores Fire Protection and Rescue Service District, San Carlos Park Fire Protection and Rescue Service District, South Trail Fire Protection and Rescue Service District, and Tice Fire Protection and Rescue Service District; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community and Consumer Affairs recommended the following amendment which was moved by Senator Dudley and adopted:

Amendment 1—On page 4, line 29, strike "Natlacha - Pine" and insert: Matlacha - Pine

On motion by Senator Dudley, by two-thirds vote SB 1330 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Consideration of SB 1332 was deferred.

SB 1333—A bill to be entitled An act relating to Volusia County; creating the "City of Deltona Lakes Charter"; providing legislative intent; establishing the City of Deltona Lakes; providing municipal powers; providing for election of a City Commission, and providing for membership, qualifications, terms, and powers and duties of its members, including the Mayor; providing for a Vice Mayor; providing for compensation and expenses; providing general powers; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, recording, and distribution of technical codes; providing a limitation upon employment of Commissioners; prohibiting certain interference with City employees, which shall constitute malfeasance in office; establishing the fiscal year, providing for adoption of annual budget, and providing for increase, reduction, and transfer of appropriations; providing for appointment of City Manager and City Attorney; providing for removal, compensation, and filling of vacancies; providing qualifications and powers and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing a transitional schedule and procedures for first election; providing for early assumption of duties; providing for first-year

expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and land use regulations; providing for accelerated entitlement to state-shared revenues; providing for dissolution of the Deltona Fire District and for transfer of its assets and liabilities; providing for continuation of personnel and services; providing that district board members shall function as a City advisory board until expiration of their terms; providing for dissolution of the Deltona Municipal Services District and for transfer of its assets and liabilities; providing land descriptions of the City and its districts; providing for future amendment of the Charter; providing for standards of conduct in office; providing for severability; repealing chapter 69-1707, Laws of Florida, as amended, relating to the Deltona Fire District; providing for referendum approval; providing effective dates.

—was read the second time by title. On motion by Senator Brown, by two-thirds vote SB 1333 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1334—A bill to be entitled An act relating to Palm Beach County; expanding the boundaries of the Southwestern Palm Beach County Public Hospital Board and Taxing District and changing the name to the Palm Beach County Health Care District; establishing a District Board of the Palm Beach County Health Care District; providing for the membership, powers, and duties of the District Board of the Palm Beach County Health Care District; providing for the indemnification of members of the board and of employees and agents of the district; providing for the assessment and levying of ad valorem taxes for the district, including penalty for delinquency; providing for the imposition of tax liens by the district; providing for short-term borrowing and for various bonds; providing for the establishment of four subdistricts of the Palm Beach County Health Care District; providing for subdistrict governing boards; providing for the membership, powers, and duties of the subdistrict governing boards; repealing chapter 26106, Laws of Florida, 1949, as amended, relating to the Northwestern Palm Beach County Public Hospital Board; repealing chapter 26107, Laws of Florida, 1949, as amended, relating to the Southwestern Palm Beach County Public Hospital Board; repealing chapter 29387, Laws of Florida, 1953, as amended, relating to the Southeastern Palm Beach County Hospital District; repealing chapter 83-489, Laws of Florida, relating to the Palm Beach County Hospital District; providing for the transfer of the assets and liabilities of three independent special taxing districts and one dependent taxing district to the Palm Beach County Health Care District, an independent special taxing district; providing for the submission of an annual report to the Palm Beach County Legislative Delegation by the district board; providing a title; providing severability; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote SB 1334 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Crenshaw	Grant	Jennings
Beard	Deratany	Grizzle	Johnson
Brown	Dudley	Hair	Kirkpatrick
Childers, D.	Frank	Hill	Kiser
Childers, W. D.	Girardeau	Hollingsworth	Langley
Crawford	Gordon	Jenne	Lehtinen

Malchon	Myers	Scott
Margolis	Peterson	Stuart
McPherson	Plummer	Thomas
Meek	Ros-Lehtinen	Thurman

Nays—None

On motion by Senator Myers, the rules were waived and SB 1334 was ordered immediately certified to the House.

SB 1336—A bill to be entitled An act relating to the City of Sanibel, Lee County; providing purpose and intent; providing definitions; limiting the taking of live shellfish within municipal boundaries; providing penalties; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote SB 1336 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1340—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; making it unlawful at all times to fish for commercial purposes in the canals of the City of Punta Gorda, Florida; defining commercial purposes and providing that possession of nets, seines, and traps shall be prima facie evidence of fishing for commercial purposes; providing a penalty; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote SB 1340 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1347—A bill to be entitled An act relating to Bay County; repealing ch. 72-436, Laws of Florida; abolishing the office of clerk of the county court of Bay County; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote SB 1347 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Deratany	Hair	Kiser
Beard	Dudley	Hill	Langley
Brown	Frank	Hollingsworth	Lehtinen
Childers, D.	Girardeau	Jenne	Malchon
Childers, W. D.	Gordon	Jennings	Margolis
Crawford	Grant	Johnson	McPherson
Crenshaw	Grizzle	Kirkpatrick	Meek

Weinstein
Weinstock
Woodson

Myers	Ros-Lehtinen	Thomas
Peterson	Scott	Thurman
Plummer	Stuart	Weinstein

Nays—None

SB 1348—A bill to be entitled An act relating to Marion County; creating the Marion County Sports Authority; providing for legislative intent; providing for the creation of the authority; providing for membership and organization of the authority; providing definitions; providing general powers of the authority; providing for funding of the authority and budget approval; providing for public subscription; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote SB 1348 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1351—A bill to be entitled An act relating to Monroe County; amending ch. 76-441, Laws of Florida, as amended; allowing the board of directors of the Florida Keys Aqueduct Authority to impose certain assessments; providing for such charges to be a lien on certain properties; providing for the priority of and the enforcement of such lien; allowing the Authority to waive impact fees or charges for certain entities; providing for a lien for certain unpaid fees or other charges; providing for the recordation and enforcement of such lien; eliminating the requirement to have a referendum election before issuing revenue bonds; placing a rate cap on such bonds; providing for a referendum.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote SB 1351 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Consideration of SB 1352 was deferred.

SB 1353—A bill to be entitled An act relating to Monroe County; providing the district school board authority for acquisition, leasing, construction, erection, building, enlarging, improving, furnishing, and equipping school board owned facilities, for the purchase and improvement of real property, and for equipping leased facilities; authorizing the issuance of certificates of indebtedness payable from the portion of racetrack funds and jai alai fronton funds accruing annually to Monroe County and allocated by law to the school board, to pay the cost of such projects; authorizing the issuance of refunding certificates of indebtedness to refund certificates of indebtedness payable from such racetrack and jai alai fronton funds; providing authority to create and maintain sinking funds for the retirement of indebtedness; providing an effective date.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote SB 1353 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1355—A bill to be entitled An act relating to Marion County; providing permanent status for certain employees of the Marion County Sheriff; specifying rights of such employees; providing procedures for appeal of disciplinary actions and complaints against employees of the sheriff; providing for the appointment of boards to hear appeals and procedures with respect thereto; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote SB 1355 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1358—A bill to be entitled An act relating to Alachua County; repealing chapter 67-1078, Laws of Florida, as amended, relating to comprehensive planning and comprehensive plan implementation activities in Alachua County; requiring comprehensive planning and land development regulation by Alachua County or by a municipality in the county to be in compliance with general law; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote SB 1358 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1360—A bill to be entitled An act relating to Monroe County; amending chapter 67-1724, Laws of Florida, as amended, and chapter 73-555, Laws of Florida, as amended; expanding the powers and duties of the governing board of the Lower Florida Keys hospital district; authorizing bond issuance for acquisition and development of real property; deleting requirements that voting at bond elections be limited to freeholders and providing for issuance of bonds upon approval of a majority of the electors voting; deleting the cap on interest for interest-bearing bonds; authorizing the establishment of medical facilities or other health care related facilities in addition to hospitals; providing an effective date.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote SB 1360 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 333—A bill to be entitled An act relating to the City of Punta Gorda; amending chapter 79-558, Laws of Florida; adding subsection (7) to section 7; creating a proprietary right and certain police powers in any canal or waterway together with any adjacent private, public or semi-public seawall, bulkhead, retaining wall, or other appurtenance within any section or sections or subdivision, where the developer has dedicated and the City of Punta Gorda has accepted a public dedication of a waterway or canal; providing for a right of entry upon private land; the power to establish the respective maintenance obligations of the private owners of land and the district; to define the function of the district to disassociate the special taxing district from the business of insurance; to empower the district to recover for the negligence of others for loss, to demand reconstruction, and effectuate reconstruction after the opportunity for notice and hearing, place a lien, foreclose upon a lien and have certain jurisdiction for use of certain process for action against others, who may by proximate cause, injure or damage a bulkhead, seawall or other thing the district maintains; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 333 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 581—A bill to be entitled An act relating to the Town of Cross City, Dixie County; amending sections 18, 22, and 32 of chapter 1197, Laws of Florida, increasing terms of the office of mayor, councilmen, and clerk; modifying the election cycle to conform; providing for a referendum.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 581 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 626—A bill to be entitled An act relating to Collier County; expressing the purpose of the act; repealing chapter 57-1242, Laws of Florida, as amended, which authorizes the board of county commissioners to pave certain roads upon petition by a certain percent of abutting

landowners and providing for special assessments against said owners; repealing chapter 67-1236, Laws of Florida, which provides a method to pave or improve roads and streets and a method of assessing specially benefited adjoining properties to defray the costs thereof; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 626 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 629—A bill to be entitled An act relating to the Little Hickory, Bonita Shores Fire Control District; amending section 2 of chapter 67-1243, Laws of Florida, to provide that district board members shall be residents of the district; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 629 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 674—A bill to be entitled An act relating to Hillsborough County; repealing chapter 83-416, Laws of Florida, relating to zoning classifications and regulations in unincorporated Hillsborough County, including the appointment, powers and duties of the zoning hearing master; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 674 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 676—A bill to be entitled An act relating to Hillsborough County; repealing chapter 63-1396, Laws of Florida, which grants reciprocity between jurisdictions in Hillsborough County in licensing contractors, requires such tradesmen to post bond prior to obtaining license, and establishes a Unified Combined Examining Board; repealing chapter 65-1657, Laws of Florida, which changes the membership of the Hillsborough County Unified Combined Examining Board to run concurrently with membership held on certain other boards; repealing chapter 65-

1675, Laws of Florida, which establishes requirements for licensing of corporations; repealing chapter 67-1477, Laws of Florida, which provides that mechanical contractors be included among those who must furnish bond before licensing; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 676 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 887—A bill to be entitled An act relating to Broward County; providing for dissolution of the South Broward Park District based upon a contingency; providing for the assumption of indebtedness and liabilities; providing for the disposition of the funds, assets, and property of the district; providing for severability; repealing chapter 65-1345, Laws of Florida, as amended, upon dissolution of the district; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote HB 887 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 889—A bill to be entitled An act relating to the Central Broward Drainage District, Broward County; amending section 4(b), chapter 61-1439, Laws of Florida, as amended, providing that all commissioners are to be elected by the qualified electors residing within the district zone that the election is for and that no commissioner elected prior to the date that this act becomes law shall be affected in his or her term of office; amending section 4(d), chapter 61-1439, Laws of Florida, revising the legal descriptions of the six zones of the Central Broward Drainage District; amending section 4(f), chapter 61-1439, Laws of Florida, providing that for the 1988 district election of commissioner from zones 3, 4, and 5, the incumbent commissioner for zones 3, 4, and 5 shall be qualified for nomination to office for the same zones; amending section 5, chapter 61-1439, Laws of Florida, as amended, providing that the qualified electors of each zone can only vote for the qualified commission candidates for their zone; amending section 7, chapter 61-1439, Laws of Florida, as amended, changing the designation of chairman to chairperson; providing that the chairperson, and vice-chairperson in the chairperson's absence, can vote on all matters before the district board of commissioners by deleting provision that chairman and vice-chairman in chairman's absence, shall not cast a vote except to break a tie vote; providing that the affirmative votes of a majority, but not less than three of the members of the board that are present at district meetings shall be required to make any determination or effect any action; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote HB 889 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 928—A bill to be entitled An act relating to Santa Rosa County; amending section 6 of chapter 84-526, Laws of Florida; changing the date of adjustment meetings of the East Milton Fire Protection and Rescue District; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 928 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 948—A bill to be entitled An act relating to the Big Corkscrew Island Fire Control and Rescue District; amending section 2 of chapter 77-535, Laws of Florida, to provide that district board members shall be residents of the district; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 948 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 961—A bill to be entitled An act relating to the Port of Palm Beach District; amending section 3 of Article V of chapter 74-570, Laws of Florida, as amended, providing that Commissioners of the Port of Palm Beach District be nominated and elected in the same manner as county officers; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 961 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Childers, W. D.	Dudley	Grant
Beard	Crawford	Frank	Grizzle
Brown	Crenshaw	Girardeau	Hair
Childers, D.	Deratany	Gordon	Hill

Hollingsworth	Langley	Myers	Thomas
Jenne	Lehtinen	Peterson	Thurman
Jennings	Malchon	Plummer	Weinstein
Johnston	Margolis	Ros-Lehtinen	Weinstock
Kirkpatrick	McPherson	Scott	Woodson
Kiser	Meek	Stuart	

Nays—None

HB 1114—A bill to be entitled An act relating to the Escambia County Utilities Authority; amending section 4 of chapter 81-376, Laws of Florida, as amended; revising the manner in which certain vacancies in the governing board of the authority are to be filled; requiring that any person filling such vacancy be a resident of the district served; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, between lines 26 and 27, insert:

Section 2. (1) No developer or other person may construct anywhere on Santa Rosa Island between the boundaries of the two national seashores any building or other structure to be used for residential, commercial, industrial, governmental, or recreational purposes unless such developer or person has obtained prior approval of the appropriate governmental body.

(2) The appropriate governmental body may not approve such construction unless the developer or other person undertaking such construction demonstrates to it that:

(a) All environmental and coastal construction requirements imposed by law or ordinance have been met.

(b) The design and specification for such construction meet all applicable building and safety codes.

(c) The developer or person undertaking the construction is financially solvent, has secured adequate financing for the project, and the project undertaken is economically and environmentally feasible.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 9, after the semicolon (;) insert: prohibiting construction on Santa Rosa Island under specified circumstances; requiring governmental approval for such construction; specifying criteria for such approval;

On motion by Senator W. D. Childers, by two-thirds vote HB 1114 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

HB 1115—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending section 13 of chapter 80-579, Laws of Florida, as amended by chapter 83-501, Laws of Florida, relating to the Pensacola-Escambia Promotion and Development Commission; extending provisions relating to the funding of the commission by the city and county; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, between lines 26 and 27, insert:

Section 2. (1) No developer or other person may construct anywhere on Santa Rosa Island between the boundaries of the two national seashores any building or other structure to be used for residential, commercial, industrial, governmental, or recreational purposes unless such developer or person has obtained prior approval of the appropriate governmental body.

(2) The appropriate governmental body may not approve such construction unless the developer or other person undertaking such construction demonstrates to it that:

(a) All environmental and coastal construction requirements imposed by law or ordinance have been met.

(b) The design and specification for such construction meet all applicable building and safety codes.

(c) The developer or person undertaking the construction is financially solvent, has secured adequate financing for the project, and the project undertaken is economically and environmentally feasible.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 9, after the semicolon (;) insert: prohibiting construction on Santa Rosa Island under specified circumstances; requiring governmental approval for such construction; specifying criteria for such approval;

On motion by Senator W. D. Childers, by two-thirds vote HB 1115 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meeke	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SPECIAL ORDER, continued

CS for SB 401—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.061, F.S.; renumbering existing provisions; creating a new section of the statutes; creating the Mobile Home Study Commission; providing prospective repeal of s. 723.061(2)(a)2.c., F.S., as created by the act, relating to payment to a mobile home owner who is evicted for a change in land use of a scaled percentage of the difference between book value and market value of a mobile home and appurtenances; repealing s. 723.061(2)(e), F.S., relating to eviction from a mobile home park based upon a change of land use, to delete a repeal of procedures governing such eviction; providing for retroactivity; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator Langley:

Amendment 1—On page 4, lines 18-31, and on page 5, lines 1-16, strike all of said lines and insert:

Section 2. Mobile Home Study Commission.—

(1) There is established a Mobile Home Study Commission to investigate and make recommendations regarding the issue of compensation for mobile home owners who are evicted from mobile home parks due to a change in land use of the park property. The study commission shall consist of five members, as follows:

(a) The President of the Senate shall appoint two members from the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(c) The Governor shall appoint one member.

(2) Not more than 30 days after the appointment of the commission, the members shall meet to select a chairman from among its members and shall establish procedures for the conduct of the commission's business.

(3) It shall be the duty of the commission to submit a final report containing findings and recommendations to the President of the Senate and the Speaker of the House of Representatives on or before February 1, 1988.

(4) Commission members shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061, Florida Statutes.

(5) The commission shall be assigned, for administrative purposes, to the Joint Legislative Management Committee and shall be subject to the established policies and procedures of the Joint Legislative Management Committee. The Joint Legislative Management Committee and each state agency shall provide assistance when requested by the commission. Additionally the commission is authorized to employ staff and consultants as necessary to fulfill its responsibilities. However, the employment of staff and consultants, the budget of the commission, and any transfer of funds by budget amendment must be approved in advance by the President of the Senate and the Speaker of the House of Representatives.

(6) Appointments shall be made as soon as possible after the effective date of this act and the commission shall continue to exist until April 1, 1988.

Section 3. The sum of \$ _____ is hereby appropriated from the General Revenue Fund to the Joint Legislative Management Committee for the purposes of paying the expenses incurred by the Mobile Home Study Commission.

(Renumber subsequent sections.)

Senator Langley moved the following substitute amendment which was adopted:

Amendment 2—On page 4, lines 18-31, and on page 5, lines 1-16, strike all of Section 2 and renumber subsequent sections.

Senator Myers moved the following amendment which was adopted:

Amendment 3—On page 1, line 20, insert:

Section 1. Subsection (3) of section 514.033, Florida Statutes, is amended to read:

514.033 Creation of fee schedules authorized.—

(3) Any person or public body operating a public swimming pool or bathing place shall pay to the department an annual operating permit fee based on pool aggregate gallonage, which shall be: up to and including 25,000 gallons, not more than \$25; and in excess of 25,000 gallons, not more than \$75, *except for a pool inspected pursuant to s. 514.0115(3) for which the annual fee shall be \$25.*

Section 2. Section 514.0115, Florida Statutes, is amended to read:

514.0115 Exemptions from supervision or regulation.—

(1) Private pools and water therapy facilities connected with facilities connected with hospitals, medical doctors' offices, and licensed physical therapy establishments shall be exempt from supervision under this chapter.

(2) Pools serving no more than 32 condominium or cooperative units which are not operated as a public lodging establishment shall be exempt from supervision under this chapter, except for water quality.

(3) *Pools serving condominium or cooperative associations of more than 32 units and whose recorded documents prohibit the rental or sublease of the units for periods of less than 60 days are exempt from supervision under this chapter, except that the condominium or cooperative owner or association must file applications with the department and obtain construction plans approval and receive an initial operating permit. The department shall inspect the swimming pools at such places annually, at the fee set forth in s. 514.033(3), or upon request by a unit owner, to determine compliance with department rules relating to water quality and life-saving equipment. The department may not require compliance with rules relating to swimming pool lifeguard standards.*

(4) (3) A private pool, used for instructional purposes in swimming, shall not be regulated as a public pool.

(Renumber subsequent sections.)

Senator Langley moved the following amendment which was adopted:

Amendment 4—On page 1, line 20, insert:

Section 1. Subsection (4) of section 509.013, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

509.013 Definitions.—As used in this chapter:

(4)(a) "Public lodging establishment" means any *unit, dwelling, building or structure*, or group of buildings *or structures* within a single complex of buildings, which is kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants.

(b) The following are excluded from the definition in paragraph (a):

1. Any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit, regardless of the number of such dwelling houses or units clustered together, unless *it is they are* regularly rented to transients or held out or advertised to the public as a *place* ~~places~~ regularly rented to transients;

2. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university primarily for the use of students, faculty, or visitors;

3. Any hospital, nursing home, sanitarium, adult congregate living facility, or other similar place; and

4. Any place renting three rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

5. *Any building or group of buildings containing more than one unit, in a condominium or cooperative, unless the units are available for rent for periods of less than 90 days or the building or group of buildings are held out or advertised to the public as places regularly rented to transients.*

(10) "Operator," in a condominium or cooperative, means the owner of the unit or such association or other agent appointed by the unit owner as operator for the purposes of this chapter.

Section 2. Paragraph (b) of subsection (12) of section 718.111, Florida Statutes, 1986 Supplement, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(b) The official records of the association shall be maintained in the county in which the condominium is located *or within 50 miles of the property if maintained in another county.*

Section 3. Subsection (8) of section 718.202, Florida Statutes, is amended to read:

718.202 Sales or reservation deposits prior to closing.—

(8) Every escrow account required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, a *title insurer authorized to do business in this state, acting through either its employees or a title insurance agent licensed under chapter 626,* or any financial lending institution having a net worth in excess of \$5 million. The escrow agent shall not be located outside the state unless, pursuant to the escrow agreement, the escrow agent submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. Every escrow agent shall be independent of the developer, and no developer or any officer, director, affiliate, subsidiary, or employee of a developer may serve as escrow agent. Escrow funds may be invested only in securities of the United States or an agency thereof or in accounts in institutions the deposits of which are insured by an agency of the United States.

Section 4. Subsection (1) of section 719.303, Florida Statutes, 1986 Supplement, is amended to read:

719.303 Obligations of owners.—

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the cooperative documents, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party in any such action *or in any action* in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 719.503(1)(a) is entitled to recover reasonable attorney's fees. This relief does not exclude other remedies provided by law.

(Renumber subsequent sections.)

Senator Myers moved the following amendment which was adopted:

Amendment 5—On page 1, line 2, after the semicolon (;) insert: amending s. 514.033, F.S.; providing for a fee; amending s. 514.0115, F.S.; providing an exemption for pools serving certain condominiums and cooperatives from certain requirements imposed by the Department of Health and Rehabilitative Services;

On motion by Senator Langley, by two-thirds vote CS for SB 401 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

Beard	Gordon	Lehtinen	Scott
Brown	Grant	Malchon	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	McPherson	Thurman
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	
Frank	Langley	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Hollingsworth

On motion by Senator Langley, the rules were waived and CS for SB 401 was ordered immediately certified to the House.

HB 162—A bill to be entitled An act relating to consumer protection; creating s. 501.059, F.S.; providing definitions; providing restrictions upon unsolicited consumer telephone calls to residences; prohibiting the making of unsolicited consumer telephone calls to certain subscribers; authorizing the Division of Consumer Services of the Department of Agriculture and Consumer Services to investigate complaints of violations and institute civil proceedings; providing severability; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendment which was adopted:

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

4. *By a newspaper publisher or his agent or employee in connection with his business.*

On motion by Senator Dudley, by two-thirds vote HB 162 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Barron	Gordon	Kirkpatrick	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	

Nays—None

On motion by Senator Dudley, the rules were waived and HB 162 was ordered immediately certified to the House.

Consideration of CS for SB 210 was deferred.

The President presiding

CS for SB 592—A bill to be entitled An act relating to the mandatory seat belt law; amending s. 316.614, F.S.; exempting motor vehicles operated by rural letter carriers of the United States Postal Service under certain circumstances; providing for immunity from civil liability for physicians certifying exemption of persons from mandatory safety belt law; providing an effective date.

—was read the second time by title.

Further consideration of CS for SB 592 was deferred.

On motions by Senator Myers, by two-thirds vote CS for HB 1384 was withdrawn from the Committees on Health and Rehabilitative Services; Personnel, Retirement and Collective Bargaining; Rules and Calendar; and Appropriations.

On motion by Senator Myers, by unanimous consent—

CS for HB 1384—A bill to be entitled An act relating to health care; establishing legislative intent; amending s. 110.123, F.S., relating to the state group insurance program; requiring preferred provider organizations to provide Medicaid services; creating s. 154.011, F.S., expanding primary care programs for low-income persons; amending s. 196.197, F.S., relating to hospital ad valorem tax exemptions; providing a charity care requirement; amending s. 212.084, F.S., relating to hospital sales tax exemptions; providing a charity care requirement; amending s. 395.502, F.S., modifying definitions relating to health care cost containment; amending s. 409.266, F.S., relating to medical assistance; eliminating the Medicaid hospital outpatient cap; authorizing additional appropriations from the Public Medical Assistance Trust Fund for primary care programs; increasing Medicaid reimbursement fees for physicians, midwives, early periodic screening diagnosis and treatment of children, home health care, adult health screening and diagnosis, and dental care; increasing Medicaid eligibility for certain pregnant women and children; providing for certain onsite Medicaid eligibility determinations; authorizing pilot programs; requiring a report; creating s. 409.2661, F.S., providing for pre-paid capitated demonstration projects for the non-Medicaid medically indigent; providing for primary care health training demonstration projects; providing for an alcohol and drug abuse demonstration project; providing for start-up grants; requiring evaluation and reports to the Legislature; providing for an appropriation from the Public Medical Assistance Trust Fund; amending s. 409.2662, F.S., providing for expenditures from the Public Medical Assistance Trust Fund; providing for redistribution of Public Medical Assistance Trust Fund surplus moneys; providing definitions; providing a formula for redistribution; providing administrative fines for failure to repay funds redistributed in error; providing incentives for counties to continue local funding for indigent care; providing for repeal of the redistribution upon repeal of the Hospital Cost Containment Board; providing for Sunset review and repeal; amending s. 395.5094, F.S., directing how funds received from the redistribution formula are to be accounted for in a hospital's budget; creating s. 409.2663, F.S., establishing a state and county funded child health assistance program; creating s. 409.2673, F.S., requiring county participation in funding the child health assistance program; creating the State/County Advisory Council on Health Services; providing for membership and responsibilities; providing for termination of the council; creating a legislative task force to study health care to the elderly and disabled, providing for expansion of Medicaid services contingent upon the findings of the task force; creating ss. 381.701-381.714, F.S., and renumbering s. 381.4961, F.S., as s. 381.715, F.S.; creating the "Health Facility and Ser-

vices Development Act"; providing definitions; establishing local health councils and the Statewide Health Council; providing powers and duties; providing for funding; creating the Local Health Trust Fund; providing duties of the Department of Health and Rehabilitative Services, relating to health planning; providing duties and responsibilities of the department, relating to certificate of need; providing criteria for review of certificate of need applications; specifying projects subject to review; specifying items subject to expedited review; providing exemptions; specifying content of applications; providing fees; providing a review process; providing for administrative hearings; providing for judicial review; specifying conditions for issuance of certificates of need; providing an administrative fine; providing a period of validity; providing a penalty; limiting transfer of a certificate of need; providing special provisions with respect to health maintenance organizations, osteopathic acute care hospitals, hospices, and teaching hospitals; providing for injunction; amending s. 395.503, F.S., placing the Hospital Cost Containment Board under the department for certain administrative purposes; increasing the membership of the board; amending s. 395.512, F.S., relating to final legislative budget requests of the board; specifying processing requirements for the department with respect to obstetric or cardiac catheterization services; saving certain existing rules, local and statewide health councils, and state and district plans; allowing certain expenditures for providing obstetric or cardiac catheterization services; saving certain existing rules, local and statewide health councils, and state and district plans; amending ss. 159.27, 395.003, 395.005, 395.011, 395.509, 400.071, 400.471, 400.603, 400.606, and 651.118, F.S., conforming cross-references; repealing ss. 381.493, 381.494, 381.495, 381.4961, 381.498, and 381.499, F.S., relating to the "Health Facilities and Health Services Planning Act"; saving part II of chapter 395, F.S., from Sunset repeal; providing for future review and repeal; providing effective dates.

—was taken up out of order and read the second time by title. On motions by Senator Myers, Amendments 1 and 2 were adopted. On motion by Senator Myers, the amendments were not printed in the Journal because they were the text of CS for SB's 484, 498 and 247 which passed the Senate May 27.

On motion by Senator Myers, by two-thirds vote CS for HB 1384 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Barron	Gordon	Kiser	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	

Nays—None

On motion by Senator Myers, the rules were waived and CS for HB 1384 was ordered immediately certified to the House.

CS for SB 210—A bill to be entitled An act relating to transportation-related contracting; amending s. 337.11, F.S.; allowing the Department of Transportation to enter into contracts which combine the design and construction of a road, structure, or building and appurtenant facilities or equipment; providing factors for determining the best interest of the public; providing procedures for administering design and construction contracts; providing criteria for evaluating contract proposals; requiring projects to be in the 5-year transportation plan; setting limit on annual contract amount; requiring annual report; requiring prior legislative approval and appropriation of funds for such projects; providing an effective date.

—was read the second time by title.

Three amendments were adopted to CS for SB 210 to conform the bill to CS for HB 277.

Pending further consideration of CS for SB 210 as amended, on motions by Senator Jennings, by two-thirds vote CS for HB 277 was withdrawn from the Committees on Transportation and Appropriations.

On motions by Senator Jennings—

CS for HB 277—A bill to be entitled An act relating to transportation-related contracting; amending s. 337.11, F.S.; allowing the Department of Transportation to enter into contracts which combine the design and construction of a road, structure, or a building and appurtenant facilities or equipment; providing factors for determining the best interest of the public; providing procedures for administering design and construction contracts; providing criteria for evaluating contract proposals; requiring certain projects to be in the 5-year transportation plan; authorizing a demonstration program; setting limit on total contract amount; requiring certain information in an annual report; providing an effective date.

—a companion measure, was substituted for CS for SB 210 and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 277 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnson	Plummer
Barron	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Gordon	Kiser	Stuart
Brown	Grant	Langley	Thomas
Childers, D.	Grizzle	Lehtinen	Thurman
Childers, W. D.	Hair	Malchon	Weinstein
Crawford	Hill	McPherson	Weinstock
Crenshaw	Hollingsworth	Meek	Woodson
Deratany	Jenne	Myers	
Dudley	Jennings	Peterson	

Nays—None

CS for SB 210 was laid on the table.

On motion by Senator Kiser, by two-thirds vote CS for HB 123 was withdrawn from the Committee on Appropriations.

On motion by Senator Kiser—

CS for HB 123—A bill to be entitled An act relating to transportation contracts; creating s. 337.015, F.S., providing direction with respect to the administration of public transportation contracts; requiring the department to report annually on the administration of public transportation contracts; amending s. 337.11, F.S., expanding requirements with respect to contracts let by the department; amending s. 337.14, F.S., authorizing the department to limit the dollar amount or the total dollar volume of contracts which a person is allowed to have under contract at one time; creating s. 337.145, F.S., providing for offsetting payments by the department; amending s. 337.16, F.S., directing payment of penalty and retainage upon delinquency; providing for denial or suspensions of certificates of qualification by the department with respect to certain contracts; creating s. 337.175, F.S., establishing retainage provisions; amending s. 337.18, F.S., increasing the daily liquidated damages charge for certain contract defaults; establishing penalty provisions; amending s. 337.185, F.S., authorizing binding private arbitration; creating s. 337.221, F.S., requiring the department to prepare quarterly reports on disputed contractual claims; providing for applicability of certain sections of the act to specified contracts; providing an effective date.

—a companion measure, was substituted for CS for SB 659 and read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Kiser:

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

Section 1. Subsection (5) of section 120.53, Florida Statutes, is amended to read:

120.53 Adoption of rules of procedure and public inspection.—

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.301-282.313, chapter 255, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail, return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a formal written protest within 10 days after the date he filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(c) Upon receipt of the formal written notice of protest which has been timely filed, the agency shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) The agency, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the division director shall expedite the hearing and assign a hearing officer who shall conduct a hearing within 15 days of the receipt of the formal written protest by the division and render a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the hearing officer, whichever is later. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) The Administration Commission shall promulgate model rules of procedure pursuant to the provisions of s. 120.54(10) for the filing of notice of protests and formal written protests.

Section 2. Section 337.015, Florida Statutes, is created to read:

337.015 Administration of public contracts.—Recognizing that the inefficient and ineffective administration of public contracts inconveniences the traveling public, increases costs to taxpayers and interferes with commerce, the Legislature hereby determines and declares that:

(1) Time is an essential element of the contract, and to assure satisfactory work progress and timely contract completion, the department shall minimize the allowance of additional contract time.

(2) In order to increase competition and maximize the utilization of personnel, the department shall minimize the variances between contract lettings.

(3) To protect the public interest, the department shall vigorously pursue claims against contractors and consultants for time overruns and substandard work products.

(4) The department shall stabilize the 5-year transportation plan, insuring the timely and systematic completion of projects.

(5) To encourage increased competition and timely completion of construction projects, the department may allow flexible starting times when the commencement of work is not essential to the public health, safety or welfare.

(6) The department in its annual report required in s. 334.22(2) shall report how the department complied with this section for the preceding fiscal year.

Section 3. Subsection (1) of section 337.105, Florida Statutes, is amended to read:

337.105 Qualifications of professional consultants and other providers of contractual services; performance bonds; exemption of price proposals from public record requirements.—

(1) Before the employment of a professional consultant or other provider of service, the department shall make a finding that the person to be employed is fully qualified to render the desired service. Among the factors to be considered in making this finding are the professional reputation, past performance record, and experience of the candidate and the adequacy of the personnel making up his organization. *The department may suspend for a specified period of time a person or firm from consideration for award of a professional service contract because of unsatisfactory performance of a previously awarded professional services contract. The department shall adopt rules to implement this section.*

Section 4. Subsections (3) and (7) of section 337.11, Florida Statutes, are amended to read:

337.11 Authority of department to contract; advertise for bids; make emergency repairs, supplemental agreements, and change orders; *progress periodic* payments; preservation of records.—

(3)(a) The department may award the proposed work to the lowest responsible bidder, or it may reject all bids and proceed to readvertise the work or otherwise perform the work.

(b) *Any person who files an action protesting an award pursuant to paragraph (a) shall post with the department, at the time of filing the formal written protest, a bond payable to the department in an amount equal to 1 percent of the lowest bid submitted or \$5,000, whichever is less, which bond shall be conditioned upon the payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and any subsequent appellate court proceeding. If, after completion of the administrative hearing process and any appellate court proceedings, the department prevails, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him. If the person protesting the award prevails, he shall recover from the department all costs and charges which shall be included in the final order or judgment, excluding attorney fees.*

(c) *As an alternative to any provision in s. 120.53(5)(c), the department may proceed with the bid solicitation or contract award process when the head of the department sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process in order to avoid a substantial loss of funding to the state.*

(7)(a) Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, before receipt of any *progress periodic* payment under the provisions of such contract, to certify that *the prime contractor has disbursed to all subcontractors and suppliers having an interest in the contract have received* their pro rata shares, *less any retainage withheld by the prime contractor pursuant to an agreement with a subcontractor*, of the payment out of previous *progress periodic* payments received by ~~to~~ the prime contractor for all work completed and materials furnished in the previous period as approved by the department for payment. The department shall not make any such *progress periodic* payment before receipt of such certification, *unless the contractor demonstrates good cause for not making such required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors or suppliers.*

(b) *Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, within 30 days after receipt of the final progress payment, or any other payments received thereafter except the final payment, to pay all subcontractors and suppliers having an interest in the contract, their pro rata shares of the payment for all work completed and materials furnished, unless the contractor demonstrates good cause for not making such required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors or suppliers within such 30-day period.*

(c) *The department shall document and monitor claims of nonpayment of prime contractors, subcontractors and suppliers. The claims shall be submitted to the department in writing, and the department shall maintain, in a central file, a record of each claim, specifying the claimant, the nature and the resolution of the claim.*

Section 5. Subsections (1) and (2) of section 337.14, Florida Statutes, are amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(1) Any person desiring to bid for the performance of any construction contract in excess of \$150,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department shall address the qualification of persons to bid on construction contracts in excess of \$150,000 and shall include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant *necessary to perform the specific class of work for which the person is applying for certification. The department is authorized to limit the dollar amount of any contract on which a person is qualified to bid or the total dollar volume of contracts that such person may have under contract at any one time.* Each applicant seeking qualification to bid on construction contracts in excess of \$150,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification shall be accompanied by the latest annual financial statement of the applicant completed within the last 12 months. If the annual financial statement shows the financial condition of the applicant more than 4 months prior to the date on which the application is received by the department, then an interim financial statement must also be submitted. The interim financial statement must cover the period from the end date of the annual statement and must show the financial condition of the applicant no more than 4 months prior to the date on which the application is received by the department. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant or a public accountant approved by the department. The information required by this subsection is confidential and exempt from the provisions of s. 119.07(1). The department shall act upon the application for qualification within 30 days after it is presented.

(2) Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than \$150,000. A person may not file a protest on any project for which he is not certified to bid. However, the successful bidder on any construction contract must furnish a contract bond prior to the award of the contract. *The department may waive the requirement for all or a portion of a contract bond for contracts of \$150,000 or less under s. 337.18(1). A person may not file a protest on any project for which he is not certified to bid.*

Section 6. Subsections (1) and (2) of section 337.16, Florida Statutes, are amended to read:

337.16 Disqualification of delinquent contractors from bidding; denial, 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. Any contractor whose certificate of qualification is suspended or revoked for delinquency shall also be disqualified as a subcontractor during the period of suspension or revocation.

(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 after of the receipt of the notice of intent, the hearing shall be held within 30 days after receipt by the hearing officer of the request for the hearing. The recommended order shall be issued within 15 days after the hearing. The contractor's application for a certificate of qualification shall be denied, or the contractor's current 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) 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 3 months; if such contractor has been suspended twice within a 24-month period, the period of revocation shall be 2 months; and, if such contractor has been suspended 3 times within a 30-month period, the period of revocation 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.

(d) 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 deny, 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, any application for a certificate of qualification, any certification of payment pursuant to s. 337.11(7), or 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;

(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; or

(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 7. Section 337.175, Florida Statutes, is created to read:

337.175 The department shall provide in its construction contracts for retaining a portion of the amount due a contractor for work that he has completed, until completion and final acceptance of the project by the department. Notwithstanding s. 255.052, the department may not accept the substitution of securities for amounts retained on a construction contract; except that a contractor who has completed department projects for a period of the 3 previous consecutive years without being declared delinquent by the department shall be allowed to substitute securities in lieu of retainage.

Section 8. Section 337.18, Florida Statutes, is amended to read:

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

(1) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. For a project for which the contract price is \$150,000 or less, the department may waive the require-

ment for all or a portion of a surety bond if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the Governor and his successors in office and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons furnishing labor, material, equipment, and supplies therefor; however, whenever an improvement, demolition, or removal contract price is \$25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order.

(2) The department shall provide in its contracts for the determination of default on the part of any contractor for cause attributable to such contractor. The department shall have no liability for anticipated profits for unfinished work on a contract which has been determined to be in default. Every contract let by the department for the performance of work shall contain a provision for payment to the department by the contractor of liquidated damages for any such default due to failure of the contractor 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. Such liquidated damages shall be the amounts established in the following schedule:

Original Contract Amount	Daily Charge Per Calendar Day
\$50,000 and under	\$ 200 50
Over \$50,000 but less than \$250,000	300 100
\$250,000 or more but less than \$500,000	400 200
\$500,000 or more but less than \$2,500,000	550 300
\$2,500,000 or more but less than \$5,000,000	650 500
\$5,000,000 or more but less than \$10,000,000	750
\$10,000,000 or more but less than \$15,000,000	1,000
\$15,000,000 or more but less than \$20,000,000	1,250
\$20,000,000 and over	1,250 plus 0.005 percent per day for any amount over \$20,000,000

Any such liquidated damages paid to the department shall be deposited to the credit of the fund from which payment for the work contracted was authorized.

(3) In addition to the liquidated damages required by subsection (2), a contractor who fails to complete a project within the time stipulated in the contract or within such additional time as the department has granted shall forfeit and pay to the department a penalty, for each day such contractor exceeds the allowed contract time, equal to the daily charge per calendar day set forth in subsection (2).

(4) In addition to the provision for payment to the department by the contractor of liquidated damages due to the failure of the contractor to complete the work within the contract time, the department may also recover damages from the contractor for damages suffered by third parties as a result of the contractor's failure to complete the work within the contract time. Nothing herein however, creates a cause of action against the department if no such cause of action previously existed.

(5)(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 per calendar day for a maximum period of 60 days. Any liquidated damages provided for under subsection (2), any penalty provided under subsection (3), 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.

(6)(4) Such bonds shall be subject to the additional obligation that the principal and surety executing the same shall be liable to the state in a civil action instituted by the department or any officer of the state authorized in such cases, for double any amount in money or property the state may lose or be overcharged or otherwise defrauded of, by reason of any wrongful or criminal act, if any, of the contractor, his agent, or employees.

Section 9. Section 337.221, Florida Statutes, is created to read:

337.221 Report on disputed contractual claims.—The department shall prepare a quarterly report on disputed contractual claims, specifying the nature, amount, and status of each claim, the parties thereto, and the reasons for department action or inaction. The Attorney General of the State of Florida is authorized to review the report, comment on specific claims and recommend appropriate action.

Section 10. Subsection (1) of section 337.185, Florida Statutes, is amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation 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 by the department and the contractor, shall be arbitrated by the board after acceptance of the project by the department, *provided, however, that the claim or claims may be submitted to binding private arbitration by stipulation of both parties to the dispute.* A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

Section 11. Section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense *except as provided in paragraphs (a) and (b).*

(a) ~~However,~~ If the relocation of utility facilities, as referred to in s. 111 of the Federal Aid Highway Act of 1956, Pub. L. No. 627 of the Eighty-Fourth Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of such project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate such facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) *When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of such work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.*

(2) If such removal or relocation is incidental to work to be done on such road, the notice shall be given at the same time the contract for the work is advertised for bids, or 30 days prior to the commencement of such work by the authority.

(3) Whenever an order of the authority requires such removal or change in the location of any utility from the right-of-way of a public road, and the owner thereof fails to remove or change the same at his own expense to conform to the order within the time stated in the notice, the authority shall proceed to cause the utility to be removed. The expense thereby incurred shall be paid out of any money available therefor, and such expense shall, *except as provided in these cases in which the state is required by subsection (1) to pay the expense,* be charged against the owner and levied and collected and paid into the fund from which the expense of such relocation was paid.

Section 12. This act shall take effect upon becoming a law except that the amendments made by the act to sections 337.16, 337.175, and 337.18, Florida Statutes, shall take effect September 1, 1987.

Senators Hair, Crenshaw and Girardeau offered the following amendment to Amendment 1 which was moved by Senator Hair and adopted:

Amendment 1A—On page 2, line 5, insert:

Section 1. Paragraphs (b) and (d) of subsection (1) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(b)1. The rate shall be one-fifth (20 percent) of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

2. *Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads and bridges and which were outstanding on the effective date of this act, the rate shall be one-tenth (10 percent) of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.*

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the rapid transit trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system; or:

2. *Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, or the payment of principal and interest on bonds issued for the construction of such roads or bridges.*

(Renumber subsequent sections.)

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

Amendment 1B—On page 7, lines 23-31, and on page 8, lines 1-12, strike all of said lines and insert: in paragraph (b), the department shall deny or suspend ~~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 ~~suspension~~ ~~revo-~~ ~~ca-~~ ~~tion~~ shall be 3 months; if such contractor has been suspended twice within a 24-month period, the period of ~~suspension~~ ~~revo-~~ ~~ca-~~ ~~tion~~ shall be 2 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 ~~suspend~~ ~~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 ~~suspend~~ ~~revoke~~ the certificate of the contractor as provided in this paragraph.

(d) Any contractor who has not been suspended during the previous consecutive 3 years and who is determined to be delinquent and suspended on two or more contracts within a 60-day period, shall be deemed to have been suspended only once for purposes of paragraph (c), regardless of the number of projects determined delinquent during such 60-day period, and, in addition to the period of suspension required in paragraph (b), shall have his certificate of qualification suspended for 30 days in lieu of the penalties provided under paragraph (c).

(e)(d) Such suspension or revocation shall not affect the

Amendment 1 as amended was adopted.

The Committee on Transportation recommended the following amendment which was moved by Senator Kiser:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to transportation-related contracts; amending s. 120.53, F.S.; prescribing time within which a hearing officer in a protest hearing shall render a recommended order; amending s. 337.015, F.S.; providing direction with respect to the administration of public transportation contracts; requiring the department to report annually on the administration of public transportation contracts; amending s. 337.105, F.S.; providing for suspension of persons or firms providing professional services; amending s. 337.11, F.S.; providing that a person protesting an award must post a bond in a specified amount; providing for the payment of certain costs and charges; providing circumstances in which the department may proceed with bid solicitation or contract award; requiring department contracts to contain a provision requiring the prime contractor to pay all affected subcontractors and suppliers for work completed; requiring the documentation and monitoring of claims not paid by the contractor; amending s. 337.14, F.S.; authorizing the department to limit the amount of any contracts on which a person is qualified to bid or the total contracts that a person may have under contract at any one time; providing for waiver of the contract bond; prohibiting a person from filing a protest in certain circumstances; amending s. 337.16, F.S.; requiring a contractor's application for a certificate of qualification to be denied or his current certificate suspended if he is determined delinquent on a contract; providing that, for reasons other than delinquency in progress, the Department of Transportation for good cause may also deny a certificate of qualification; creating s. 337.175, F.S.; requiring the department to include in its construction contracts a provision for retaining a percentage of the amount due the contractor for work completed; prohibiting the department from accepting securities for amounts retained on construction contracts, but requiring the department to allow certain contractors to substitute securities; amending s. 337.18, F.S.; providing for waiver of all or part of the surety bond; providing for alternate security; specifying that the department is not liable for certain anticipated profits when a contract is in default; increasing the amount charged as liquidated damages for certain contracts; providing a penalty for failure to complete a project within the time stipulated in the contract or within any extension granted; providing for recovery for damages suffered by third parties; providing that any liquidated damages, penalty, and additional damages assessed in contracts containing incentive and disincentive provisions are payable when the contract time or extension is exceeded; creating s. 337.221, F.S.; requiring a report on disputed contractual claims; amending s. 337.185, F.S.; providing for private binding arbitration; amending s. 337.403, F.S.; allowing the department to participate in certain work that exceeds cost estimates; limiting the amount of the departmental participation; providing effective dates.

Senators Hair, Crenshaw and Girardeau offered the following amendment to Amendment 2 which was moved by Senator Hair and adopted:

Amendment 2A—In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.055, F.S.; providing that proceeds of a charter county transit system surtax may be remitted to an expressway authority or transportation authority for specified purposes; providing for the reduction of the surtax rate in specified circumstances; amending s. 120.53, F.S.;

Amendment 2 as amended was adopted.

On motion by Senator Kiser, by two-thirds vote CS for HB 123 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	

Nays—None

CS for SB 659 was laid on the table.

SB 713—A bill to be entitled An act relating to motor vehicle racing events; amending s. 549.08, F.S.; providing conditions for the issuance of a permit to conduct a racing event on a public highway or street or in a public park; providing for restoration of asphalt or paving following expiration of the racing permit or within a specified time if the race does not occur; providing an effective date.

—was read the second time by title.

One amendment was adopted to SB 713 to conform the bill to HB 1034.

Pending further consideration of SB 713 as amended, on motions by Senator Gordon, by two-thirds vote HB 1034 was withdrawn from the Committees on Transportation and Economic, Community and Consumer Affairs.

On motions by Senator Gordon—

HB 1034—A bill to be entitled An act relating to motor vehicle racing events; amending s. 549.08, F.S.; providing conditions for the issuance of a permit to conduct a racing event on a public highway or street or in a public park; providing for restoration of asphalt or paving under certain circumstances; providing an effective date.

—a companion measure, was substituted for SB 713 and by two-thirds vote read the second time by title. On motion by Senator Gordon, by two-thirds vote HB 1034 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 713 was laid on the table.

The Senate resumed consideration of—

CS for SB 592—A bill to be entitled An act relating to the mandatory seat belt law; amending s. 316.614, F.S.; exempting motor vehicles operated by rural letter carriers of the United States Postal Service under certain circumstances; providing for immunity from civil liability for physicians certifying exemption of persons from mandatory safety belt law; providing an effective date.

Senator Beard moved the following amendment which failed:

Amendment 1—On page 1, strike all of lines 17-20, and insert:

(6)(a) Neither a person who is

The vote was:

Yeas—6

Beard	Deratany	Peterson
Childers, D.	Hill	Thomas

Nays—22

Mr. President	Grizzle	Kirkpatrick	Ros-Lehtinen
Barron	Hair	Langley	Stuart
Childers, W. D.	Hollingsworth	Lehtinen	Thurman
Crenshaw	Jenne	Malchon	Weinstein
Frank	Jennings	Margolis	
Girardeau	Johnson	Plummer	

Vote after roll call:

Yea to Nay—Thomas

On motion by Senator Stuart, by two-thirds vote CS for SB 592 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Girardeau	Lehtinen	Stuart
Barron	Grizzle	Malchon	Thomas
Brown	Hair	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Plummer	
Dudley	Kirkpatrick	Ros-Lehtinen	
Frank	Langley	Scott	

Nays—3

Beard	Childers, D.	Peterson
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Vote after roll call:

Yea—Kiser

On motion by Senator Stuart, the rules were waived and CS for SB 592 was ordered immediately certified to the House.

On motion by Senator Grizzle, by two-thirds vote HB 1255 was withdrawn from the Committee on Transportation.

On motion by Senator Grizzle—

HB 1255—A bill to be entitled An act relating to handicapped persons; amending s. 320.0848, F.S.; authorizing podiatrists to certify persons as eligible for handicapped parking permits; providing an effective date.

—a companion measure, was substituted for SB 789 and read the second time by title. On motion by Senator Grizzle, by two-thirds vote HB 1255 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

SB 789 was laid on the table.

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

LOCAL CALENDAR

On motion by Senator Deratany, by two-thirds vote HB 1423 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Deratany—

HB 1423—A bill to be entitled An act relating to Brevard County; amending chapter 72-480, Laws of Florida, relating to the Brevard County Free Public Library District; providing for the pledging of revenues of Brevard County other than taxes levied by the district for the purpose of constructing capital improvements for library purposes; providing an effective date.

—a companion measure, was substituted for SB 1322 and read the second time by title. On motion by Senator Deratany, by two-thirds vote HB 1423 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Kirkpatrick	Peterson
Barron	Grant	Kiser	Plummer
Beard	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Stuart
Childers, W. D.	Hill	Malchon	Thurman
Crenshaw	Hollingsworth	Margolis	Weinstein
Deratany	Jenne	McPherson	Weinstock
Dudley	Jennings	Meek	Woodson
Frank	Johnson	Myers	

Nays—None

SB 1322 was laid on the table.

SB 1332—A bill to be entitled An act relating to St. Lucie County; amending section 1 of chapter 12033, Laws of Florida, 1927, as amended; authorizing the Board of Supervisors of Fort Pierce Farms Water Control District to levy a uniform maintenance tax upon the taxable lands of the district, in order to allow annual levies not exceeding \$25 per acre on taxable land until the District's plan of reclamation requires an amendment in which case a circuit court may set a new maintenance tax; amending section 1 of chapter 25447, Laws of Florida, 1949, as amended; authorizing the Board of Supervisors of Fort Pierce Farms Water Control District to assess and levy a minimum maintenance tax upon each tract or parcel of land within the district without regard to the net assessments of benefits assessed as accruing for original construction, in order to allow an annual levy not exceeding the amount levied upon a full acre, upon each such tract or parcel less than one acre in size; providing an effective date.

—was read the second time by title. On motion by Senator Deratany, by two-thirds vote SB 1332 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Kirkpatrick	Peterson
Barron	Grant	Kiser	Plummer
Beard	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Stuart
Childers, W. D.	Hill	Malchon	Thurman
Crenshaw	Hollingsworth	Margolis	Weinstein
Deratany	Jenne	McPherson	Weinstock
Dudley	Jennings	Meek	Woodson
Frank	Johnson	Myers	

Nays—None

SB 1352—A bill to be entitled An act relating to Brevard County; creating the Technological Research and Development Authority; establishing the purposes of the authority; setting a commission to govern the authority; prescribing the duties and responsibilities of the commission and terms of office; providing a procedure for the appointment of the commission; providing for liberal construction; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Deratany, by two-thirds vote SB 1352 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Beard	Childers, W. D.	Deratany
Barron	Childers, D.	Crenshaw	Dudley

Frank	Jenne	Malchon	Ros-Lehtinen
Girardeau	Jennings	Margolis	Stuart
Grant	Johnson	McPherson	Thurman
Grizzle	Kirkpatrick	Meek	Weinstein
Hair	Kiser	Myers	Weinstock
Hill	Langley	Peterson	Woodson
Hollingsworth	Lehtinen	Plummer	

Nays—None

SPECIAL ORDER, continued

SJR 135—A joint resolution proposing an amendment to Section 16, Article I of the State Constitution, relating to rights of victims of crime.

—was read the second time.

Senator Lehtinen moved the following amendment which was adopted:

Amendment 1—On page 1, strike all of lines 30 and 31 and on page 2, strike all of lines 1-4, and insert:

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

On motion by Senator Lehtinen, by two-thirds vote SJR 135 as amended was read the third time in full as follows:

SJR 135—A joint resolution proposing an amendment to Section 16, Article I of the State Constitution, relating to rights of victims of crime.

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

That the following amendment to Section 16 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1988:

ARTICLE I
DECLARATION OF RIGHTS

SECTION 16. Rights of accused and of victims.—

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation against him, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties he will be tried. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE I, SECTION 16

RIGHTS OF VICTIMS OF CRIME.—Proposing an amendment to the State Constitution to grant victims of crime, and the next of kin of homicide victims, the qualified right to be informed, to be present, and to be heard at all crucial stages of criminal proceedings.

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

Yeas—37

Mr. President	Gordon	Kiser	Scott
Barron	Grant	Langley	Stuart
Beard	Grizzle	Lehtinen	Thomas
Brown	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—D. Childers

On motion by Senator Lehtinen, the rules were waived and SJR 135 was ordered immediately certified to the House.

SB 594—A bill to be entitled An act relating to fraudulent practices; creating the Florida Communications Fraud Act; providing legislative intent; providing definitions; making it a felony to engage in a scheme to defraud and thereby obtain property; making it a felony or misdemeanor to engage in a scheme to defraud and, in furtherance of such scheme, engage in an act of communication; providing for the imposition of separate judgments and sentences; repealing ss. 817.035, 817.036, F.S., relating to the crimes of fraud and organized fraud; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote SB 594 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Gordon	Langley	Stuart
Brown	Grant	Lehtinen	Thomas
Childers, D.	Grizzle	Malchon	Thurman
Childers, W. D.	Hair	Margolis	Weinstein
Crawford	Hill	McPherson	Weinstock
Crenshaw	Hollingsworth	Meek	Woodson
Deratany	Jenne	Myers	
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	

Nays—None

On motion by Senator Johnson, the rules were waived and SB 594 was ordered immediately certified to the House.

SB 776—A bill to be entitled An act relating to accessories after the fact; amending s. 777.03, F.S.; providing that specified relatives of a principal or an accessory before the fact of a crime have an affirmative defense to the charge of maintaining or assisting such principal or accessory; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote SB 776 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Weinstock

On motions by Senator Jennings, by two-thirds vote CS for HB 656 was withdrawn from the Committees on Judiciary-Civil, Judiciary-Criminal, Commerce and Appropriations.

On motions by Senator Jennings—

CS for HB 656—A bill to be entitled An act relating to currency transaction reports; amending s. 655.50, F.S.; requiring the Department of Banking and Finance to provide reports of transactions involving currency pursuant to an order of a judge or pursuant to a subpoena duces tecum under certain circumstances; providing a fine; providing an effective date.

—a companion measure, was substituted for CS for SB 824 and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 656 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

CS for SB 824 was laid on the table.

CS for SB 1125—A bill to be entitled An act relating to county and municipal detention facilities; amending s. 951.23, F.S.; providing standards compatible with judicial decisions or good corrections practices; providing staffing standards for jails with a capacity less than 30 prisoners; requiring a detention facility which stocks certain drugs to be licensed as a pharmacy under chapter 465; providing that such a facility is exempt from certain inspection requirements; creating s. 951.26, F.S.; establishing a correctional planning committee within each county in the state to assess the population status of the county correctional system; providing for membership on each committee; requiring each committee to develop a local correctional facilities plan; providing an effective date.

—was read the second time by title. On motion by Senator Hollingsworth, by two-thirds vote CS for SB 1125 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Frank	Johnson	Peterson
Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson

Nays—None

CS for SB 1132—A bill to be entitled An act relating to human resource personnel screening; exempting such personnel and teachers who have been fingerprinted or screened from having to be refingerprinted or rescreened under specified circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Ros-Lehtinen, by two-thirds vote CS for SB 1132 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Beard	Childers, D.	Crawford
Barron	Brown	Childers, W. D.	Crenshaw

Dudley	Hollingsworth	Malchon	Scott
Frank	Jenne	Margolis	Thomas
Girardeau	Jennings	McPherson	Thurman
Gordon	Johnson	Meek	Weinstein
Grant	Kirkpatrick	Myers	Weinstock
Grizzle	Kiser	Peterson	Woodson
Hair	Langley	Plummer	
Hill	Lehtinen	Ros-Lehtinen	

Nays—None

On motion by Senator Ros-Lehtinen, the rules were waived and CS for SB 1132 was ordered immediately certified to the House.

On motions by Senator Malchon, by two-thirds vote CS for HB 274 was withdrawn from the Committees on Commerce and Judiciary-Criminal.

On motion by Senator Malchon—

CS for HB 274—A bill to be entitled An act relating to bingo; amending s. 849.093, F.S., prohibiting callers in bingo games to be participants in the bingo games which they call; requiring cancellation of bingo games under certain circumstances; providing for players in such canceled games to play free of charge in the next game; providing an effective date.

—a companion measure, was substituted for CS for SB 1222 and read the second time by title.

Senator Margolis moved the following amendment:

Amendment 1—On page 2, strike all of line 19 and insert:

Section 2. Subsection (3) is added to section 849.231, Florida Statutes, to read:

849.231 Gambling devices; manufacture, sale, purchase or possession unlawful.—

(3) *This section and section 849.05 do not apply to a vessel of Foreign Registry or a vessel operated under the authority of a country except the United States, while docked in this state or transiting in the territorial waters of this state.*

Section 3. This act shall take effect upon becoming a law.

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

Amendment 1A—On page 2, line 19, insert:

Section 4. A Unitary Tax of 17 percent be assessed on the casino operations of all cruise ships having cruise of less than 24 hours.

Amendment 1 was adopted.

Senator Margolis moved the following amendments which were adopted:

Amendment 2—On page 1, line 2, strike “bingo” and insert: gambling

Amendment 3—On page 1, line 8, after the semicolon (;) insert: exempting certain foreign vessels docked in this state or transiting in territorial waters of the state from certain provisions relating to the possession of gambling devices;

On motion by Senator Malchon, by two-thirds vote CS for HB 274 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Weinstein
Deratany	Hollingsworth	McPherson	Weinstock
Dudley	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—D. Childers

Nay—Peterson

CS for SB 1222 was laid on the table.

On motion by Senator Margolis, the rules were waived and CS for HB 274 was ordered immediately certified to the House.

SB 844—A bill to be entitled An act relating to gambling devices; amending s. 849.235, F.S.; revising the definition of antique slot machines which may be legally possessed; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote SB 844 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gordon	Kirkpatrick	Plummer
Beard	Grant	Kiser	Ros-Lehtinen
Brown	Grizzle	Langley	Scott
Childers, D.	Hair	Lehtinen	Thomas
Childers, W. D.	Hill	Malchon	Thurman
Crawford	Hollingsworth	Margolis	Weinstein
Deratany	Jenne	McPherson	Weinstock
Frank	Jennings	Meek	Woodson
Girardeau	Johnson	Myers	

Nays—1

Dudley

Vote after roll call:

Nay—Peterson

Consideration of CS for SB's 468, 549 and 648 was deferred.

SJR 459—A joint resolution proposing an amendment to Section 17, Article III of the State Constitution, relating to impeachment, to provide for the impeachment of county court judges.

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

That the following amendment to Section 17 of Article III of the State Constitution is hereby agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1988:

ARTICLE III LEGISLATURE

SECTION 17. Impeachment.—

(a) The governor, lieutenant governor, members of the cabinet, justices of the supreme court, judges of district courts of appeal, and judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and unless the governor is impeached he may by appointment fill the office until completion of the trial.

(c) All impeachments by the house of representatives shall be tried by the senate. The chief justice of the supreme court, or another justice designated by him, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not. The time fixed for trial shall not be more than six months after the impeachment. During an impeachment trial senators shall be upon their oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present. Judgment of conviction in cases of impeachment shall remove the offender from office and, in the discretion of the senate, may include disqualification to hold any office of honor, trust or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT ARTICLE III, SECTION 17

IMPEACHMENT OF COUNTY COURT JUDGES.—Proposing an amendment to the State Constitution to provide that county court judges shall be subject to impeachment by the Legislature and thereby removing present authority of Governor to suspend county court judges.

—was read the second time in full. On motion by Senator Langley, by two-thirds vote SJR 459 was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Gordon	Kiser	Scott
Brown	Grant	Langley	Stuart
Childers, D.	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

SB 456—A bill to be entitled An act relating to legal expense insurance; amending s. 642.025, F.S.; prohibiting insurers from providing a legal defense, or indemnifying against the cost of legal expenses incurred, in certain traffic or boating criminal prosecutions; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 456 to conform the bill to HB 360.

Pending further consideration of SB 456 as amended, on motion by Senator Crawford, by two-thirds vote HB 360 was withdrawn from the Committee on Commerce.

On motion by Senator Crawford—

HB 360—A bill to be entitled An act relating to legal expense insurance; amending s. 642.025, F.S., authorizing legal expense insurance to provide for legal services or indemnity against the cost of legal services arising out of certain noncriminal traffic or boating infractions subject to certain restrictions; creating s. 642.048, F.S., prohibiting the sale of certain prepaid legal expense policies or contracts on the premises of establishments licensed to sell alcoholic beverages; providing an effective date.

—a companion measure, was substituted for SB 456 and read the second time by title. On motion by Senator Crawford, by two-thirds vote HB 360 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Grant	Kiser	Scott
Brown	Grizzle	Langley	Stuart
Childers, D.	Hair	Lehtinen	Thurman
Childers, W. D.	Hill	Malchon	Weinstein
Crawford	Hollingsworth	McPherson	Weinstock
Crenshaw	Jenne	Meek	Woodson
Deratany	Jennings	Myers	
Dudley	Johnson	Plummer	

Nays—1

Frank

Vote after roll call:

Yea—Peterson

SB 456 was laid on the table.

CS for SB 242—A bill to be entitled An act relating to service of process; amending s. 30.231, F.S.; increasing the fee for witness subpoenas; increasing the fee for levy of execution; amending s. 48.031, F.S.; providing for substitute service on an individual under certain circumstances; amending s. 48.061, F.S.; extending the manner by which process may be served on partnerships; limiting the assets to which such judgment may attach; amending s. 48.183, F.S.; extending the manner by which process may be served in action for possession of residential services; amending s. 56.041, F.S.; providing for disposition of unsatisfied executions after a specified period of time; amending s. 56.22, F.S.; providing for sheriff's sale at the time, place, and date advertised in the notice; amending s. 78.12, F.S.; requiring a writ to be directed and delivered to the proper officer in the jurisdiction into which the property has been removed; amending s. 409.257, F.S.; conforming a cross-reference; amending s. 713.18, F.S.; eliminating a manner of serving certain notices; repealing s. 56.23, F.S., which requires all property levied upon to be sold where advertised in the notice of sheriff's sale; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote CS for SB 242 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Frank	Jennings	Myers
Beard	Girardeau	Johnson	Plummer
Brown	Grant	Kiser	Ros-Lehtinen
Childers, D.	Grizzle	Langley	Scott
Childers, W. D.	Hair	Lehtinen	Stuart
Crawford	Hill	Malchon	Weinstein
Deratany	Hollingsworth	McPherson	Weinstock
Dudley	Jenne	Meek	Woodson

Nays—None

Vote after roll call:

Yea—Peterson

CS for SB 222—A bill to be entitled An act relating to elections; creating ss. 101.6101-101.6107, F.S., the "Mail Ballot Election Act"; authorizing referendum elections by mail ballot; restricting application to electors of specified political subdivisions; requiring approval of the Secretary of State; providing restrictions; providing for costs of election; providing procedures for the conduct of election; providing for challenge of vote; providing for application of general election laws and absentee voting laws to the act; requiring the Department of State to adopt rules to implement the act; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote CS for SB 222 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Johnson	Plummer
Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thurman
Crawford	Hill	Malchon	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	

Nays—None

Vote after roll call:

Nay—Peterson

SB 68—A bill to be entitled An act relating to former justices and judges assigned to temporary judicial duty; amending s. 25.073, F.S.; prescribing qualifications for eligibility to receive compensation for such service; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of lines 9 and 10, and insert:

Section 2. Subsection (1) of section 741.07, Florida Statutes, is amended to read:

741.07 Persons authorized to solemnize matrimony.—

(1) All regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and all judicial officers, retired judges, clerks of the circuit courts, and notaries public of this state may solemnize the rights of matrimonial contract, under the regulations prescribed by law. Nothing in this section shall make invalid a marriage which was solemnized by any member of the clergy, or as otherwise provided by law prior to July 1, 1978.

Section 3. This act shall take effect October 1, 1987, except that this section and section 1 shall take effect upon becoming a law.

Amendment 2—In title, on page 1, line 6, after the semicolon (;) insert: changing the rate of compensation of such justices and judges; amending s. 741.07, F.S.; authorizing retired judges to solemnize matrimony;

On motion by Senator Grant, by two-thirds vote SB 68 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Frank	Johnson	Myers
Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Langley	Stuart
Childers, W. D.	Hill	Lehtinen	Thurman
Crenshaw	Hollingsworth	Malchon	Weinstein
Deratany	Jenne	McPherson	Weinstock
Dudley	Jennings	Meek	Woodson

Nays—None

Vote after roll call:

Yea—Peterson

Consideration of CS for SB 287 was deferred.

CS for SB 239—A bill to be entitled An act relating to swimming pool facilities; amending s. 514.033, F.S.; providing for a fee; amending s. 514.0115, F.S.; providing an exemption for pools serving certain condominiums and cooperatives from certain requirements imposed by the Department of Health and Rehabilitative Services; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote CS for SB 239 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hill	Malchon	Thurman
Childers, W. D.	Hollingsworth	Margolis	Weinstein
Crawford	Jenne	McPherson	Weinstock
Crenshaw	Jennings	Meek	Woodson
Deratany	Johnson	Myers	
Dudley	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

On motion by Senator Girardeau, by two-thirds vote HB 461 was withdrawn from the Committee on Commerce.

On motion by Senator Girardeau—

HB 461—A bill to be entitled An act relating to insurance; creating ss. 627.6403 and 627.6618, F.S., requiring individual and group health insurance policies that provide acupuncture coverage to meet certain conditions; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for SB 367 and read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 461 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Johnson	Plummer
Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thurman
Crawford	Hill	Malchon	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Peterson

SB 367 was laid on the table.

CS for SB 377—A bill to be entitled An act relating to organ and tissue donation; amending s. 732.915, F.S.; providing that certain donor registration cards be recorded on microfilm; amending s. 732.922, F.S.; providing that certain requirements concerning organ and tissue donation apply to certain licensed hospital facilities; amending s. 873.01, F.S.; adding to the list of human organs and tissues the purchase or sale of which is prohibited; amending s. 873.05, F.S.; increasing criminal penalties for certain advertising for sale, purchase, or sale of a human embryo; providing an effective date.

—was read the second time by title. On motion by Senator Frank, by two-thirds vote CS for SB 377 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Dudley	Kirkpatrick	Ros-Lehtinen
Barron	Frank	Kiser	Scott
Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thurman
Childers, D.	Hill	Malchon	Weinstein
Childers, W. D.	Hollingsworth	McPherson	Weinstock
Crawford	Jenne	Meek	Woodson
Crenshaw	Jennings	Myers	
Deratany	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau, Peterson

On motion by Senator Frank, the rules were waived and CS for SB 377 was ordered immediately certified to the House.

Consideration of SJR 356 was deferred.

SB 812—A bill to be entitled An act relating to sewage treatment facilities; amending s. 403.1822, F.S.; redefining the term "local governmental agencies" for purposes of the Florida Water Pollution Control and Sewage Treatment Plant Grant Act to include specific districts and authorities; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

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

Section 2. A new subsection (7) is added to section 403.706, Florida Statutes (1985), to read:

403.706 Local resource recovery and management programs.—

(7) To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(a) To contract with persons to provide resource recovery services or operate resource recovery facilities on behalf of the county or municipality.

(b) To indemnify persons providing resource recovery services or operating resource recovery facilities for liabilities or claims arising out

of the provision or operation of such services or facilities that are not the result of the sole negligence of the persons providing services or operating such facilities.

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b) of this subsection, notwithstanding the limitations prescribed in s. 768.28, F.S.

Section 3. A new paragraph (i) is added to subsection (2) of section 403.702, Florida Statutes (1985), to read:

403.701 Legislative findings; public purpose.—

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

(i) Encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including, but not limited to, contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality.

(Renumber subsequent sections.)

Further consideration of SB 812 was deferred.

CS for SB 287—A bill to be entitled An act relating to the Florida Residential Landlord and Tenant Act; amending s. 83.49, F.S.; providing that landlords of certain dwelling units shall not be required to post a bond with respect to deposit money or advance rent under certain circumstances; providing an alternative procedure for the posting of bond by certain landlords or agents; amending s. 83.59, F.S.; directing the court with respect to certain activities for the removal of a tenant to enter its judgment in a certain time period; creating s. 83.595, F.S.; providing for choice of remedies upon breach by tenant; providing for good faith duty on part of landlord to relet when electing to retake possession; providing a definition for good faith in attempting to relet the premises; creating s. 83.67, F.S.; providing prohibited practices by landlords; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote CS for SB 287 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kiser	Scott
Beard	Gordon	Langley	Stuart
Brown	Grant	Lehtinen	Thomas
Childers, D.	Grizzle	Malchon	Thurman
Childers, W. D.	Hair	McPherson	Weinstein
Crawford	Hill	Meek	Weinstock
Crenshaw	Hollingsworth	Myers	Woodson
Deratany	Jenne	Peterson	
Dudley	Johnson	Plummer	
Frank	Kirkpatrick	Ros-Lehtinen	

Nays—None

On motion by Senator Girardeau, the rules were waived and CS for SB 287 was ordered immediately certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Scott, by two-thirds vote CS for SB 420, SB 538, CS for SB 563, SB 650, CS for SB 763, Senate Bills 768 and 810, CS for SB 819, SB 1039 and CS for SB 1088 were withdrawn from the Committee on Appropriations.

Recess

On motion by Senator Langley, the Senate recessed at 12:03 p.m. to reconvene at 3:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 3:00 p.m. A quorum

present—37:

Mr. President ¹	Gordon	Kiser	Scott
Barron	Grant	Langley	Stuart
Beard	Grizzle	Lehtinen	Thomas
Brown	Hair	Malchon	Thurman
Childers, D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Ros-Lehtinen	

SPECIAL ORDER, continued

CS for SB's 468, 549 and 648—A bill to be entitled An act relating to family attendance at horseraces; creating s. 550.041, F.S.; permitting minors to attend horseraces under certain circumstances; prohibiting minors from placing wagers; amending ss. 550.04, 550.41, F.S.; conforming language; providing an effective date.

—was read the second time by title. On motion by Senator McPherson, by two-thirds vote CS for SB's 468, 549 and 648 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—20

Mr. President	Hill	Lehtinen	Ros-Lehtinen
Beard	Jenne	Malchon	Stuart
Deratany	Jennings	Margolis	Thurman
Girardeau	Kiser	McPherson	Weinstein
Gordon	Langley	Meek	Woodson

Nays—14

Barron	Frank	Hollingsworth	Thomas
Brown	Grant	Johnson	Weinstock
Childers, W. D.	Grizzle	Myers	
Dudley	Hair	Peterson	

Vote after roll call:

Nay—D. Childers

On motion by Senator McPherson, the rules were waived and CS for SB's 468, 549 and 648 was ordered immediately certified to the House.

On motions by Senator Brown, by two-thirds vote HJR 214 was withdrawn from the Committees on Finance, Taxation and Claims; and Rules and Calendar.

On motion by Senator Brown—

HJR 214—A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution relating to taxation.

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

That the amendment to Section 4 of Article VII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1988:

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, *land producing high water recharge to Florida's aquifers* or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

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

ASSESSMENT OF HIGH WATER RECHARGE LANDS

Provides that land producing high water recharge to Florida's aquifers may be classified by general law and assessed solely on the basis of character or use.

—a companion measure, was substituted for SJR 356 and by two-thirds vote read the second time in full. On motion by Senator Brown, by two-thirds vote HJR 214 was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gordon	Kirkpatrick	Ros-Lehtinen
Barron	Grant	Kiser	Scott
Beard	Grizzle	Langley	Stuart
Brown	Hair	Lehtinen	Thomas
Childers, D.	Hill	Malchon	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	

Nays—1

Frank

SJR 356 was laid on the table.

The Senate resumed consideration of—

SB 812—A bill to be entitled An act relating to sewage treatment facilities; amending s. 403.1822, F.S.; redefining the term "local governmental agencies" for purposes of the Florida Water Pollution Control and Sewage Treatment Plant Grant Act to include specific districts and authorities; providing an effective date.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 2—On page 1, line 7, after the semicolon (;) insert: amending s. 403.706, F.S.; authorizing counties and municipalities to indemnify certain persons and waive sovereign immunity; amending s. 403.702, F.S.; encouraging counties to promote solid waste management and resource recovery;

On motion by Senator Crawford, by two-thirds vote SB 812 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Girardeau	Johnson	Peterson
Barron	Gordon	Kirkpatrick	Ros-Lehtinen
Beard	Grant	Kiser	Scott
Brown	Grizzle	Langley	Stuart
Childers, D.	Hair	Lehtinen	Thomas
Childers, W. D.	Hill	Malchon	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson

Nays—None

CS for SB 941—A bill to be entitled An act relating to municipalities and counties; providing definitions; requiring municipalities and counties to consider certain criteria at a public hearing when granting cable service franchises; providing the circumstances under which an overlapping cable service franchise may be granted; providing exceptions for certain current cable service franchises; providing for enforcement and attorneys' fees; providing an effective date.

—was read the second time by title.

Senators Dudley and Kiser offered the following amendments which were moved by Senator Dudley and adopted:

Amendment 1—On page 4, strike all of lines 15-23

Amendment 2—On page 1, strike line 10

On motion by Senator Dudley, by two-thirds vote CS for SB 941 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

Mr. President	Girardeau	Jennings	Myers
Barron	Grant	Johnson	Ros-Lehtinen
Beard	Grizzle	Kiser	Weinstein
Crawford	Hair	Langley	Weinstock
Deratany	Hollingsworth	Lehtinen	
Dudley	Jenne	Malchon	

Nays—10

Brown	Gordon	Meek	Woodson
Childers, D.	Hill	Stuart	
Frank	Margolis	Thurman	

Vote after roll call:

Yea—W. D. Childers

Special Guest

The President introduced to the Senate the Honorable Tom Lewis, United States Congressman from Florida.

Motion

On motion by Senator Langley, the rules were waived and the Committee on Judiciary-Civil was granted permission to meet Monday, June 1 to consider SB 1219, HB 826 and SB 499.

On motion by Senator Barron, the rules were waived and the Honorable B. J. Driver was admitted to the chamber to make a presentation.

EXECUTIVE BUSINESS—Executive Order of Suspension

Special Master B. J. Driver, to whom was referred the Executive Order of Suspension of Jan Pietrzyk, submitted the following report:

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

RE: EXECUTIVE ORDER NUMBER 86-225
SUSPENSION OF JAN PIETRZYK
SUPERVISOR OF ELECTIONS, LEON COUNTY

REPORT AND RECOMMENDATION OF SPECIAL MASTER

Jan Pietrzyk, duly elected Supervisor of Elections, Leon County, Florida, was on December 5th, 1986, suspended from office by the Governor's executive order number 86-225.

The order of suspension charges Mr. Pietrzyk with seven offenses which the Governor avers constitute misfeasance, neglect of duty, or incompetence as used in Article IV, Section 7 of the Florida Constitution.

Honorable John W. Vogt, President of the Senate, on February 16, 1987, appointed the undersigned, B. J. Driver, as Special Master, to conduct preliminary and final hearings on the order of suspension.

Pursuant to the order of appointment on March 3rd, 1987, a preliminary hearing was held in Tallahassee. Commencing March 30, 1987 and ending March 31st, 1987 in the senate office building, Tallahassee, Florida, full evidentiary hearing was conducted on the merits of the order of suspension.

The Governor appointed the State Attorney of the Second Judicial Circuit of Florida to represent him in the prosecution of the order of suspension. Mr. Peter Antonacci, Assistant State Attorney, prosecuted on behalf of the Governor's office. Ms. Barbara Linthicum from the Governor's office was also present and assisting throughout the proceedings. Mr. Pietrzyk represented himself at the pre-trial conference but was represented at the evidentiary hearing on the 30th and 31st of March by Attorney Douglas W. Abruzzo.

The evidentiary hearing was conducted generally in accordance with the Florida Rules of Evidence except where those rules were waived.

Mr. Antonacci presented the Governor's case with skill, diligence and clarity but with fairness to Mr. Pietrzyk. Mr. Pietrzyk relied primarily on cross examination of the Governor's witnesses as his defense. Mr. Abruzzo exhibited skill and ingenuity in his examination of the Governor's witnesses.

Numerous motions to dismiss on legal ground were made by Mr. Pietrzyk. These motions were denied by orders stated on the record.

CHARGE NO. 1

1. During the term of his office, JAN PIETRZYK with knowledge that many of the voting machines were not in proper working order, failed to have the voting machines repaired to proper working order prior to the voting machines being used in the first primary election on September 2, 1986, as required by sections 101.29 and 101.35, Florida Statutes.

FACT

Jan Pietrzyk at all times pertinent to the election of September 2nd 1986 was Supervisor of Elections of Leon County, Florida.

Leon County, Florida conducts its elections by mechanical voting machine and as of the election of September 2nd, 1986 owned 247 voting machines manufactured by AVM, Inc. The Supervisor of Elections of Leon County, Florida was by law charged with responsibility to keep, maintain, service, set up and locate these voting machines for the election of September 2nd of 1986.

Mechanical voting machines are complex mechanisms. They require continuous maintenance and upkeep in order to function properly at an election. Mr. Pietrzyk in April of 1985 was granted a \$16,000 supplement by the Board of County Commissioners of Leon County to pay the cost of having the Leon County voting machines inspected, given preventative maintenance and placed in good repair for forthcoming elections.

Mr. Pietrzyk contracted with Sequoia Pacific Systems Corporation, successor to AVM, Inc., the original manufacturer of the voting machines, to inspect the machines and report what would be necessary to bring them into proper functioning condition. Roy Lusk and James Washburg, the service technicians from Sequoia Pacific Systems Corporation, reported on October 2nd, 1985 that of the 247 voting machines inspected only 37 were in satisfactory condition and that 205 of the voting machines needed essential repairs ranging from minor to major. (See Exhibit Number 4)

Mr. Pietrzyk upon receipt of this report and recommendations instructed his staff to make the repairs recommended and to keep a record of the repairs and maintenance work done by the voting machine technicians.

Mr. Pietrzyk from October 2nd, 1985 up until the first primary election of September 2nd, 1986, was fully aware of the deplorable condition of the voting machines under his control.

Notwithstanding his knowledge of their condition, Mr. Pietrzyk for the election of September 2nd, 1985 in Leon County, Florida caused to be placed at the polling places voting machines which were improperly set up or defective in the following respects: (See Exhibit Number 12)

- A. The ballot on 150 of the voting machines was misaligned to the extent that the voter found it difficult if not impossible to be sure that the lever which the voter pulled cast a ballot for that voter's choice of candidate;
- B. 24 voting machines had plastic protectors, which prevents the ballot from being misaligned or tampered with, missing;
- C. 7 machines had defective counters. Some of the machines did not have the name of the candidate on them;
- D. 4 machines were found to have broken inside public counters. These counters show the number of voters who use the machine at a given election;
- E. 3 machines had outside public counters broken. Outside public counters like inside public counters show the number of voters using the machine in the election;
- F. 10 machines were placed with all compensators missing;
- G. 6 machines with pins in the wrong places. Compensators and pins control the candidates that a voter may vote upon when he goes into the voting machine booth. On the ten machines without compensators a voter would be permitted or could vote for every candidate on the ballot whether he be Republican, Democrat or Independent. On those six machines with pins in the wrong place the voters were wrongfully restricted in his or her choice of what candidate or issues he or she might vote upon;

H. 2 machines were placed in the wrong polling place, that is to say the ballots on these machines were for another polling place;

I. 30 machines had the lock out pointers in the wrong place or the lock outs were missing;

J. 7 of the voting machines had broken pointers or levers. This cost the voter his vote if the broken pointer was over the name of his or her candidate of choice;

K. 4 machines were situated in the wrong polling place;

L. 1 voting machine had the outside public counter missing;

M. 1 machine had the glass over the protective counter broken;

N. 1 machine had the roller missing in the main interlock;

O. 1 machine had the light fixture completely gone;

P. 1 machine, because of missing rivets, had the primary cardholder loose.

A voting machine was placed in evidence by the Governor. The cause and effect of the foregoing described voting machine defects was explained and demonstrated by expert witnesses; Glenn Boord of Uni-Lect, Inc., a voting machine company, and Mr. Lusk from Sequoia Pacific Systems Corporation, successor to the manufacturer of the voting machine. The testimony of the experts is voluminous and has only been summarized as herein but the record in full is available if needed.

FINDINGS

The Special Master finds that the Governor has sustained Charge 1 of the order of suspension and that the evidence supports the charge that Jan Pietrzyk, Supervisor of Elections, Leon County, Florida with full knowledge that many of the voting machines under his supervision were not in proper working order failed to have the voting machines properly repaired and maintained for the first primary election of September 2nd, 1986.

CHARGE NO. 2

2. During the term of his office, JAN PIETRZYK failed to appoint a voting machine custodian or deputy voting machine custodian who was thoroughly trained and instructed in the repair, maintenance, and supervision of voting machines, as required by sections 101.34 and 101.35, Florida Statutes.

FACTS

Mr. Michael Price, from January, 1985 through March, 1986 was the designated voting machine custodian and voting machine technician for Mr. Pietrzyk. Mr. Price had been an employee of the Supervisor's Office, Leon County for several years prior to Mr. Pietrzyk being elected to the office. Price was well-trained and experienced in the repair, maintenance and supervision of voting machines and performed his duties well for Mr. Pietrzyk until his departure from Mr. Pietrzyk's office in March of 1986.

When Michael Price left the Supervisor's Office, Mr. Pietrzyk appointed Warren Braswell as his voting machine custodian. Mr. Braswell, a young man in his early twenties, had no previous experience with voting machines except very limited opportunity to assist Mr. Price prior to the latter's leaving the office.

Braswell's previous work experience was a hitch in the Army where he was a truck driver for an Army combat engineer company.

Mr. Pietrzyk had no personal experience, or training, in the repair, maintenance and upkeep of voting machines nor in setting the machines up for an election. He relied upon Mr. Braswell even though Mr. Price advised him Braswell was too inexperienced to repair, set up and program the voting machines for the September 5th election.

Mr. Braswell with commendable candor testified that he is now aware that he was not qualified to set up the machines for the primary election of September 2nd, 1986 and did not have the necessary training nor experience to do or supervise the repair, maintenance and upkeep of the voting machines. The proof amply supports this admission by Mr. Braswell.

FINDINGS

The Special Master finds that the Governor has sustained Charge 2 of the order of suspension and that Jan Pietrzyk did fail to appoint a voting machine custodian thoroughly trained and instructed in the repair, maintenance and supervision of voting machines.

CHARGE NO. 3

3. Prior to the first primary election on September 2, 1986, JAN PIETRZYK failed to properly instruct inspectors, clerks, and other election officials in their duties and responsibilities as election officials, as required by section 102.012, Florida Statutes.

FACTS

A Supervisor of Elections, in this case Respondent Jan Pietrzyk, has a duty under the statutes to train and instruct poll workers and other officials working at the polls in their responsibilities, duties and conduct.

Mr. Pietrzyk in accordance with his responsibilities did conduct schools or classes for poll workers at which time they were instructed concerning their duties. It is the Governor's contention that these instructions were inadequate and that the poll workers were not properly instructed as to their duties and responsibilities. The Governor called witnesses who supported this charge.

Mr. Pietrzyk called as witness poll workers who attended the school conducted by him. These witnesses who had worked under previous supervisors, testified that the school conducted by Mr. Pietrzyk was adequate and compared favorably with those schools conducted by Mr. Pietrzyk's predecessors in office.

FINDINGS

Master finds the Governor has failed to sustain the Charge 3 inasmuch as the testimony relating to the charge was equivocal and not conclusive.

CHARGE NO. 4

4. Prior to the first primary election on September 2, 1986, JAN PIETRZYK had printed ballots which did not meet the requirements of section 101.27(1), Florida Statutes, and when placed in the voting machines, were not properly aligned with the voting machine levers as required by section 101.27(2), Florida Statutes.

FACTS

The ballot which is placed on the voting machine and on which the voter relies in casting his or her ballot requires that the ballot be in precise alignment with the voting levers, in other words a candidate's name must appear in strict conformity with the lever which will cast a vote for the candidate.

Roughly 80 percent of the machines which Mr. Pietrzyk used in the September 2nd primary election had ballots which were not in alignment as required. This misalignment ranged from severe to slight.

This problem resulted from poor or improper design of the ballot by Warren Braswell, Mr. Pietrzyk's voting machine custodian. The ballots were on an improper length making it impossible in many cases to properly align them with the candidates name.

The ballots were cut, taped and adjusted in an effort to make them fit. This did not solve the problem. The ballots were out of position when the voting machines were set up at the polling place.

The confusion resulting from poor design of the ballot by Mr. Braswell was compounded further in that procedures and specifications for printing the ballot were not followed when the ballot was laid out. Adding to the problem of misalignment the printing on the ballot was such that frequently voters had difficulty in ascertaining which lever they should pull for the candidate they wished to vote for.

FINDINGS

The Special Master finds that the Governor has sustained Charge Number 4 and further finds that Jan Pietrzyk did cause to have printed ballots which did not meet the requirements of Section 101.27(1), Florida Statutes and that these ballots could not be properly aligned with voting machine levers as required by Section 101.27(2), Florida Statutes.

CHARGE NO. 5

5. Prior to the first primary election on September 2, 1986, JAN PIETRZYK, after inserting the ballots into the voting machines and before sealing the machines, failed to have the voting machines tested to determine whether the voting machines were in proper condition and working order and whether the ballots were in proper order, as required by section 101.35, Florida Statutes.

FACTS

Mr. Boord and Mr. Lusk the two voting machine experts and Helen MacNeil who for 13 years was the Supervisor of Elections of Marion County, all testified that essential and critical to assuring that voting machines will operate properly on election day a test vote must be run on each voting machine after that machine is set up for the election.

No tests whatsoever were conducted on any of the machines used in the September 2nd, 1986 primary election.

The ballots as originally ordered and printed were so defective that Mr. Pietrzyk ordered that they be reprinted. This delayed insertion of the reprinted ballots on the machine until August 23. The weekend of August 23rd the atmosphere at the voting machine warehouse was frantic if not chaotic.

In addition to regular employees, two children of an employee and two teenage boys were pressed into service in preparing the voting machines.

Placing the ballot on the machine is a tedious and time-consuming process if placement is done properly. It is to be noted that on the machines there were 15 different ballots because of different issues and candidates and various precincts. Mr. Braswell worked diligently and by himself programmed approximately 140 machines. Unfortunately, some of these machines were programmed without the benefit of the printed ballot. The programming of machine and placement of the ballot thereon was not completed until late evening of August 24, 1986. (See report of Dale E. Croy, Exhibit 14)

It is the late date of completion that prevented testing. Mr. Braswell admitted that time did not permit testing and that Mr. Pietrzyk did not order or direct that testing be done.

FINDINGS

It is the finding of the Special Master that the Governor has proved Charge 5 and that Jan Pietrzyk failed to have the voting machines tested to determine whether the voting machines were in proper condition and working order and whether the ballots were in proper order.

All three experts who testified were of the opinion that 95 percent of the failures relating to the machines and the ballot could have been corrected if the customary and necessary test vote had been conducted on each of the machines.

CHARGE NO. 6

6. Prior to the first primary election on September 2, 1986, JAN PIETRZYK failed to have the party preference lock-out mechanism properly set or failed to properly instruct the election officials in the operation of the party preference lock-out mechanism, resulting in the malfunctioning of numerous voting machines, thereby depriving certain electors of the exercise of their franchise.

FACTS

The party preference lock-out mechanism on the voting machines used in the election of September 2nd, 1986 consist of a lever or dial known as a "primary control lever". The poll worker when the voter went into the machine, set the lever at position number 1 for a democratic voter and position number 7 for a republican voter and on position number 4 for an independent voter voting a nonpartisan ballot.

The poll workers are instructed when and how to regulate this lever so that a democrat cannot vote for republican candidates and republican candidates cannot vote for democrats and nonpartisan electors can only vote nonpartisan ballots.

In the four elections conducted by Mr. Pietrzyk prior to the September 2nd, 1986 primary the poll workers had been instructed to move the primary control lever all the way to the top or all the way to the absolute bottom. Unfortunately in the election of September 2nd the voting machine indicator arm had been programmed slightly different requiring some slight deviation from all the way up and all the way to the bottom.

The poll workers either were not instructed on this slight deviation or did not understand it. The effect was that the control lever being improperly set by the poll worker resulted in some voters not being able to vote at all for their candidates. It also resulted in long lines and delays in voting until the poll workers were either correctly instructed or they solved the problem themselves.

FINDINGS

The Special Examiner finds the Governor has proved Charge 6 and that Jan Pietrzyk failed to have the party preference lock-out mechanism properly set or failed to properly instruct poll workers in the operation of party preference lock-out mechanisms and that this resulted in malfunction of some voting machines causing delays in voting or depriving some electors of their vote.

CHARGE NO. 7

7. During the first primary election on September 2, 1986, JAN PIETRZYK failed to have available operative voting machines to replace inoperative voting machines, adequate personnel to repair inoperative machines, or adequate personnel to deliver substitute (written) ballots to the precincts for use in the event of inoperative voting machines, as provided for in sections 101.40 and 101.43, Florida Statutes.

FACTS

For the election of September 2nd, 1986 Jan Pietrzyk, the Supervisor of Elections, was not prepared to nor did he have available reserve operative voting machines to substitute for any machine which became inoperative, defective or not capable of receiving votes as programmed. Neither did Mr. Pietrzyk have available personnel to repair broken or inoperative machines and lastly he did not have available personnel or the means to deliver and provide substitute, that is to say written ballots to the precincts where inoperative voting machines occur.

FINDINGS

The Governor has sustained Charge Number 7.

CONCLUSIONS OF LAW AND FACT

The Governor's order of suspension alleges that the acts and conduct charged to Jan Pietrzyk constitute misfeasance, neglect of duty or incompetency as those terms are used in Article IV, Section 7 of the Florida Constitution.

To support and justify Mr. Pietrzyk's removal from office under the Governor's order of suspension two things must be conclusively determined;

First, that the acts and conduct charged were actually committed by Mr. Pietrzyk;

Secondly, that the acts or conduct constituted misfeasance, neglect of duty or incompetency. The Supreme Court of Florida in *State v. Coleman*, 155 So. 129 defined misfeasance, neglect of duty and incompetency. The Senate had repeatedly affirmed these definitions in cases of suspension.

Misfeasance. Misfeasance is a performance by an officer in his official capacity of a legal act in an improper or illegal manner; it is literally a misdeed or trespass.

Neglect of duty. Neglect of duty as referenced to the neglect of failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect be willful, through malice, ignorance, or oversight.

Incompetence. Incompetence has reference to any physical, moral or intellectual quality, the lack of which incapacitates one to perform the duties of his office. Incompetency may arise from gross ignorance of the official duties or gross carelessness in the discharge of them. It may also arise from lack of judgment and discretion or from a serious physical or mental defect not present at the time of election.

Was Jan Pietrzyk guilty of misfeasance in office as charged in the order of suspension?

The facts are not in dispute as to Charges 1, 2, 4, 5, 6 and 7 which charges the Governor sustained. Mr. Pietrzyk did not call any witnesses to controvert the Governor's evidence on the charges, except Charge 3, of

course. Mr. Pietrzyk tacitly concedes that there were problems at the polls on September 2nd, 1986 but contends they fail to show misfeasance, neglect of duty or incompetency on his part. Counsel for the Governor argues that the evidence on those charges which the Governor has sustained clearly support the conclusion that Mr. Pietrzyk was guilty of misfeasance, neglect of duty and incompetency in the discharge of his duties during the times pertinent to the order of suspension.

The Special Master finds that the evidence does not support a conclusion that Mr. Pietrzyk performed in his official capacity any legal act in an improper or legal manner which would amount to a misdeed or trespass. It is therefore the finding that evidence does not support the charge of misfeasance as laid in the order of suspension.

Neglect of duty. In considering whether or not the conduct which Mr. Pietrzyk is charged with having committed improperly constitutes neglect of duty it is appropriate to consider not only the acts themselves or the failure to act but the consequence of those acts. This is for the reason that in determining whether or not neglect of duty is gross the frequency and gravity of the acts and whether or not they endanger or threaten the public welfare is to be given weight.

What were those results of conflicts? Nancy Carroll, Assistant Supervisor of Elections under Mr. Pietrzyk testified that on September the 2nd, 1986, "Hundreds of voters were turned away from the polls".

Mrs. Whitehead, the counter clerk in Mr. Pietrzyk's office on September 2nd, 1986 testified that "50 to 100 voters came to the office complaining that they had been unable to vote". The complaints of the irate voters to whom Mrs. Whitehead talked was that due to faulty voting machines or problems at the polls they were unable to vote or were hindered in their vote.

No right of citizenship is more cherished or valuable than the right to the franchise. If Mr. Pietrzyk's neglect in failing to have the voting machines under his care properly working and in place on election day denied several hundred people this right to cast their ballots then he had gravely threatened public welfare and his neglect of duty becomes gross.

The Special Master finds that the acts and conduct charged and proved in the order of suspension constitutes gross neglect of duty on the part of Jan Pietrzyk.

Incompetency. The Special Master finds that Jan Pietrzyk demonstrated lack of judgment in his preparation for the election of September 2nd, 1986 and that he was grossly negligent in the discharge of his duties to keep in repair, maintain and supervise the voting machines under his care. Further that he was grossly negligent in failing to provide working, operable voting machines properly set up for the voting of September 2nd, 1986 thereby hindering voters in their opportunity to cast their ballot or in some cases completely denying the voter this opportunity.

The Special Master therefore finds that the conduct as aforesaid reflected incompetency of Jan Pietrzyk in the operation of the office of Supervisor of Elections of Leon County, Florida. The Special Master further finds that:

A. Jan Pietrzyk has been afforded due process under the State and Federal constitutions throughout each of these proceedings;

B. Executive order 86-225 is valid and that the Governor had jurisdiction to issue the same;

C. That the Governor has sustained fully Charges 1, 2, 4, 5, 6 and 7 as laid in the order of suspension but has failed to prove and sustain Charge 3 of said order.

RECOMMENDATIONS

1. That the Senate confirm the appointment of the undersigned as Special Master in these proceedings.

2. That the Senate consider this report and recommendation in open session.

3. That the Senate affirm the Special Master's denial of Jan Pietrzyk's motions to strike and dismiss executive order 86-225.

4. That the Senate sustain the Governor's executive order 86-225 suspending Jan Pietrzyk and remove the said Jan Pietrzyk from office of Supervisor of Elections of Leon County, Florida.

Respectfully submitted,

B. J. Driver
Special Master for the Florida
Senate in Executive Suspension
under Executive Order 86-225

(Copies of Exhibits 4, 12 and 14 are on file in the Secretary's Office.)

Motion

On motion by Senator Barron, the rules were waived and time of adjournment was extended until final consideration of the suspension.

Consideration of Resolution

On motion by Senator Barron, by unanimous consent—

By Senator Barron—

SR 1363—A resolution relating to Executive Order 86-225; reinstating Jan Pietrzyk as Supervisor of Elections of Leon County, Florida.

WHEREAS, Executive Order 86-225 was issued by Governor Bob Graham on December 5, 1986, suspending Jan Pietrzyk from office as Supervisor of Elections of Leon County, Florida, and

WHEREAS, executive orders of suspension carry no presumption of guilt or even legal sufficiency such as to constitute probable cause, and

WHEREAS, President John Vogt appointed retired Judge B. J. Driver of St. Petersburg, Florida to act as Special Master in this matter pursuant to Art. IV, Sec. 7(b), Fla. Const. and Sec. 112.47, Florida Statutes, and Rule 12.7(a), Rules of the Florida Senate, and

WHEREAS, the special master issued a report on April 28, to the Senate President, pursuant to Rule 12.7, which report and findings are advisory only, and

WHEREAS, the Florida Senate has assigned fact-finding authority to the special master, but has retained unto itself the determination of whether facts found by the special master constitute one or more of the constitutional grounds for removal of a county officer, to wit: malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony, Art. IV, Sec. 7(a), Fla. Const., and

WHEREAS, the Florida Senate alone is vested with the constitutional power and duty to remove from office or reinstate suspended officials, and

WHEREAS, the Florida Senate has, since the adoption of a modern constitution for the State of Florida in 1969, removed fifteen officers, reinstated 23 officers, and taken no action in 4 cases, and

WHEREAS, the standard to determine whether conduct constitutes a constitutional ground for removal in cases not involving criminal conduct has been set forth in the Senate Journal as follows:

Senate Journal - November 16, 1970, Page 10, reinstating Mr. Lloyd Early, Superintendent of Schools for Palm Beach County:

"Perhaps a more experienced Superintendent could have performed more efficiently under the circumstances. Perhaps a stronger, more decisive man could have stopped the encroachments of the board...at its inception. It is possible that there exists a man in the world who could have come upon this scene, under these circumstances and done a better job. But such a man was not elected as Superintendent of Schools in Palm Beach County. Mr. Early did offer himself and the electors of that county selected him as the one to shoulder the burdens of that office at that time."

Senate Journal - February 26, 1974, Page 15, reinstating three county commissioners for Holmes County:

"There can be little doubt that Mr. King, Mr. Josey and Mr. Messer were inexperienced, uninformed and inept. They obviously attempted to wrest control of the County from those who had held it so long. They were forthright in their efforts...even crude...and they often moved without proper consideration or advice. They lacked the experience and expertise to accomplish their goals in an orderly manner and did not seem to be aware of that fact."

But they were duly elected by the people of Holmes County and the Senate has traditionally refused to second guess the judgment of the voters. The question is not whether they should have been elected, but rather have they been guilty of one or more of the offenses contained in the Constitution?"

Senate Journal - April 27, 1971, Page 178, reinstating James H. Boyd, Supervisor of Elections for Brevard County:

"It is not the function of the Senate to remove public officials because they do not perform their duties quite as well as we think they should. The question of degree of efficiency and effectiveness we leave to the electorate. We confine ourselves to a consideration of whether the conduct of the public official comes within the constitutional grounds for suspension and removal."

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

1. That the conduct of Jan Pietrzyk as Supervisor of Elections of Leon County, Florida during the election of September 2, 1986, fell below the standard that the Senate would desire but that his conduct did not rise to the level of any of the constitutional grounds for removal; and

2. That the conduct of Jan Pietrzyk did not constitute neglect of duty as defined by the Florida Supreme Court:

"Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law....When such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare it is gross..." (State ex rel. *Hardie v. Coleman*, 155 So.129(Fla.1934),

because he carried out six elections as supervisor with no significant problems, and the one election of September 2, 1986, while it may have been grave, was not frequent so as to rise to the level of constitutional misconduct.

3. That the conduct of Jan Pietrzyk did not constitute incompetence as defined by the Florida Supreme Court:

"Incompetency as a ground for suspension and removal has reference to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his office. Incompetency may arise from gross ignorance of official duties or gross carelessness in the discharge of them." (*Hardie, supra*),

because his conduct was not so severe as to demonstrate incapacity to perform the duties of office.

4. That the Senate find that the facts found by the special master do not constitute the constitutional offense of Incompetency or Neglect of Duty, as those terms are used in Article IV, Section 7(a) of the Florida Constitution.

5. That the Senate not sustain the Governor's executive order 86-225, not remove Jan Pietrzyk from office, and that Jan Pietrzyk be reinstated to the office of Supervisor of Elections of Leon County, Florida.

—was introduced out of order, read the first time in full and referred to the Committee on Rules and Calendar.

On motion by Senator Barron, SR 1363 was withdrawn from the Committee on Rules and Calendar and read the second time by title.

On motion by Senator Barron, the following remarks were printed in the Journal:

Senator Barron: We prepared the resolution so each member of the Senate would have an opportunity to exercise his or her individual judgment relative to this terribly important constitutional matter we are faced with today.

Frankly, I don't have any opinion nor do I urge anyone to vote in any particular way. I do have an opinion, however, about the sanctity of public office and about the rights of people when they vote someone into office to have them to serve out that term.

Mr. Pietrzyk's term will end pretty soon. He will not hold any additional elections, and he may or may not run for reelection. But, let me tell you about some cases where people were suspended and ran for reelection.

Let me tell you first that just two years ago they had an election in Okaloosa County and there was a young man running against an entrenched member of the House. The election was very close and the voting machine broke down in the precinct of the challenger, where he would have gotten the most votes and they had to go and bring in additional voting machines. Unfortunately, those machines that were brought in didn't carry the names of those two people seeking the office of the House of Representatives. Unquestionably, had they done so, that person would have won the election. It wasn't his fault. It was the fault of the Supervisor of Elections, but we didn't remove her from that office.

Once upon a time, we had a sheriff down in Franklin County, the case in which Senator Gordon coined the phrase, "Jolly Jail", who was charged with growing marijuana in the jail, and a lot of other misconduct, and we debated that removal here long and hard and we didn't vote to remove him. It was sort of important what we did, but since that time, that sheriff has remained in office. With all of the knowledge that we debated up here, he is still there. It must have been ten years ago and apparently the electorate decided to keep him.

Once in my early Senate career, they removed the sheriff of Bay County for a lot of terribly, what I considered to be, bad things and I substituted my judgment for the judgment of the people who had voted for him and voted to remove him from office. It was the most dangerous act I have committed in the Florida Legislature. They had to take me up to the governor's office—Farris Bryant was governor at the time—and post a guard to keep a lynch mob of some three hundred in motorcade cars from getting me. People spat upon me as I tried to climb the stairs. When that sheriff ran for reelection, he was reelected overwhelmingly, although we had removed him, and I barely squeaked by in the absentee ballot count. It caused Jimmy Kynes, who ran for Attorney General after coming out of Farris Bryant's office, to lose the election—not somewhere in Florida, but in Bay County, Florida, in the ballot box where I barely got through alive.

Mr. Pietrzyk did not come forth with counsel to dispute the charges against him. Although he should have done it, I'm not sure that he was compelled to do it under the law, because there is a presumption, I think even in this case, of innocence. It was not wise for him not to do better in that regard, but in talking with him, he advised me that he didn't feel that he had done anything wrong and he didn't have to disprove it.

For that reason, I moved this resolution, so that each member of the Senate would have an opportunity to vote. I, personally, am going to vote to reinstate him.

I want to tell you one other thing that is compelling. I talked to the governor's chief counsel, Governor Graham's chief counsel, about this case. He should have had a lot of knowledge about it and I guess he did. The recommendation for impeachment was made, not by that leading attorney in the governor's office, but by another attorney in the governor's office. The chief counsel told me he spent a lot of time trying to point out to the Governor that there was not sufficient grounds for suspension. That was compelling to me that, even in the governor's office, there was a conflict as to whether or not he should have been removed.

Senator Thomas: Mr. President and Senators, when you first released Judge Driver's report I probably took more time to read it than most of you because I knew the individual and it was in my district.

And I must tell you in the several days thereafter, I told my wife, and I might have mentioned to some of you, I, frankly, did not see how you could overcome the report of Judge Driver. Since that time, I have read that thing over again and I've read his response to it and I think I can in good conscience, stand here today and say that I will support the resolution on the desk.

It is certainly not pleasant. This is about the third one that I have been through. I want to remind you that the Constitution didn't assign this task to the court system. It comes here to us. And as I stand to talk, I want to concur with what Judge Driver has said and maybe agree with all the facts.

His work is about as sloppy as I have ever seen delivered by a public official and I think he should be reprimanded severely for what he did to those people who tried to cast a vote—that sacred right we have. I can understand well many of the concerns that I have heard in Leon County. I know that Senator Hollingsworth can. We were both candidates in that particular election and there was confusion. We heard about it on the radio that day. I became a little paranoid and paralyzed when I heard

that they might just throw the whole thing out. That's what the State Attorney was asking for about noon. They finished that election, a great frustration to the people.

But I want to say that ours is not to refute the facts of a bad election, poor judgment and decisions. I want us to look at the standard, that level of conduct that we would expect in a public official. Concurring on that, then we need to ask the question, "Had he, does he, rise to the deviation, to the parity, that meets the constitutional criteria?"

I frankly think that therein, as the Judge says, it becomes a judgment for this body. I certainly didn't appreciate the conduct of that election, but I concern myself about the constitutional criteria, and are we there? The Judge found two significant parts that he said concerned him and, therefore, are included in his report. The first being neglect. Being a lay person, I don't understand it as well, and I'm not as encumbered, as many of you, but somewhere that gross neglect carries with it frequency.

I would say to you that he had an abundance of neglect that day, but not in keeping with the constitutional requirements of suspension which is the frequency factor. He conducted, I think some four, five or six elections prior to that election day.

The second issue is incompetency, and I guess that is left to each of us to judge. What did the constitution mean when it spoke of the incompetency factor. I think a better word that would fit him is "ineptness". And I would concur that he was inept, but I don't think the man is incompetent.

He conducted those elections, and, as I said, he went there just a few days prior to this catastrophe, with a mandate from the Federal Court that said that there should be seven single-member county commissioner districts, not five at-large, adding to the furor of that day.

I'm sure there were many people who went there to vote for our former colleague, Don Price, who ran and got elected and many, I heard, were disappointed when they couldn't find his name that day because they, too, were experiencing single-member districts at the county level. I'm sure that should be considered as a concern.

The office of Supervisor of Elections in this county has had its problems for a long time now.

The prior Supervisor of Elections stayed in court with the Ethics Commission some six years. A very able family, Mrs. Sullivan, retired quickly. Her son replaced her and that started controversy. As I recall, Mr. Pietrzyk ran as a write-in candidate and garnered some 16 to 18 percent of the votes as a write-in in November 1980. He lost, the winner garnered 33 percent. It had been a constant hassle, and there was frustration, generally speaking, with that office.

But I think that each of us tends to sort of search our souls about our mission to evaluate the stewardship of public office. If you think it has risen to a level beyond the standard that touches constitutional grounds then vote against the resolution. I, personally, think it has not and I think that if we are going to revert to an evaluation of who deviates from the standards, then I must say that we, in this body, have subjected ourselves to, should subject ourselves to, some cruel and unusual punishment by starting here.

How many times have you not been at a public hearing? How many times this year have you missed a committee hearing? How many times have you not been here to vote?

I don't know where and how much slack you allow but I think what we have experienced is clearly within a deviation range of the conduct we want, and I join with you in deploring that kind of demonstration.

I accept his facts, everything the Judge says, but I would say to you, if we are to err today, let us do so on the rights of those people who sent him into public life and let them be aware that there are 17 months remaining in his term. If they choose to assign him to the green pastures, that's fine with me, but I think we come down on the right side of a constitutional issue to say that he did a sorry job, but he has not breached the threshold of the Constitution.

Senator Beard: Senators, I think everybody certainly understands that Mr. Pietrzyk made some grave mistakes and errors in judgment. All of us do that sometime.

I think, perhaps from what I observed, he was too trusting. I know when I became sheriff of Hillsborough County, I required everybody in

that office to send me a resignation, and those that didn't were automatically fired. I rehired ninety percent of those people, but they were my people then. I interviewed them and I hired them over a period of about seven months.

Mr. Pietrzyk should have done something like that. Certainly, he has suffered through this. He has reflected on that election more than anyone else. The whole world fell in on him that day, after he had conducted some successful elections. I hope he gets the chance to have some more elections between now and the time the people have an opportunity to either vote him in or reject him, to show that he can do the job. I think any mistakes that he made on that horrible day will never be made again, not with that man, and it's a conscious thing with us and I don't have any problem knowing what I'm going to do.

Senator Meek: I would like to speak in favor of the resolution, Mr. President, and I think of what Portia said in the *Merchant of Venice* when she said:

Shylock: "On what compulsion must I? tell me that.

Portia: The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven
Upon the place beneath: it is twice bless'd;
It blesseth him that gives and him that takes:
'Tis mightiest in the mightiest: it becomes
The throned monarch better than his crown;
His sceptre shows the force of temporal power,
The attribute to awe and majesty,
Wherein doth sit the dread and fear of kings;
But mercy is above this sceptred sway,
It is enthroned in the hearts of kings,
It is an attribute to God himself,
And earthly power doth then show likest God's
When mercy seasons justice. Therefore, Jew,
Though justice be thy plea, consider this,
That in the course of justice none of us
Should see salvation: we do pray for mercy,
And that same prayer doth teach us all to render
The deeds of mercy."

When I read what Mr. Pietrzyk sent to us — I also understand that the Special Master has done what is legally required of him — I think that we should think that here is a man who gave himself for public service. He has made some mistakes but I don't think his mistakes were of such magnitude that we should as a body remove him from office because he will have a chance and the people will be the judge and in the end there is another judge that we all must speak too. So I think we should vote "yes" on this resolution. Thank you, Mr. President.

Senator Hollingsworth: Thank you, Mr. President. Members of the Senate, I guess you will feel in a few minutes that I am a bad guy, but you know, I went over this Special Master's report front to back several times. I went over Mr. Pietrzyk's report front to back several times.

This happened in my district.

I know there was negligence because the Special Master said so and so did a lot of other people—my constituents. The report showed there was negligence.

After considering all the testimony I have seen in both Mr. Pietrzyk's and the Special Master's reports, and weighing the evidence, and hearing the Special Master say he believes that Mr. Pietrzyk should be removed from office, and hearing no one come up with any special evidence that would make me believe that the Special Master's report should not be confirmed, I will be voting against the resolution. I feel in my heart and I really believe that Mr. Pietrzyk should be removed from office.

Senator Weinstein: Thank you very much, Mr. President, and members of the Senate. I think first of all we owe a debt of gratitude to Judge Driver for spending the time and writing a very excellent report. The Judge, I think, really hit the nail on the head when he said that the facts are for him to find, but the conclusions are for us, the members of the Senate, to make.

While I quite agree with you, your honor, on the facts, obviously the election of 1986 was not conducted properly, but it would be a very bad precedent for this Senate to remove somebody because of errors in judgment.

If somebody, were dishonest, if somebody were committing crimes, if somebody were violating the public trust through their guile or dishonesty or some other bad character trait, I don't think there is a member of this Senate who would hesitate for one second to remove that person from office.

But none of that is evident here. What is evident here is that through circumstances that may or may not have been totally within the realm of the supervisor's personal knowledge, the election went bad, and that is a terrible thing. I think that what happened here is not so much that Mr. Pietrzyk was guilty of any gross misconduct, I think what happened here was a great set of circumstances which, compounded with the fact that we are dealing with an election, caused the grief that he has had to face today.

But when you study all the evidence in this case, it is abundantly clear that at worst the only thing that happened was that some carelessness occurred, some negligence occurred, whether it was on behalf of the supervisor or behalf of the employees. This does not excuse him and he should be attentive to the fact that our right to vote is the most cherished thing. But I think that we should reserve the removal of people who are dishonest in office, who commit high crimes, and misdemeanors, as you would find in the federal constitution. Based upon those things I think it is incumbent upon us to say to the people of Leon County, "We are going to give you the opportunity in the next election to decide if you want to keep this gentleman in office or not."

Whatever their decision is I am sure will be the right one because the people ultimately do make the right decision. In the interim, I would encourage Mr. Pietrzyk to make every effort to make sure that the right of franchise, the right of the person, each and every person in Leon County legally authorized to vote is safeguarded and protected so that ultimately we can leave this chamber knowing that we did the right thing, that we set a good precedent and that we did justice today and also insured that we protected the rights of all the citizens of Leon County. Thank you.

Senator Kiser: Thank you, Mr. President, members of the Senate and Judge Driver, my good friend and neighbor.

Judge Driver lives about two blocks from me down home in Pinellas County, and I too am proud of the work product he has produced and I want to echo what Senator Weinstein has said about the work product and how the Judge did his job and now we have to do ours.

As Judge Driver said the resolution that we have to reach is whether or not his standard of conduct in this office reaches that level to be suspended.

I would say to you that the Supervisor of Elections' job is probably one of the most unique jobs that we have in state government, because they can do that job well 364 days a year and if on that one other day something happens, then the whole year and the whole term can be wiped out.

I would draw attention to the fact that in Pinellas County just a few years ago Representative Robinson, who served in the House for eight or nine years, lost his election in 1974 because he happened to be on the bottom line of the line on the voting machine. The people on the top line all won and five candidates in our county happened to be continued down on the next line and in every one of those five races they all lost. Representative Tom Woodruff, when he ran for office the first time, was in that same election and he lost too because of the way the ballot was placed.

I think any person taking a look at that ballot ahead of time would have seen that it wasn't fair to have those candidates for one office to go on one line and then you had to drop down to the next line to see where the remaining candidates were. They all lost out. Senator Barron just pointed out the election up here in North Florida. In Pinellas County, we switched over from these machines, many of which were used in the Tallahassee election, to punch card voting. Our Supervisor had a masterful plan of having a helicopter going out that night and pick up all these boxes of the voter cards and bringing them into election headquarters so that they could all be counted real quick. Nobody thought of an electrical storm that night that would ground the helicopters. As a result of the storm the best plan went down the tubes and we were delayed until early in the morning getting those returns. Some of the ballots were wet and they had a terrible problem. The people couldn't verify that the secrecy of the ballot had been held inviolate, and they didn't know what happened to all those ballots while they were getting wet and people spreading them out, drying them out, so they could run them back through the computer.

So it is just one of those kinds of offices whereupon that particular day you haven't prepared for it, you made some mistakes, perhaps you haven't counted on all of the things that could go wrong. It could turn out to be a colossal mistake because of those kinds of circumstances.

I am not trying to cover up what he did, obviously it was a terrible election up here. My brother was in that election and I tried to call up here during that day to try to find out what happened and I too was very disappointed when I found out all the mistakes that occurred. So none of us here are trying to defend that election. It wasn't right. What we are trying to do is talk about the standard of care and the type of things he is up against.

I think that when you look at the nature of the charges that have come up where we have upheld these suspensions, they have shown quite a severe degree of wrongfulness before we have gone through with suspension. But unfortunately, I should say fortunately, stupid mistakes are not grounds for removal. That should be up to the voters, and the voters in this county are not left without some remedy. If they still feel so strongly about this there is still recall. I would suggest to you that would have been the more appropriate remedy last year. If they felt there was something so bad that he should have been removed, that should have been the avenue rather than an executive suspension. Remember the political circumstances we were in at that time. We had a governor who was running for another office, who was under a great deal of pressure from this county to do something about what happened election day.

I would suggest to you that also helps to explain why in this case that suspension was undertaken rather than perhaps letting the voters speak to it under some sort of a recall application which was not tried. I would suggest to you that we should also support the resolution as filed.

Senator Dudley: Mr. President, Senators, I was reminded today that 20 years ago this month Senator Grant and I, as seniors in law school, had occasion to work in the Senate for former Senator Louis de la Parte and during that occasion we had four evenings of our time spent in the old senate chambers listening to the senate trial of the former sheriff from Lee County, who was subsequently reinstated.

I have come to the floor today, Mr. President, Senators, with a lot of grave reservations because while I have heard a lot of comment and read most of the material except for the transcripts. I've realized that there is one group of people that we haven't seemed to talk about too much, and that is the voters of Leon County, the people that put this gentleman in office, and who gave him their trust. With the conviction in my heart that trust was not carried out in the very best way it could have been carried out. In fact it was seriously flawed. But as I look at the wording in this resolution—and I don't urge anyone to support it—I simply stand to tell you that I intend to vote for it because I think it says the one key thing on page 4, line 9; the most important message, that we are charged with the responsibility as Senators under the Constitution, and that is a finding that this supervisor, this official, fell below the standard that we admit that we believe he should have maintained.

I agree as a lawyer that he should not be removed. I think that I agree in other respects that he should not be removed, but I think it is important that we send forth a message that whatever standards that was applied in the past, whatever standards have been applied to those who have been removed by prior Senates or those that have not been removed, that this Senate, and I hope future Senates, will hold a much higher standard of care to public officials and that we can only discharge our responsibilities to everyone in Florida by doing that.

So again, I am going to vote for the resolution primarily because I think it does say, it does find that there was a serious failure to meet the standard of care that we would like to see imposed.

Senator Johnson: Mr. President, what I heard today from Judge Driver is that Mr. Pietrzyk did not really try his case before the Special Master. He only argued one point and didn't really respond to several others. He has chosen then to take his appeal to this body. Had he not tried his case before a judge he would not have any appeal. But he has played a dangerous game, and he will probably win.

I was in the House in the early 1970's as Senator Barron knows and we voted articles of impeachment on several very high officials in the State, a very difficult tough time for Florida. The standard of those people's conduct was very onerous to the State of Florida. One just died as a fugitive in Jacksonville—fugitive from justice—one of our former Florida Supreme Court Justices, a disgrace to this state.

But the duty we have today is not to judge somebody on a legal issue, it's a constitutional issue, and so for that Mr. Pietrzyk will probably be reinstated and I will vote to do that also. I have met with him and listened to him and I want him to know this is not a vote of confidence of mine in his past performance and I can't vote today for his future performance. That is not my duty either. This is not a victory. It is merely a decision by members of this body that on the basis of the Florida Constitution there were not sufficient allegations and charges justified against him to deny him his reinstatement. I agree with Senators Weinstein and Kiser and others that the people of Leon County will make the decision ultimately about whether there is a victory or whether there is a vote of confidence.

But right now our decision is very simple and that is whether or not he has failed to meet the constitutional muster. I would say that very clearly this is a tough decision again for us and these are the kind of days we don't need and I certainly don't appreciate as a Florida Senator. It should never have come before us, because the man just didn't prepare to do his duty. But that is not conduct enough to take him out of office in my opinion.

On motion by Senator Barron, SR 1363 was adopted. The vote was:

Yeas—36

Mr. President	Childers, W. D.	Dudley	Grant
Barron	Crawford	Frank	Grizzle
Beard	Crenshaw	Girardeau	Hair
Brown	Deratany	Gordon	Hill

Jenne	Langley	Meek	Thomas
Jennings	Lehtinen	Myers	Thurman
Johnson	Malchon	Ros-Lehtinen	Weinstein
Kirkpatrick	Margolis	Scott	Weinstock
Kiser	McPherson	Stuart	Woodson

Nays—3

Childers, D. Hollingsworth Peterson

Motions

On motion by Senator Deratany, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet May 29 upon adjournment to consider SB 2, CS for HB 110 and CS for HB 270.

On motion by Senator Barron, by two-thirds vote the special order calendar for Friday, May 29, was set to include the bills remaining on today's special order calendar.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 27 was corrected and approved as follows:

Page 446, column 1, lines 2 and 3, strike *"The rates applicable to the lessee shall be subject to the review of the department in accordance with s. 627.062."*

CO-INTRODUCERS

Senator Scott—SB 538; Senator Crenshaw—SB 567 and CS for SB 976

RECESS

On motion by Senator Barron, the Senate recessed at 5:18 p.m. to reconvene at 9:00 a.m., Friday, May 29.