



# Journal of the Senate

Number 2—Special Session E

Wednesday, March 25, 1992

## CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—40:

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

## PRAYER

The following prayer was offered by James C. Vaughn, Jr., Reading Clerk:

Almighty God, who hast given us this good land for our heritage, we humbly beseech you to lend the spirit of your wisdom to this body that has been entrusted with the authority to make our laws. Grant that they may understand how great a work the electorate has given them to do.

Heavenly Father, may this legislative body be reminded that they are not here to play, to dream or to drift; but rather, they are here to engage in hard work, with loads to lift. They are not to shun the struggle for this is their gift from God. Senators, be strong. In his name we ask. Amen.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **SJR 2-E, SB 4-E** and **SB 22-E** were withdrawn from the Committee on Rules and Calendar.

On motions by Senator Thomas, by two-thirds vote **SB 36-E** was withdrawn from the Committee on Reapportionment and by two-thirds vote placed on the Special Order Calendar for Thursday, March 26.

On motions by Senator Thomas, by two-thirds vote **SB 14-E** was withdrawn from the Committee on Natural Resources and Conservation and referred to the Committee on Appropriations.

On motions by Senator Childers, by two-thirds vote **SB 30-E** was withdrawn from the Committee on Commerce and by two-thirds vote placed on the Special Order Calendar.

## MOTION

On motion by Senator Thomas, the rules were waived and the Committee on Appropriations was granted permission to consider **SB 14-E** this day.

## MOTION TO INTRODUCE BILL

On motions by Senator Thomas, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By the Committee on Appropriations—

**SB 40-E**—A bill to be entitled An act relating to appropriations; appropriating funds from the Working Capital Fund and the Medical Care Trust Fund for the purpose of continuing the Medicaid Medically Needy Program for the 1991-1992 fiscal year; providing an effective date.

—which was referred to the Committee on Appropriations. On motion by Senator Thomas, the rules were waived and the Committee on Appropriations was granted permission to consider **SB 40-E** this day.

## MOTIONS

On motions by Senator Thomas, the rules were waived and by two-thirds vote **SB 4-E, SJR 2-E, SB 10-E, CS for SB 8-E, SB 6-E** and **SB 12-E** were established as the Special Order Calendar for this day.

On motion by Senator Thomas, the rules were waived and the Committee on Appropriations was granted permission to consider **SB 26-E** this day.

Senator Langley moved that a bill relating to Lake County be admitted for introduction. The motion and the bill were referred to the Committee on Rules and Calendar.

Senator Grant moved that a bill relating to Health Care be admitted for introduction. The motion and the bill were referred to the Committee on Rules and Calendar.

Senator Thurman moved that a bill relating to the Social Security Act be admitted for introduction. The motion and the bill were referred to the Committee on Rules and Calendar.

On motions by Senator Thomas, provisions of Rule 13.3 relating to committee meeting notices and provisions of Rule 2.39 relating to two-hour notice of amendments to be considered by a committee were waived; and the Committee on Appropriations was granted permission to meet 30 minutes after adjournment until completion of the agenda.

## SPECIAL ORDER

**SJR 2-E**—A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution relating to the selection of judges.

—was read the second time by title.

The Committee on Judiciary recommended the following amendments which were moved by Senator Davis and adopted:

**Amendment 1**—On page 1, line 4, after “selection” insert: and retention

**Amendment 2**—On page 3, line 15, strike “commission” and insert: *commissions*

**Amendment 3**—On page 3, line 25, after “minority” insert: *and women*

Senator Johnson moved the following amendment which was adopted:

**Amendment 4**—On page 3, strike all of lines 12 and 13 and insert: concurring. ~~Except for deliberations of the judicial nominating commissions, The proceedings and deliberations of the commissions and~~

The vote was:

Yeas—34 Nays—5

Senator Weinstein moved the following amendment which was adopted:

**Amendment 5**—On page 2, line 14, through page 4, line 6, strike all of said lines and insert:

(a) The governor shall fill each vacancy on the supreme court or on a district court of appeal by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of three persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next ~~primary and~~ general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. ~~An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.~~

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to him.

(d)(1) *If the governor makes an appointment to fill a judicial office during the first thirty days of a regular session of the legislature, the senate must confirm the appointment on or before the last day of the legislative session in order for the person appointed by the governor to assume office. If the senate votes against the confirmation of the appointment of a person to a judicial office which appointment is made during the first thirty days of a regular session of the legislature or does not vote on such an appointment made during the first thirty days of a regular session of the legislature, that office remains vacant after the last day of the legislative session. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.*

(2) *If the governor makes an appointment to fill a judicial office after the first thirty days of a regular session of the legislature or during the interim between regular sessions of the legislature, the person appointed by the governor may assume office prior to confirmation and remain in that office for the remainder of the term unless a majority of the senate votes against his confirmation on or before the last day of the next regular session of the legislature held after the appointment. If the senate votes against the confirmation of the appointment of a justice or judge which appointment was made after the first thirty days of a regular session of the legislature or during the interim between regular sessions of the legislature, that office becomes vacant upon adjournment sine die of the legislature at the end of the legislative session in which that vote was held. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.*

(3) *If an appointed judge is retained in office by vote of the electors prior to the next regular session of the legislature after his appointment that judge is not subject to confirmation by the senate.*

(e) ~~(d)~~ There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

(f) *The judicial nominating commissions shall establish uniform guidelines approved by the supreme court to ensure that each level of the court system includes minorities and women. "Minorities" under this subsection means members of ethnic or racial groups that have been historically, socially, or economically disadvantaged groups, such as blacks, Hispanics, and American Indians.*

(g) *The supreme court shall report on or before October 1 of each year to the speaker of the house of representatives and to the president of the senate regarding the number of minority and women nominees and appointees to the trial and appellate benches.*

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

CONSTITUTIONAL AMENDMENT  
ARTICLE V, SECTIONS 10 AND 11

APPOINTMENT AND RETENTION OF JUDGES AND JUSTICES.—Proposing amendments to the State Constitution to require circuit and county judges to submit themselves to the electorate for retention or rejection, rather than running for office, to provide for Senate confirmation of gubernatorial appointments of persons to judicial offices and to provide for guidelines for nomination and appointment of women and minorities to judicial office.

The vote was:

Yeas—25 Nays—14

Senator Johnson moved the following amendment to the bill as amended by Amendment 5 which was adopted:

**Amendment 6**—On page 3, strike all of lines 16 and 17 and insert: concurring. ~~Except for deliberations of the judicial nominating commissions, The proceedings and deliberations of the commissions and~~

Senator Diaz-Balart moved the following amendment to the bill as amended by Amendment 5 which was adopted:

**Amendment 7**—On page 3, line 22, after "women" insert: *to an extent broadly reflective of the general public which it serves.*

The vote was:

Yeas—29 Nays—9

Senator Johnson moved the following amendment to the bill as amended by Amendment 5 which was adopted:

**Amendment 8**—On page 4, line 9, after the comma (,) insert: *to require public access to deliberations of judicial nominating commissions,*

Senator Bruner moved the following amendments which failed:

**Amendment 9 (with Title Amendment)**—Strike everything after the enacting clause and insert:

That the amendments to Sections 1, 6, 10 and 11 of Article V of the State Constitution set forth below are 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 1992:

ARTICLE V  
JUDICIARY

SECTION 1. Courts.—The judicial power shall be vested in a supreme court, district courts of appeal *and* circuit courts ~~and county courts~~. No other courts may be established by the state, any political subdivision or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines. Commissions established by law, or administrative officers or bodies may be granted quasi-judicial power in matters connected with the functions of their offices. The legislature may establish by general law a civil traffic hearing officer system for the purpose of hearing civil traffic infractions.

SECTION 6. County courts.—

~~(a) ORGANIZATION.—There shall be a county court in each county. There shall be one or more judges for each county court as prescribed by general law.~~

~~(b) JURISDICTION.—The county courts shall exercise the jurisdiction prescribed by general law. Such jurisdiction shall be uniform throughout the state.~~

SECTION 10. Retention; election and terms.—

~~(a) Any justice or judge of the supreme court or any judge of a district court of appeal may qualify for retention by a vote of the electors in the general election next preceding the expiration of his term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice of the supreme court or a judge of a district court of appeal so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) . . . (name of justice or judge) . . . of the . . . (name of the court) . . . be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years. The term of the justice or judge retained shall commence ~~commencing~~ on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.~~

~~(b) Circuit judges and judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts. The terms of circuit judges shall be for six years. The terms of judges of county courts shall be for four years.~~

## SECTION 11. Vacancies.—

(a) The governor shall fill each vacancy on the supreme court or on a district court of appeal by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of three persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next ~~primary and~~ general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. ~~An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.~~

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to him.

(d) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

(e) *The judicial nominating commission shall establish uniform guidelines approved by the supreme court to ensure that each level of the court system includes minorities and women. "Minorities" under this subsection means members of ethnic or racial groups that have been historically, socially, or economically disadvantaged groups, such as blacks, Hispanics, and American Indians.*

(f) *The supreme court shall report on or before October 1 of each year to the speaker of the house of representatives and to the president of the senate regarding the number of minority nominees and appointees to the trial and appellate benches.*

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

CONSTITUTIONAL AMENDMENT  
ARTICLE V, SECTIONS 1, 6, 10 AND 11

APPOINTMENT AND RETENTION OF JUDGES AND JUSTICES.—Proposing amendments to the State Constitution to delete provisions for county courts and to require circuit judges to submit themselves to the electorate for retention or rejection, rather than running for office, and to provide for guidelines for nomination and appointment of women and minorities to judicial office.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert:

Senate Joint Resolution No. 2-E A joint resolution proposing amendments to Sections 1, 6, 10 and 11 of Article V of the State Constitution relating to the selection of judges.

**Amendment 10**—On page 1, line 17, through page 2, line 12, strike all of said lines and insert:

## SECTION 10. Retention; election and terms.—

Any justice or judge, ~~except county court judges, of the supreme court or any judge of a district court of appeal~~ may qualify for retention by a vote of the electors in the general election next preceding the expiration of his term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice ~~of the supreme court~~ or a judge, ~~except a county court judge, of a district court of appeal~~ so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to

retain, the justice or judge shall be retained for a term of six years commencing on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b) ~~Circuit judges and~~ Judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts. ~~The terms of circuit judges shall be for six years. The terms of judges of county courts shall be for four years.~~

## SENATOR GORDON PRESIDING

## THE PRESIDENT PRESIDING

On motion by Senator Davis, by two-thirds vote **SJR 2-E** as amended was read the third time in full as follows:

**SJR 2-E**—A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution relating to the selection and retention of judges.

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

That the amendments to Sections 10 and 11 of Article V of the State Constitution set forth below are 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 1992:

ARTICLE V  
JUDICIARY

## SECTION 10. Retention; election and terms.—

(a) Any justice or judge ~~of the supreme court or any judge of a district court of appeal~~ may qualify for retention by a vote of the electors in the general election next preceding the expiration of his term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice ~~of the supreme court~~ or a judge ~~of a district court of appeal~~ so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) . . . (name of justice or judge) . . . of the . . . (name of the court) . . . be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years, *except that, in the case of a county court judge, the judge shall serve a term of four years. The term of the justice or judge retained shall commence commencing* on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b) ~~Circuit judges and judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts. The terms of circuit judges shall be for six years. The terms of judges of county courts shall be for four years.~~

## SECTION 11. Vacancies.—

(a) The governor shall fill each vacancy on the supreme court or on a district court of appeal by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of three persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next ~~primary and~~ general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. ~~An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.~~

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to him.

(d)(1) *If the governor makes an appointment to fill a judicial office during the first thirty days of a regular session of the legislature, the senate must confirm the appointment on or before the last day of the legislative session in order for the person appointed by the governor to assume office. If the senate votes against the confirmation of the appointment of a person to a judicial office which appointment is made during the first thirty days of a regular session of the legislature or does not vote on such an appointment made during the first thirty days of a regular session of the legislature, that office remains vacant after the last day of the legislative session. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.*

(2) *If the governor makes an appointment to fill a judicial office after the first thirty days of a regular session of the legislature or during the interim between regular sessions of the legislature, the person appointed by the governor may assume office prior to confirmation and remain in that office for the remainder of the term unless a majority of the senate votes against his confirmation on or before the last day of the next regular session of the legislature held after the appointment. If the senate votes against the confirmation of the appointment of a justice or judge which appointment was made after the first thirty days of a regular session of the legislature or during the interim between regular sessions of the legislature, that office becomes vacant upon adjournment sine die of the legislature at the end of the legislative session in which that vote was held. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.*

(3) *If an appointed judge is retained in office by vote of the electors prior to the next regular session of the legislature after his appointment that judge is not subject to confirmation by the senate.*

(e)(4) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. ~~Except for deliberations of the judicial nominating commissions,~~ The proceedings and deliberations of the commissions and their records shall be open to the public.

(f) *The judicial nominating commissions shall establish uniform guidelines approved by the supreme court to ensure that each level of the court system includes minorities and women to an extent broadly reflective of the general public which it serves. "Minorities" under this subsection means members of ethnic or racial groups that have been historically, socially, or economically disadvantaged groups, such as blacks, Hispanics, and American Indians.*

(g) *The supreme court shall report on or before October 1 of each year to the speaker of the house of representatives and to the president of the senate regarding the number of minority and women nominees and appointees to the trial and appellate benches.*

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

CONSTITUTIONAL AMENDMENT  
ARTICLE V, SECTIONS 10 AND 11

APPOINTMENT AND RETENTION OF JUDGES AND JUSTICES.—Proposing amendments to the State Constitution to require circuit and county judges to submit themselves to the electorate for retention or rejection, rather than running for office, to require public access to deliberations of judicial nominating commissions, to provide for Senate confirmation of gubernatorial appointments of persons to judicial offices and to provide for guidelines for nomination and appointment of women and minorities to judicial office.

—and failed to receive the required constitutional three-fifths vote of the membership. The vote was:

Yeas—22 Nays—18

RECONSIDERATION

Senator Myers moved that the Senate reconsider the vote by which SJR 2-E failed. The motion was adopted. The vote was:

Yeas—20 Nays—16

The question recurred on the passage of SJR 2-E which failed to receive the required constitutional three-fifths vote of the membership. The vote was:

Yeas—19 Nays—18

LOCAL BILL

SB 4-E—A bill to be entitled An act relating to the City of Orlando, Orange County, and the pension fund of the Orlando Fire Department; amending and restating the pension fund and retirement plan created by chapter 23444, Laws of Florida, 1945, as amended; providing severability; providing an effective date.

—was read the second time by title.

Senator Jennings moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—Strike everything after the enacting clause and insert:

Section 1. Chapter 23444, Laws of Florida, 1945, as amended, is amended and restated to read:

(Substantial rewording of chapter. See chapter 23444, Laws of Florida, as amended, for present text.)

Section 1. Restatement of Orlando Firefighters Pension Fund.—

(1) The pension fund and retirement plan created for members of the City of Orlando Fire Department by chapter 23444, Laws of Florida, 1945, is hereby and herein restated for the purpose of obtaining a favorable letter of determination as to the qualified plan status pursuant to the applicable provisions of the Internal Revenue Code.

(2) As to any member who shall have retired or obtained continuity of service or continuity of benefits under the provisions of chapter 23444, Laws of Florida, 1945, as amended, said retirement or continuity of service or continuity of benefits is hereby confirmed and approved.

(3) From and after the effective date of this act, the terms and provisions of this act shall govern and control the pension fund and retirement plan for members of the City of Orlando Fire Department.

(4) Each member of the department shall pay into the fund a maximum of 13 percent of his or her salary per month, such amount to be deducted from the member's salary and deposited by the City of Orlando to the credit of the Orlando Firefighters Pension Fund. However, if the Board of Trustees of the Orlando Firefighters Pension Fund should find that said 13 percent is unnecessary for the operation and performance of the terms and provisions of this act, the board, by a majority vote of the members thereof, may reduce the 13 percent deduction to such lesser percentage as is reasonably necessary for the operation and performance of the terms and provisions of this act. For the purposes of this act, "salary" means and includes base pay, emergency medical technician (EMT) and paramedic pay, longevity pay, and incentive pay, but shall not include overtime pay, education advancement pay, and any other form of compensation not specifically included above.

(5) If, after imposition by the board of trustees of the maximum percentage of salary deductions established in subsection (4) combined with revenue received from the levy of the excise tax provided for in chapter 175, Florida Statutes, and any other income received by the fund, the total fund is insufficient to meet the actuarial soundness requirements imposed by state law, the city shall pay annually into the said pension fund that amount of money necessary to comply with the aforesaid requirements of state law.

Section 2. Board of trustees.—

(1) A board of trustees of said fund is hereby created which board shall be known as the Orlando Firefighters Pension Board of Trustees. The board shall consist of five members, two of whom, unless otherwise required by law, shall be legal residents of the City of Orlando, who shall be appointed by and serve at the pleasure of the city council; two of whom shall be full-time firefighters as defined in s. 175.032, Florida Stat-

utes, who shall be elected by a majority of the firefighters who are members of the plan. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the city council, who shall, as a ministerial duty, appoint such person to the board. Each trustee shall serve for a period of 2 years and may succeed himself in office. Trustees, having been appointed and elected in the manner herein provided and holding office as of July 1, 1989, shall continue in office until September 30, 1990; trustees appointed and elected to take office on October 1, 1990, shall serve for a period of 2 years as heretofore provided. A vacancy shall be filled in the same manner as provided for the appointment or election of trustees. The board of trustees shall meet at least quarterly each year. The board of trustees shall be a legal entity with all powers and responsibilities conferred upon it by law including the power to bring and defend lawsuits of every kind, nature, and description. The trustees shall, by majority vote, elect from their members a chairman, a vice chairman, and a secretary. The secretary or the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(2) The board of trustees is hereby authorized to promulgate rules and procedures for the conduct of the election of trustees as provided above to include, but not be limited to, location and hours of polling places, form of ballot, poll watchers, counting of ballots, certification of results, and challenges or protests to the election process or results thereof.

#### Section 3. Powers of the board.—

(1) The board shall be the trustees of the retirement plan and shall have all the powers necessary to carry out and effectuate the purposes and provisions of the retirement plan including, in addition to any specific powers provided for in the plan, the power:

(a) To administer the retirement plan, including the management of the retirement plan and making effective the provisions of the retirement plan.

(b) To administer oaths.

(c) To create and maintain records.

(d) To issue subpoenas to compel the production of evidence and the attendance of witnesses in connection with any hearings or proceedings of the board, such subpoenas being enforceable, and the failure to comply therewith being punishable, as provided by the laws of the State of Florida.

(e) To make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the board and activities of the retirement plan, including any rules and regulations necessary to preserve the status of the retirement plan as a qualified pension plan under the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law.

(f) To designate committees and to designate committee participants, including individuals who may not be participants in the retirement plan.

(g) To designate an executive director and deputy executive director for the retirement plan.

(2) The board shall have the power to promulgate rules, regulations, policies, and procedures in connection with the application for hearing and determination of disability pensions, including the form of the application and the form of medical questionnaires for completion by physicians.

(3) The board shall have the power to and shall order the drawing and issuance of warrants, drafts, and checks for payment from the assets of said fund for the benefits and pensions provided for and specified to be paid under the terms and provisions of this retirement plan and for payment of expenses incident to the administration of the plan, and shall invest said fund, except for deposits in banks as hereinafter mentioned, in the name of "The Board of Trustees of the Orlando Firefighters Pension Fund" in interest-bearing securities or obligations fully guaranteed by the government of the United States as to both principal and interest, or in such investments as are from time to time approved by the controller of the State of Florida for purchase by state franchised banks and banking facilities.

(4) The board shall be authorized to invest said fund in real estate or interests in real estate wherever situated or common stocks, preferred stocks, and other types of equity instruments issued by corporations organized and existing under the laws of the United States or of the several states, and any other form of investments which are not specifically prohibited by law. The board of trustees shall be empowered to enter into an agreement, in its discretion, with an insurance company, authorized to do business in the State of Florida, for the payment of the permanent disability benefits and survivor's benefits to be paid under the terms and conditions of this retirement plan.

(5) The board shall also be empowered to enter into an agreement, in its discretion, with a bank, trust company, savings and loan association, investment management company, or insurance company, authorized to do business in the State of Florida, for the investment, management and/or administration of pension funds and the payment of pensions as provided under the terms and conditions of this retirement plan.

(6) The board shall be and is hereby authorized to invest more than 5 percent of its assets in the common or capital stock of any one issuing company, to invest in such a manner that the aggregate investment in any one issuing company exceeds 5 percent of the outstanding capital stock of the company, and to invest more than 30 percent of the fund's aggregate assets at cost in equity instruments. However, in order to so invest, the board shall first receive concurrence and recommendation therefor from an independent consultant professionally qualified to evaluate the performance of professional money managers, which consultant shall be retained by the board to review on an annual basis such performance.

Section 4. Employees included.—For the purposes of this retirement plan, all sworn members of the Orlando Fire Department who hold a certificate of compliance pursuant to chapter 633, Florida Statutes, whether officers or firefighters, employed by the city in positions subject to withholding of federal income and FICA tax and regardless of duty assignment, are participants in this retirement plan which is mandatory as to those so employed. Nonfirefighter civilian employees of the department are excluded from this retirement plan, such employees being covered by the General Employees Retirement Plan of the City of Orlando.

#### Section 5. Continuity of service; continuity of benefits; reinstatement.—

(1) Any member of the Fire Department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by chapter 23444, Laws of Florida, 1945, shall be permitted to establish continuity of service and continuity of benefits by making the required regular contributions into the fund while such member of the fire department is absent from duty because of the acceptance of an appointment as Director of Public Safety for the City of Orlando, or while absent from duty under leave of absence because of illness, injury, or any other approved leave of absence.

(2) Any member of the fire department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by chapter 23444, Laws of Florida, 1945, shall, for pension purposes, be permitted to establish continuity of service and continuity of benefits by combining or tacking prior pension fund participation in the event of transfer from the police department to the fire department. However, such member must have completed at least 10 years' participation in the firefighters' pension fund immediately prior to retirement in order to establish such continuity.

(3) Any member of the fire department of the City of Orlando who was otherwise entitled to participate in the retirement plan created by chapter 23444, Laws of Florida, 1945, shall, for pension purposes, be permitted to establish continuity of service and continuity of benefits by making the required regular contributions into the respective fund while such member is absent from duty because of service in the United States military forces, provided that such member returns to duty with the department following completion of such military service, all in accordance with and as may be required by applicable federal or state law.

(4) In the event a member of the City of Orlando Fire Department severs his employment with the department, but is subsequently rehired within 2 years by the department, the member may be reinstated in the pension program and accorded all provided rights therein, provided said member repays into the pension fund that sum of money which the member was refunded at the time he severed employment with the department in addition to interest compounded annually on that sum of

money due for the period of the absence. An appropriate annual compound interest rate shall be determined by the Orlando Firefighters Pension Board based on the investment earnings of the pension fund. Any member who is rehired after an absence of more than 2 calendar years shall be treated in the same manner as a newly hired member and shall not be eligible for reinstatement in the pension fund.

Section 6. Service requirements for voluntary retirement; benefits upon death of retired member.—

(1) For the purposes of this retirement plan, the following definitions shall apply:

(a) "Credited service" means personal service rendered the City of Orlando Fire Department while a participant in this plan, together with qualifying military service, which shall be credited to each member's credited service account each plan year in accordance with rules established by the board of trustees. In no event shall a member be credited with more than 1 year of service for all service performed during a plan year.

(b) "Average monthly salary" means one-thirty-sixth of the total amount of salary paid a member for the member's last 3 years of credited service. If the member does not have 3 years of credited service, average monthly salary is the aggregate amount of salary paid the member for the member's total period of credited service divided by the member's total period of credited service.

(2) Any member of the fire department may retire after 20 years of credited service therein and shall receive and be paid a monthly pension of an amount equal to 60 percent of his average monthly salary. The average monthly salary shall be determined by computing the average monthly salary for the member's last 3 years of service. However, in addition to the aforesaid 60 percent pension, a member who retires with more than 20 years' active service in the department shall receive 4 percent per month of the average monthly salary computed as stated herein for each full year of said service in excess of 20 years' service. The 4 percent increment shall be limited to 5 years' additional service.

(3) Upon the death of such a retired member, the widow or widower, if any, shall be entitled for the remainder of his or her natural life, subject to the provisions of sections 14 and 18 of this retirement plan, to a monthly pension equal to 75 percent of the pension amount payable to the retired member.

(4) If the deceased retired member leaves a surviving child or children, in being, who are the issue of such deceased retired member and his or her surviving widow or widower and who are under the age of 18 years, then and in that event 25 percent of the 75 percent widow or widower pension, provided for in subsection (2), shall be paid to the widow or widower for and on behalf of said issue until said issue become ineligible under the provisions of section 14 of this retirement plan. Upon such ineligibility, the full 75 percent shall be paid to the widow or widower for her or his own account as provided in subsection (2).

(5) If the deceased retired member leaves a surviving child or children in being who are under the age of 18 years and the issue of such deceased retired member and of a wife or husband of a marriage other than to the widow or widower, then and in that event 25 percent of the aforesaid 75 percent widow or widower pension shall be divided and paid, on a per capita basis, to:

(a) The legal guardian of the issue, for said issue, until said issue become ineligible under the provisions of section 14 of this retirement plan.

(b) The widow or widower, for issue if any, the widow or widower and the deceased retired member may have had who survived said deceased retired member and who were in being and under the age of 18 years at the time of death. If the deceased retired member leaves no widow or widower surviving, but does leave issue as aforesaid, the full 75 percent widow or widower pension shall be divided and paid on a per capita basis to the legal guardian or guardians of said issue, for said issue, until said issue become ineligible under the provisions of section 14 of this retirement plan.

(6) Payments for any issue which shall cease pursuant to the provisions of section 14 of this retirement plan shall not have the effect nor serve to increase the payments to any other issue. Such amounts shall be paid to the widow or widower for as long as he or she remains eligible therefor.

(7) Neither the board of trustees nor the City of Orlando or their authorized officials, employees, or agents shall be liable or responsible in any way for identification or verification of the authenticity of widows or widowers, issue or guardians or changes in status thereof; moreover, without limiting the foregoing, to be entitled to be considered for said payments provided herein, proof of identification and authenticity of the widow or widower, issue and guardians, along with sufficient address and status information, must be presented to the board in writing within 30 days of the death of said member and proof of changes therein presented to the board in writing within 30 days after the change. Without limiting the foregoing sentence, any widow or widower claiming entitlement under this section to an increase in pension on account of change in status of issue shall present in writing to said board proof satisfactory to the board of said change within 30 days thereafter. If the board decides that proof of any of the aforesaid changes has been satisfactorily shown to it in writing, the change of pension shall be made by the board effective with the next monthly payment due after the showing. However, no change in pension payment or amount thereof shall be retroactive.

Section 7. Vesting of benefits; benefits upon death of vested member.—

(1) Any member of the fire department, who has been in active service in the department for more than 10 years but less than 20 years and who is discharged or voluntarily separates from service in the department thereafter, may make an irrevocable election in writing to receive a monthly pension beginning at age 47. However, said election shall be delivered in writing to the board of trustees within 30 days after separation or discharge. The active service shall be measured backward starting from the date of separation or discharge. If the separated or discharged member is at the time of separation or discharge over the age of 47 and elects within 30 days in writing in the manner provided to receive a pension, the pension shall begin at the age of separation or discharge. The pension beginning at age 47 or older as herein provided shall require no future contributions by the person so qualifying. The amount thereof shall be determined by computing the average monthly salary for the member's last 3 years of service, and the member shall receive each month 2 percent of the average monthly salary for each year of service up to, but not including, 20 years. Upon reaching 20 years' active service, the member shall be governed by the provisions of section 6 of this retirement plan.

(2) If the member has not attained age 47 and dies after separation or discharge but before timely electing the pension or after the election but before the beginning of the pension, the widow or widower and issue under the age of 18 shall have no further rights hereunder to a pension or other wise and shall only be entitled to receive the salary deductions the deceased member would have been entitled to elect upon separation or discharge if the member has not previously elected same.

(3) If the member has attained the age of 47 at the time of separation or discharge and dies prior to making the timely election or who before dying attains said age during the election period and dies before making the election or who dies after the election but before the beginning of the pension, the widow or widower and issue under the age of 18 shall be entitled to receive a monthly pension based upon the member's years of service at time of separation or discharge in the manner and percentages set forth for a widow or widower and issue in section 6 of this retirement plan.

Section 8. Disability pensions; in general.—

(1) For the purposes of sections 9 and 10 of this retirement plan, pertaining to disability pensions, the term "permanently and totally disabled" shall be construed to mean and include the loss of one or more limbs, loss of sight in one or both eyes, loss of hearing in one or both ears, and any other condition which renders the member unfit to perform the required duties of the member's rank held at the time of impairment.

(2) No member of the fire department shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment, or other medical condition preexisting at the time of employment with the fire department, provided that such preexisting condition and its relationship to a later injury, impairment, or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a member who, after employment with the fire department, suffers an injury, impairment, or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said employment.

(3) Notwithstanding any other provision of this retirement plan, a disability pension may be denied by the board of trustees if it is determined that:

(a) The applicant is not totally disabled to do all of the functions which can be performed by members of his or her same rank.

(b) The applicant is able to do some of the functions which can be performed by members of his or her same rank.

(c) The chief of the fire department is willing to permit the applicant to remain on the Orlando Fire Department, performing limited duty with no reduction in pay.

Section 9. Disability pensions; line of duty.—

(1) Any active member of the fire department who shall become permanently and totally disabled, if the disability is directly caused by and attributable to the performance of duty as a member of the department, shall be entitled to a monthly pension computed as though said member had completed a full 25 years of credited service pursuant to section 6(1) of this retirement plan.

(2) Upon the death of such member while on disability pension pursuant to this section, a widow or widower and issue in being under the age of 18 years shall be entitled to a monthly pension in the manner set forth in section 6(2), (3), (4), (5), and (6) of this retirement plan.

Section 10. Disability pensions; not in line of duty.—

(1) Any active member of the fire department who shall become permanently and totally disabled, if the disability was not directly caused by and attributable to the performance of duty as a member of the department and was not caused by the member's own imprudence, shall be entitled to a monthly pension as follows:

(a) A member with less than 10 full years of credited service at time of impairment shall be entitled to receive an amount equal to 3 percent of the member's average monthly salary for each full year of credit service.

(b) A member with 10 full years or more of credited service at time of impairment shall be entitled to 4 percent of the member's average monthly salary for each full year of credited service. However, said monthly pension shall not exceed 60 percent of the member's average monthly salary, subject to the provisions of paragraph (c).

(c) A member with more than 20 full years of credited service at the time of impairment may exceed the 60 percent maximum specified in paragraph (b) and shall be entitled to a monthly pension equal to 60 percent plus 4 percent per year for each full year of credited service in excess of 20 years of credited service. However, in no event shall the pension exceed the maximum percentage provided for a member who retires after 25 years of credited service as provided in section 6(1) of this retirement plan.

(2) Upon the death of such a retired member, the widow or widower, if any, shall be entitled for the remainder of his or her natural life, subject to the provisions of section 14 of this retirement plan, to a monthly pension equal to 65 percent of the pension amount payable to the retired member.

(3) If the deceased retired member leaves a surviving child or children in being who are the issue of such deceased retired member and his or her surviving widow or widower and who are under the age of 18 years, then and in that event 25 percent of the 65 percent widow or widower pension, provided for in subsection (2), shall be paid to the widow or widower for and on behalf of said issue until said issue becomes ineligible under the provisions of section 14 of this retirement plan. Upon such ineligibility, the full 65 percent shall be paid to the widow or widower for her or his own account as provided in subsection (2).

(4) If the deceased retired member leaves a surviving child or children in being who are under the age of 18 years and the issue of such deceased retired member and of a wife or husband of a marriage other than to the widow or widower, then and in that event 25 percent of the aforesaid 65 percent widow or widower pension shall be divided and paid, on a per capita basis, to:

(a) The legal guardian of said issue, for said issue, until said issue becomes ineligible under the provisions of section 14 of this retirement plan.

(b) The widow or widower, for issue if any, said widow or widower and the deceased retired member may have had who survived the deceased retired member and who were in being and under the age of 18 years at the time of death.

If the deceased retired member leaves no widow or widower surviving but does leave issue as aforesaid, the full 65 percent widow or widower pension shall be divided and paid on a per capita basis to the legal guardian or guardians of the issue, for said issue, until the issue become ineligible under the provisions of section 14 of this retirement plan.

(5) Payments for any issue which shall cease pursuant to the provisions of section 14 of this retirement plan shall not have the effect nor serve to increase the payments to any other issue. Such amounts shall be paid to the widow or widower for as long as he or she remains eligible therefor.

(6) Neither the board of trustees nor the City of Orlando or their authorized officials, employees, or agents shall be liable or responsible in any way for identification or verification of the authenticity of widows or widowers, issue or guardians or changes in status thereof; moreover, without limiting the foregoing, to be entitled to be considered for said payments provided herein, proof of identification and authenticity of the widow or widower, issue and guardians, along with sufficient address and status information must be presented to the board in writing within 30 days of the death of said member and proof of changes therein presented to the board in writing within 30 days after the change. Without limiting the foregoing sentence, any widow or widower claiming entitlement under this section to an increase in pension on account of change in status of issue shall present in writing to the board proof satisfactory to the board of said change within 30 days thereafter. If the board decides that proof of any of the aforesaid changes has been satisfactorily shown to it in writing, the change of pension shall be made by the board effective with the next monthly payment due after the showing. However, no change in pension payment or amount thereof shall be retroactive.

Section 11. Death benefits in line of duty.—If any active member of the fire department shall lose his life in the performance of duties as a member of said department, or as a direct result thereof, the widow or widower, if any, and issue in being under the age of 18 years, if any, shall be entitled to a monthly pension in the manner as set forth in section 6(2), (3), (4), (5), and (6) of this retirement plan and computed as though the member had completed a full 25 years of credited service.

Section 12. Death benefits; not in line of duty.—

(1) If any active member of the fire department who has completed at least 10 or more years of credited service in the department dies from causes unconnected with and not as a direct result of the performance of duties as a member of said department, the widow or widower, if any, and surviving issue in being under the age of 18 years, if any, shall be entitled to a monthly pension in the manner as set forth in section 10(2), (3), (4), (5), and (6) of this retirement plan.

(2) If the active member at the time of his or her death shall have been eligible to retire under section 6 of this retirement plan and otherwise entitled to elect and then receive the pension benefits provided thereunder, and the pension benefits accorded a widow or widower and issue in being under the age of 18 years under section 6 of this retirement plan would be greater than the benefits accorded such widow or widower and issue under section 10 of this retirement plan, then and in that event the member shall be deemed to have retired pursuant to section 6 of this retirement plan and such widow or widower and issue shall be entitled to the higher benefits accorded under section 6 of this retirement plan.

(3) If an active member of the fire department has completed less than 10 years of credited service at the time of death from causes unconnected with and not as a direct result of the performance of duties as a member of the department, a widow or widower shall be entitled to receive only a refund of the member's salary deductions.

Section 13. Deceased member without widow or widower, issue, or dependent parents.—

(1) If a deceased member of the fire department, active or retired, leaves no widow or widower surviving and leaves no surviving child or children in being who are the issue of such deceased member and under the age of 18 years, but does leave a mother and/or father surviving who is entirely dependent upon such member for support, such mother and/or father shall receive the same total pension to which a surviving spouse would have been entitled, unless and until such dependent mother and/or father becomes self-supporting, or dies, or remarries.

(2) If a deceased member has not received any retirement moneys under the terms and provisions of this retirement plan and leaves no surviving widow or widower, child or children who are the issue of such deceased member and under the age of 18 years, or dependent mother and/or father, then one-half of the amount deducted from the member's salary up to the effective date of section 3 of chapter 72-633, Laws of Florida, and all of said deductions made thereafter, shall be paid to that certain individual who has previously been designated in writing by the deceased member to receive such deductions. The written designation, signed and dated by the member, shall be filed with the secretary of the pension board and shall indicate only one individual. Said designation may be changed by the member at any time prior to death.

(3) If the deceased member leaves no surviving widow or widower, child or children who are the issue of such deceased member and under the age of 18 years, no dependent mother and/or father, and no individual designated to receive the member deductions, then and in that event the amount of the deductions from the member's salary as set forth in subsection (2) shall be paid to the deceased member's estate.

#### Section 14. Payment to widows or widowers and children.—

(1) Any pension paid under the terms and conditions of this retirement plan to any widow or widower shall cease upon the remarriage of such widow or widower. No pension shall be paid under the terms and provisions of this retirement plan to any widow or wife or widower or husband unless such survivor was the lawful wife or husband of the deceased member at the time said member was placed on pension. This shall not be construed to mean that the pension provided for surviving issue of a deceased member shall cease by virtue of the remarriage of the surviving spouse, but such pension shall continue until the occurrence of one or more of the events mentioned in subsection (2).

(2) Any benefits paid under the provisions of this retirement plan for any child shall cease when and if such child dies, or becomes self-supporting, or marries, or reaches the age of 18 years.

Section 15. Pension payments not assignable or subject to garnishment, execution, levy, or attachment; exceptions.—

(1) Except as provided in subsections (2) and (3), none of the money, pensions, or other benefits mentioned in this retirement plan shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

(2) The right of a member to a pension, to the return of accumulated member contributions, or to any other benefit under the provisions of this retirement plan shall be subject to award by a court of competent jurisdiction pertaining to alimony or child support, if so provided under applicable Florida law. If an award or order requires the retirement plan to withhold payment of a pension, accumulated member contributions or other benefit from the person to whom it is due, or requires the retirement plan to make payment to a spouse, former spouse, or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit. These limitations shall not apply to accumulated member contributions of an individual who is neither a participant nor a vested former participant.

(3) A member may assign, to the city or the Orlando Federal Credit Union, the right to a refund of accumulated member contributions in the event of termination of participation.

#### Section 16. Disability pensioner; enhanced pension for retraining.—

(1) After a disability pension has been granted by the board of trustees, a disability pensioner may voluntarily elect to receive a sum equal to one and one-half times the amount he or she would otherwise receive for up to a maximum of 4 years to allow said pensioner to undertake retraining via vocational, technical, or college education and entry into another field of endeavor. Upon entry into another gainful occupation, the pensioner shall revert to the regular amount of disability pension which he or she shall be entitled to draw until such time as the pension and the earnings from the gainful occupation equal the amount the pensioner was drawing as salary immediately prior to disability retirement. When the earnings from the gainful occupation exceed the difference between the pension and the amount received as salary immediately prior to disability retirement, the amount of pension shall be reduced to an amount which together with the amount earned from the gainful occupation equals the amount received as salary immediately prior to disability retirement.

(2) If the disability pensioner takes advantage of this increased pension amount for retraining or rehabilitation and then fails or refuses to seek a gainful occupation for which he or she is now qualified as a result of the rehabilitation or retraining, any pension payable shall be withheld until such time as he or she enters a gainful occupation.

(3) If the disability pensioner does engage in a gainful occupation following such retraining or rehabilitation, he or she shall make a report to the board of trustees, on or before the 20th day of each month, of any and all earnings received, or entitled to be received, by reason of engaging in the gainful occupation during the preceding month. If the report is not filed, the pension payable to the pensioner shall be withheld until the report is filed. If the pensioner files a false report, the board of trustees shall conduct a hearing, upon notice to the pensioner, and may order the pension suspended or terminated.

#### Section 17. Election of pension or return of contributions.—

(1) If a member is eligible to vest or retire upon voluntary separation or discharge, said member shall make an irrevocable election, in writing, and deliver same to the board of trustees within 30 days after such separation or discharge, between return of said member's own contributions to the retirement plan or receipt of a pension. If the member elects return of contributions, said member and all others claiming by, through, under, or against said member shall have no further rights to a pension, except as provided in section 5(4) of this retirement plan. If for any reason the election is not timely made, it shall be conclusively presumed that the irrevocable election is made in favor of return of contributions.

(2) If the member dies during the election period without having made the election as called for in subsection (1), the amount of the contributions shall be paid as provided in section 13(2) or (3) of this plan.

#### Section 18. Cost-of-living increase.—

(1) Any member of the Orlando Fire Department who retires prior to age 62 with 25 or more years of actual credited service shall receive a triennial cost-of-living increase of 5 percent compounded starting 3 years after retirement and ending with the last triennial anniversary of retirement prior to age 65. Any actuarially determined additional cost resulting from this additional benefit shall be borne by the members of the firefighters' pension plan.

(2) As an alternative to the cost-of-living increase provided for in subsection (1), any member who retires with 25 or more years of actual credited service shall receive a 5 percent cost-of-living increase every 3 years, the first increase occurring 3 years following retirement and the last increase occurring on the fifth triennial anniversary of retirement. Any actuarially determined additional cost resulting from this additional benefit shall be borne by the members of this retirement plan.

(3) Any member who retires without having rendered 25 or more years of actual credited service, and who is therefore ineligible for the cost-of-living benefit provided for in this section, shall receive a refund of his or her own contribution made for the cost-of-living benefit, without interest. Any actuarially determined additional cost resulting from this additional benefit shall be borne by the members of this retirement plan.

(4) As to either of the benefits provided for in subsections (2) and (3), with the additional cost thereof being borne by the members, such benefits shall not become effective and shall be of no force and effect unless and until approved by a majority of the members of this retirement plan at an election conducted by the Orlando Firefighters Pension Board within 90 days after the effective date of this act. Should the majority of the members so approve the alternative cost-of-living benefit provided for in subsection (2), then and in that event the provisions of subsection (2) shall become the exclusive cost-of-living benefit for members of this retirement plan and the cost-of-living benefit provided for in subsection (1) shall become null and void and of no force and effect.

(5) Upon the death of a member who retired with 25 or more years of actual credited service, the cost-of-living benefit shall be payable in the same manner as provided in section 6(2), (3), (4), (5), and (6) of this retirement plan; otherwise, the entitlement to a cost-of-living increase ceases upon the death of the retired member.

Section 19. Reexamination and recall of disability pensioners.—Any member of the fire department who shall have retired on pension due to disability, who has less than 25 years of service in said department, shall be subject to the call of the Orlando Firefighters Pension Board for reexamination, and, after due notice and hearing, if found able to perform

active duty, the board shall have the power, with the consent of the chief of the fire department, to compel the return of the member to the department. The member so returned shall enjoy the same rights held at the time of being placed upon pension, and in the event the member so ordered to return shall refuse to comply with said order within 30 days from the issuance thereof, said member shall forfeit the right to a pension.

**Section 20. Reemployment after retirement.—**

(1) Any person who is retired and entitled to receive retirement benefits from the pension fund for the fire department of the City of Orlando may be reemployed by any private or public employer after retirement and receive compensation from the employer and such retirement benefits without limitation, except that a person who, within the 12 months immediately subsequent to the date of his retirement is reemployed by either the police department or fire department of the City of Orlando, may not receive such retirement benefits for the period beginning on the date of such reemployment and ending on the first anniversary of the date of his retirement. The 12-month limitation period imposed by this paragraph applies to reemployment in any capacity with the police department or fire department of the City of Orlando, irrespective of the category of funds from which the person is compensated.

(2) A person to whom the limitation in subsection (1) applies and who is reemployed by either the police department or fire department of the City of Orlando within the 12 months immediately subsequent to the date of retirement must give timely notice of his or her status to the Orlando Firefighters Pension Board. The retirement benefits shall be suspended for the balance of the 12-month limitation period; any retirement benefits received during the 12-month limitation period shall be repaid to the pension fund; and the retirement benefits shall remain suspended until such repayment has been made. Any retirement benefits suspended beyond the 12-month limitation period shall be applied toward the repayment of any retirement benefits received during the 12-month limitation period.

(3) A retiree who draws a pension from the pension fund for either the police department or fire department of the City of Orlando, regardless of the date of reemployment, is not entitled to earn and draw another pension from either pension fund. If the police department or fire department of the City of Orlando employs a person who is entitled during such reemployment to receive retirement benefits from the pension fund for either the police department or fire department of the City of Orlando, the employer must pay into its pension fund an amount equal to the unfunded actuarially accrued liability portion, if any, of any contribution that would have been paid into the fund with respect to such employee were he or she a regular employee entitled to earn a pension.

(4) In the event that the provisions of subsections (1)-(3) are found by the Internal Revenue Service to preclude this retirement plan from being a qualified pension plan under the Internal Revenue Code, or to preclude the trust from being an exempt organization under the Internal Revenue Code, then it is the intent of the Legislature that the provisions of subsections (1)-(3) not be enforced or effective and, therefore, not serve as a bar to qualification or exempt organization status.

**Section 21. Qualified plan.—**

(1) The city intends the pension fund to be a qualified pension plan under section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under section 501 of the Internal Revenue Code. Notwithstanding any plan provision to the contrary, the pension board shall administer the pension fund so as to fulfill this intent.

(2)(a) Except as provided in the remainder of this subsection, employer-financed benefits provided by the pension fund shall not exceed \$50,000 per year.

(b) The limitation provided in paragraph (a) shall apply unless application of paragraphs (c), (d), and (e) would produce a higher limitation, in which case such higher limitation shall apply.

(c) For retirements occurring at age 62 or older, the upper limit is the lesser of \$90,000 and 100 percent of the member's 3-year highest average earnings calculated according to section 415 of the Internal Revenue Code.

(d) For retirements occurring prior to age 62, the amount of \$90,000 is actuarially reduced to reflect payment prior to age 62. In calculating

the reduction, the interest rate shall be 5 percent. If this paragraph produces a limitation of less than \$75,000 at age 55 or older, the limitation at such ages shall be \$75,000 and the limitations for ages under age 55 shall be calculated from a limitation of \$75,000 at age 55.

(e) Section 415(d) of the Internal Revenue Code provides that the \$50,000 limitation in paragraph (a) and the \$90,000 limitation in paragraph (c) is to be adjusted by the Commissioner of Internal Revenue to reflect cost-of-living increases, commencing with calendar year 1988. The provisions of this subsection shall be administered using the adjusted limitations applicable to each year.

(3) If a participant in this retirement plan is also a participant in a defined contribution plan maintained by the city, the sum of the defined benefit plan fraction and the defined contribution plan fraction shall not exceed 1.0 after taking into account any applicable restrictions and exceptions.

(4) The provisions of this act notwithstanding, the pension board shall at all times administer the retirement system in compliance with the provisions of section 415 of the Internal Revenue Code which are applicable to public employee retirement plans.

**Section 22. Member contributions; tax treatment.—**

(1) Upon implementation, the city shall, solely for the purpose of compliance with section 414(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, member contributions required by the act for all salary earned by the member after implementation. Member contributions picked up under the provisions of this section shall be treated as city contributions for purposes of determining income tax obligations under the Internal Revenue Code. However, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws.

(2) Members' contributions picked up under this section shall continue to be designated member contributions for all purposes of the act and shall be considered as part of the member's salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pickup or to receive the contributed amounts directly instead of having them paid by the city to the pension fund.

(3) Implementation occurs upon authorization by the Orlando Firefighters Pension Board of Trustees following receipt of a favorable letter of determination as to the qualified-plan status of the fund. In no event may implementation occur other than at the beginning of a pay period.

**Section 23. Actuarial equivalencies.—**Actuarial equivalencies shall be calculated using such rates of interest and mortality tables as the board of trustees shall from time to time adopt. In no case shall a rate of interest be less than 5 percent a year, compounded yearly. No change in interest rate or mortality table shall reduce the accrued benefit of any participant. In the event the composition of the board of trustees is changed in a manner that brings the board under the direct control of the city, actuarial equivalencies shall be calculated using the 1984 Group Annuity Mortality Table (Male) and an interest rate of 5 percent a year, compounded yearly.

**Section 24. Termination of the plan.—**It is the intent of the board of trustees and the City of Orlando that this retirement plan be permanent and remain in effect for an indefinite period. However, in the event this retirement plan is discontinued or terminated, all participants shall immediately become fully vested in their benefits. The discontinuance or termination shall be carried out in all respects in conformance with applicable statutes, rules, or regulations of the Federal Government or of the State of Florida, or any duly constituted agency thereof having jurisdiction.

**Section 25. Employment rights.—**This retirement plan shall not be construed as giving an employee any right to be retained in the service of the city without its consent, nor shall this retirement plan interfere with the right of the city to discharge an employee, nor shall an employee be given any right, claim, or interest in any benefits of this retirement plan except upon fulfillment of the conditions and requirements of this retirement plan.

**Section 26. Applicable laws.—**This retirement plan shall be construed and enforced under the laws of the State of Florida and any applicable federal law, rule, or regulation, and all of the provisions hereof shall be administered in accordance therewith.

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

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

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the City of Orlando, Orange County, and the pension fund of the Orlando Fire Department; amending and restating the pension fund and retirement plan created by chapter 23444, Laws of Florida, 1945, as amended; providing severability; providing an effective date.

On motion by Senator Crotty, by two-thirds vote **SB 4-E** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

**SPECIAL ORDER, continued**

Consideration of **SB 10-E** and **CS for SB 8-E** was deferred.

**SB 6-E**—A bill to be entitled An act relating to coastal resources; transferring administration of the state coastal management program to the Department of Community Affairs; providing for the position of Coastal Zone Administrator to be included in the program; amending ss. 380.21, 380.22, F.S.; transferring lead agency authority under the Coastal Zone Management Act from the Department of Environmental Regulation to the Department of Community Affairs; deleting provisions that have had their effect; amending s. 380.23, F.S.; providing for the transfer of authority; providing procedures for consistency review and determination of federal licenses, permits, activities, and projects; amending s. 380.31, F.S.; adding the Secretary of Labor and Employment Security to the membership of the Coastal Resources Interagency Management Committee; amending s. 380.33, F.S.; designating the Secretary of Community Affairs as the chairperson of the Coastal Resources Interagency Management Committee and the Secretary of Environmental Regulation as the vice chairperson; requiring the Department of Community Affairs to provide staff to the committee; repealing s. 13(2), ch. 91-286, Laws of Florida, to continue ss. 380.31, 380.32, 380.33, F.S., relating to the Coastal Resources Interagency Management Committee, which sections are repealed by that subsection October 1, 1992; repealing those sections effective October 1, 1994; providing for review of those sections prior thereto; repealing ss. 380.19, 380.28, F.S., relating to the Florida Coastal Coordinating Council and to the South Atlantic and Gulf States Coastal Protection Compact; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendments which were moved by Senator Kirkpatrick and adopted:

**Amendment 1**—On page 2, lines 30 and 31, and on page 3, lines 1-17, strike all of said lines after the period on line 30 and insert: It is the further intent of the Legislature that enactment of this legislation shall not amend existing statutes or provide additional regulatory authority to any governmental body except as otherwise provided by s. 380.23. The enactment of this legislation shall not in any other way affect any existing statutory or regulatory authority.

Section 3. Section 380.22, Florida Statutes, is amended to read:

380.22 Lead agency authority and duties.—

(1) The Department of ~~Community Affairs~~ ~~Environmental Regulation~~ shall be the lead agency pursuant to 16 U.S.C. ss. 1451 et seq., and shall compile and submit to the appropriate federal agency an application to receive funds pursuant to s. 306 of the Federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464). The application for federal approval of the state's program shall include program policies that only reference existing statutes and existing implementing administrative rules. ~~In the event the~~

**Amendment 2**—On page 4, lines 14-31, and on page 5, lines 1-10, strike all of said lines and insert:

Section 4. Subsection (2) of section 380.23, Florida Statutes, is amended to read:

380.23 Federal consistency.—

(2)(a) Where federal licenses, permits, activities, and projects listed in subsection (3) are subject to federal consistency review and are seaward of the jurisdiction of the state, or there is no state agency with sole jurisdiction, the Department of ~~Community Affairs~~ ~~Environmental Regulation~~ shall be responsible for the consistency review and determination; however, the department shall not make a determination that the license, permit, activity, or project is consistent if any other state agency with significant analogous responsibility makes a determination of inconsistency. All decisions and determinations under this subsection shall be appealable to the Governor and Cabinet.

(b) *Effective October 1, 1992, and until October 1, 1994, if a finding or recommendation of inconsistency has been made by a state agency with regard to federal activities and projects listed under paragraphs (3)(a) and (b) and the inconsistency cannot be resolved by the department, the department shall refer such finding or recommendation to the Governor for final determination. The Governor shall review the comments, findings, or recommendations of all participating agencies and shall affirm the finding or determination of inconsistency unless the Governor determines that the federal activity or project is consistent with the enforceable social, economic, and environmental policies of the coastal management program. Any permitting, licensing, or proprietary authority of an agency shall not be preempted or otherwise limited by any provision of this paragraph. Consistency determinations made pursuant to this paragraph shall not be appealable to the Governor and Cabinet.*

**Amendment 3 (with Title Amendment)**—On page 6, between lines 20 and 21, insert:

Section 7. Notwithstanding the provisions of chapter 216, Florida Statutes, no state agency shall seek additional positions or spending authority in fiscal year 1992-1993 for purposes relating to the coastal zone management program administered by the U. S. Office of Coastal Zone Management in addition to any positions or spending authority approved in the fiscal year 1992-1993 general appropriations act.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 27, after the semicolon (;) insert: prohibiting the Department of Community Affairs from requesting additional positions or spending authority without legislative authorization;

Senator Grizzle moved the following amendment which was adopted:

**Amendment 4 (with Title Amendment)**—On page 6, between lines 29 and 30, insert:

Section 11. Commercial marina permits issued pursuant to chapter 403, Florida Statutes, chapter 92-500, Laws of Florida, Florida Administrative Code, chapter 17-312 and chapter 17-25, and issued after January 1, 1990, are hereby extended for one year.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 9, after the semicolon (;) insert: providing for extension of certain permits issued after January 1, 1990;

The vote was:

Yeas—19      Nays—14

On motion by Senator Kirkpatrick, by two-thirds vote **SB 6-E** 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      Nays—None

**SB 12-E**—A bill to be entitled An act relating to health care; revising and reorganizing ch. 395, F.S., relating to licensing and regulation of hospitals and similar facilities; amending s. 395.002, F.S.; revising definitions related thereto; amending s. 395.003, F.S.; revising licensure provisions;

amending s. 395.004, F.S.; revising procedures for application for license; providing for disposition of fees; transferring, renumbering, and amending s. 395.006, F.S.; revising provisions relating to licensure inspection; providing criteria; deleting the public records exemption provided for certain inspection reports; transferring, renumbering, and amending s. 395.008, F.S., relating to inspection reports; providing a maximum copying fee; transferring, renumbering, and amending s. 395.007, F.S.; providing for disposition of fees; deleting authority to delegate review of plans and specifications to a county or municipality; transferring, renumbering, and amending s. 395.011, F.S.; modifying provisions relating to staff membership and clinical privileges; transferring, renumbering, and amending s. 395.0115, F.S.; revising provisions related to peer review and disciplinary powers; transferring, renumbering, and amending s. 395.014, F.S.; revising provisions providing for access by chiropractors to diagnostic reports; transferring, renumbering, and amending s. 395.041, F.S., relating to internal risk management programs; limiting responsibilities of part-time risk managers; providing for annual, rather than quarterly, reports to the Department of Professional Regulation; changing procedure for reports of adverse or untoward incidents; requiring the Department of Health and Rehabilitative Services to publish an annual summary of incident reports; deleting a requirement relating to information bulletins; transferring, renumbering, and amending s. 395.0172, F.S., relating to private utilization review; deleting duplicate provisions; authorizing the department to adopt rules; transferring, renumbering, and amending s. 395.0101, F.S.; revising provisions related to the treatment of biomedical waste; transferring, renumbering, and amending s. 395.0201, F.S.; requiring certain facilities to treat and protect the anonymity of sexual assault victims; transferring, renumbering, and amending s. 395.0205, F.S.; requiring protocols for the treatment of victims of child abuse or neglect; transferring and renumbering s. 395.0147, F.S., relating to notification to emergency medical personnel of exposure to infectious diseases, transferring, renumbering, and amending s. 395.038, F.S., relating to regional poison control centers; creating s. 395.103, F.S.; requiring hospital emergency departments to be capable of specified communications with life support vehicles and aircraft and municipal aid channels; transferring, renumbering, and amending s. 395.0142, F.S.; expanding requirements for providing access to emergency services; providing for inventory of hospital emergency services; revising provisions relating to legislative intent, medically necessary transfers, discrimination, liability, and records; prohibiting retaliation for patient transfers; providing penalties; providing for civil actions; requiring reports; providing for treatment of emergency medical conditions of certain psychiatric patients; providing procedure for further psychiatric treatment; transferring, renumbering, and amending s. 395.0141, F.S., relating to inventory of hospitals with emergency departments; deleting an obsolete reporting provision; transferring, renumbering, and amending s. 395.0175, F.S.; revising complaint investigation procedures; providing access to certain records; transferring, renumbering, and amending s. 395.005, F.S., relating to rules and enforcement; providing for standards for the use of seclusion and restraint; providing for hospital quality improvement programs; transferring, renumbering, and amending s. 395.018, F.S.; increasing fines for operating without a license; increasing administrative fines; transferring, renumbering, and amending s. 395.015, F.S., relating to itemized patient bills; requiring certain hospitals to notify patients of their right to an itemized bill upon request; requiring hospitals to provide itemized bills when requested; providing for a copy to the physician, upon request; revising applicability; providing certain liability; transferring and renumbering s. 395.016, F.S., relating to form and content of patient records; transferring, renumbering, and amending s. 395.0165, F.S., relating to penalties for altering patient records; improving grammar; transferring, renumbering, and amending s. 395.017, F.S.; revising requirements for disclosure of patient records; providing charges for copies and searches of records; providing exemptions; limiting use and disclosure of such records; providing for additional regulatory studies to be conducted by the Department of Health and Rehabilitative Services; requiring a report; transferring, renumbering, and amending s. 395.031, F.S.; revising definitions applicable to trauma care; providing additional component of trauma care system plans; specifying a period for approval of plans; providing for hearings; transferring and renumbering s. 395.032, F.S., relating to state regional trauma planning; transferring, renumbering, and amending s. 395.033, F.S., relating to trauma service areas; conforming a cross-reference; transferring, renumbering, and amending s. 395.0335, F.S.; revising provisions relating to selection of state-approved trauma centers; revising provisions relating to notice of termination of operation; providing certain immunity from liability for out-of-state experts; transferring, renumbering, and amending s. 395.034, F.S.; revising provisions relating to reimbursement of state-sponsored trauma centers; transfer-

ring and renumbering s. 395.0345, F.S., relating to the Trauma Services Trust Fund; transferring, renumbering, and amending s. 395.035, F.S., relating to review of trauma registry data; providing for trauma transport protocols for use of air ambulance service; transferring, renumbering, and amending s. 395.036, F.S., relating to transport of trauma victims to centers; providing for trauma transport protocols for use of air ambulance service; transferring, renumbering, and amending s. 395.037, F.S., relating to rulemaking authority; conforming cross-references; transferring, renumbering, and amending s. 395.102, F.S., relating to rural hospitals; providing definitions; deleting certain limitations on rural hospital swing-bed length of stay; transferring, renumbering, and amending s. 395.103, F.S., relating to rural hospital impact statements; providing for a process by which certain rural hospitals may deactivate general hospital beds; providing for reactivation of such beds; transferring, renumbering, and amending ss. 395.104, 395.01465, F.S., relating to other rural hospital programs and emergency care hospitals, respectively; conforming cross-references; transferring, renumbering, and amending s. 395.101, F.S., relating to hospital annual assessments; providing liability for fines, penalties, and assessments upon transfer or termination of a facility; providing alternative payment method for certain statutory teaching hospitals; transferring, renumbering, and amending s. 395.1015, F.S., relating to annual assessments of other health care entities; providing an exclusion from annual assessments for certain out-of-state revenues; clarifying an exemption for blood and plasma centers; transferring, renumbering, and amending s. 395.60, F.S., relating to the short title for the Medical Education and Tertiary Care Act; conforming cross-references; transferring and renumbering s. 395.61, F.S., relating to legislative intent with respect to that act; transferring, renumbering, and amending s. 395.62, F.S., relating to the Medical Education and Tertiary Care Trust Fund; conforming a cross-reference; transferring and renumbering s. 395.63, F.S., relating to distribution of trust fund moneys; repealing ss. 395.012, 395.013, F.S., relating to prohibitions against interference with the prescription of amygdalin (laetrile) or dimethyl sulfoxide (DMSO); repealing s. 395.0143, F.S., relating to denial of emergency treatment; repealing s. 395.0144, F.S., relating to duty to admit or transfer emergency patients; repealing s. 395.0146, F.S., relating to certificates of need for termination or reduction of emergency services; saving ss. 394.4787(4), 394.4788(2), (3), 395.001, 395.002, 395.003, 395.004, 395.005, 395.006, 395.007, 395.008, 395.009, 395.0101, 395.011, 395.0115, 395.014, 395.0141, 395.0142, 395.01465, 395.015, 395.016, 395.0165, 395.017, 395.0172, 395.0175, 395.018, 395.0185, 395.0201, 395.0205, 395.031, 395.032, 395.033, 395.0335, 395.034, 395.035, 395.036, 395.037, 395.038, 395.041, 395.101, 395.102, 395.103, 395.104, 395.63, F.S., from repeal October 1, 1992; amending ss. 119.07, 240.4067, 320.0801, 322.0602, 381.004, 381.026, 381.703, 381.706, 383.336, 394.4787, 394.4789, 401.425, 401.48, 407.002, 407.51, 409.918, 427.708, 440.185, 458.331, 459.015, 461.013, 468.505, 626.941, 626.943, 627.912, 641.55, 766.101, 766.110, 766.314, F.S.; conforming cross-references; amending s. 394.463, F.S., relating to involuntary examination; conforming cross-references; revising provisions related to patient transfers with respect to emergency medical conditions; revising detention period for involuntary examination of certain patients; creating s. 15.0463, F.S.; designating Mount Sinai Brain Dementia Bank as the official State of Florida Regional Dementia Brain Bank; amending s. 154.235, F.S.; authorizing health facilities authorities to refund any revenue bonds or debt obligations issued in connection with a project; providing for the use of proceeds; amending s. 154.331, F.S.; providing procedures for dissolving county health and mental health care special districts; amending s. 196.012, F.S.; revising the definition of "nursing home" in provisions relating to property tax exemptions; providing an appropriation; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing effective dates.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendments which were moved by Senator Malchon and adopted:

**Amendment 1**—On page 36, line 6, strike "~~body the board~~" and insert: **the board**

**Amendment 2**—On page 57, line 15, strike "*Effective*" and insert: *Except*

**Amendment 3**—On page 61, line 12, after the period (.) insert: *However, this paragraph does not create a cause of action beyond that recognized by this section and rules adopted under this section as they existed on April 1, 1992.*

**Amendment 4**—On page 99, line 16, strike “By September 1, 1990,” and insert: By September 1, 1990,

**Amendment 5**—On page 104, line 4, after “trauma” insert: *care and*

**Amendment 6**—On page 105, line 2, strike “s. 119.07(3)(w)” and insert: *s. 119.07(3)(v) s.119.07(3)(w)*

**Amendment 7**—On page 110, strike all of lines 18-20 and insert: *the date that funding becomes available October 1, 1990.* These trauma centers shall submit claims pursuant to subsection (3) (4) in order to justify this funding. *Effective 9 months after funding becomes available By June 30, 1991,* any trauma center which fails to

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

**Amendment 8 (with Title Amendment)**—On page 173, strike all of lines 17-21 and insert:

Section 89. Section 111 of Committee Substitute for Senate Bill 2390, as passed in the 1992 Regular Session, is amended to read:

Section 111. (1) Florida Health Services Corps.—

(a) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, the Legislature establishes the Florida Health Services Corps.

(b) As used in this section, the term:

1. “Department” means the Department of Health and Rehabilitative Services.

2. “Florida Health Services Corps” means a program authorized by this section which:

a. Offers scholarships to medical, chiropractic, dental, and nursing students in return for service in a public health care program.

b. Offers membership on a voluntary basis to physicians and other health care personnel ~~employed by or under contract with the department who provide compensated or uncompensated care.~~

3. “Medically underserved area” means:

a. A geographic area, a special population, or a facility that has a shortage of health professionals as defined by federal regulations;

b. A county public health unit, community health center, or migrant health center; or

c. A geographic area or facility designated by rule by the department that has a shortage of health care practitioners who serve Medicaid and other low-income patients.

4. “Medically indigent person” means a person who, *as used in this section, lacks public or private health insurance, is unable to pay for health care, and is a member of a family with an income at or below 185 percent of the federal poverty level is eligible for Medicaid under state law, a migrant, a Supplemental Security Income beneficiary, a food stamp recipient, and any person the department determines is eligible for departmental health care services based on an inability to pay for some or all their care.*

5. “Public health program” means a county public health unit, a children’s medical services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded health care program designated by the department.

(c) The Florida Health Services Corps shall be developed by the State Health Office, *in cooperation with the Area Health Education Centers programs, as defined in section 381 0402, Florida Statutes, and Florida’s health care education and training institutions conjunction with the Department of Education and the State University System.* The State Health Officer shall be the director of the Florida Health Services Corps.

(d) Corps members shall be supervised by the State Health Officer, *or his physician designee,* for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(e) The department may award scholarships to students studying medicine, chiropractic, nursing, or dentistry.

1. The program shall require a student who receives a scholarship to accept an assignment in a public health care program or work in a specific community located in a medically underserved area upon graduation. The department shall determine assignments. If a practitioner is assigned to a medically underserved area, the practitioner must treat Medicaid patients and other patients with low incomes.

2. An eligible student must pursue a full-time course of study in:

- a. Allopathic or osteopathic medicine, including physician assistants;
- b. Dentistry;
- c. Nursing, including registered nurses, nurse midwives and other nurse practitioners; or
- d. Chiropractic medicine.

3. In selecting students to participate in the scholarship program, priority shall be given to students who indicate a desire to practice a primary care specialty in a medically underserved area after their obligation is completed and who indicate an intent to practice medical specialties for which the department has a need.

4. Scholarship assistance shall consist of reimbursement for tuition and other educational costs such as books, supplies, equipment, transportation, and monthly living expense stipends. The department shall pay the same amount for living expense stipends as is paid by the National Health Services Corps. Each monthly living expense stipend shall be for a 12-month period beginning with the first month of each school year in which the student is a participant. The department may reimburse a participant for books, supplies, and equipment based on average costs incurred by participants for these items. The department shall prescribe, by rule, eligible expenses for reimbursement and allowable amounts.

5. For a medical student, enrollment in the corps may begin in the second year of medical school or in any year thereafter. For a nursing student or other student, enrollment may occur in any year.

6. For a student who receives scholarship assistance, participation in the corps after graduation shall be 1 year for each school year of financial assistance, up to a maximum of 3 years. The period of obligated service shall begin when the participant is assigned by the department to a public health program or to a medically underserved area.

(g) The financial penalty for noncompliance with participation requirements shall be determined in the same manner as in the National Health Services Corps scholarship program. In addition, noncompliance with participation requirements shall also result in ineligibility for professional licensure under chapter 458, chapter 459, chapter 460, chapter 464, chapter 465, or chapter 466, Florida Statutes. For a participant who is unable to participate for reasons beyond his control, such as disability, the penalty is the actual amount of financial assistance provided to the participant. Financial penalties shall be deposited in the Florida Health Services Corps Trust Fund and shall be used to provide additional scholarship and financial assistance.

(h) Membership in the corps may be extended to any licensed physician or other health care practitioner ~~employed by, or under contract with, the department who provides compensated or uncompensated care to medically indigent persons referred by the department.~~ Participation in the corps is voluntary and subject to the supervision of the department for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(i) A Florida Health Services Corps member is an agent of the state under section 768.28(9), Florida Statutes, while providing ~~compensated or uncompensated services to medically indigent persons who are referred by the department.~~

(j) Funds appropriated under this section shall be deposited in the Florida Health Services Corps Trust Fund, which shall be administered by the State Health Office.

(k) The department shall adopt rules to implement the Florida Health Services Corps. ~~The rules must require a corps member to provide care to a specific number of charity and Medicaid patients, require charity and Medicaid patients to comprise a minimum proportion of the patients of corps members, or require a corps member to provide a minimum amount of care, measured in dollars, to charity and Medicaid patients. If a dollar measurement is used, the calculation of a dollar value for the care delivered must be based on Medicaid reimbursement rates. The rules must also quantify penalties for noncompliance.~~

(2) This section shall take effect July 1, 1992.

Section 90. Effective July 1, 1992, subsection (9) of section 768.28, Florida Statutes, as amended by section 112 of Committee Substitute in Senate Bill 2390, as passed in the 1992 Regular Session, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions.—

(9)(a) No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such entity in his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, a ~~any~~ member of the Florida Health Services Corps, as defined in s. 381.90, who provides uncompensated care to medically indigent persons referred by the Department of Health and Rehabilitative Services and any public defender or his employee or agent, including, among others, an assistant public defender and an investigator.

(c) For purposes of the waiver of sovereign immunity only, a member of the Florida National Guard is not acting within the scope of state employment when performing duty under the provisions of Title 10 or Title 32 of the United States Code or other applicable federal law; and neither the state nor any individual may be named in any action under this chapter arising from the performance of such federal duty.

Section 91. If any law other than subsection (9) of section 768.28, Florida Statutes, which is amended by this act was also amended by a law enacted at the 1992 Regular Session of the Legislature, such laws shall be construed as if they had been enacted by the same session of the Legislature, and full effect should be given to each if that is possible.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 8, line 15, following the semicolon (;) insert: amending s. 111, CS for SB 2390, enacted in the 1992 Regular Session; providing that those provisions regulating the Florida Health Services Corps only apply to health care providers furnishing uncompensated health care services to certain medically indigent persons; amending s. 768.28, F.S.; redefining the term "officer, employee, or agent" with respect to waiver of sovereign immunity;

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

**Amendment 9 (with Title Amendment)**—On page 173, between lines 16 and 17, insert:

Section 89. Subsections (13), (14), (15), (16), and (17), are added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and

prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(13)(a) *The department shall encourage the development of public and private partnerships to foster the growth of health maintenance organizations and prepaid health plans that will provide high quality managed health care to Medicaid recipients. The department is authorized to require each individual who is determined eligible for Medicaid under the provisions of s. 409.903(1), (3), (4), (6), and (7), to the extent permitted by federal law, to participate in a managed care program. A managed care program may include enrollment in a state-certified health maintenance organization, a Medicaid prepaid health plan, a Medicaid primary care case management program, or other similar program that emphasizes primary care and contains financial incentives for a provider to manage health care on a comprehensive, cost-effective basis. In those areas where the department locks Medicaid recipients into managed care programs, the department shall assure that there are at least two managed care plans available to Medicaid recipients so that their freedom of choice is preserved. Consideration shall also be given to the economic impact of Medicaid lock-in on traditional providers of health services to charity care patients.*

(b) *The department is directed to conduct a comprehensive evaluation of the primary care case management program in districts 5 and 6 known as MediPass and report its findings to the Legislature on or before December 31, 1993. The evaluation shall include but not be limited to an assessment of the program's impact on quality of care, access to Medicaid services, and cost effectiveness. It is the intent of the Legislature that the department apply for a federal freedom-of-choice waiver and any other federal waivers necessary to expand Medipass to five additional districts by December 31, 1994, and to the remaining districts in the state by December 31, 1995, subject to evaluation findings that the program is cost effective, provides quality health care, and improves access to health services.*

(14) *The Legislature has found that certain categories of Medicaid recipients have a high need for medical services which result in increased program expenditures. To assist these recipients in obtaining the appropriate type and level of health care services, the department is directed to develop public and private partnerships that will provide managed care plans for:*

(a) *Qualified Medicare beneficiaries.*

(b) *Pregnant women.*

(c) *Elderly and disabled recipients who are at risk of nursing home placement.*

(15)(a) *The department shall encourage Medicaid recipients who receive payments under the Supplemental Security Income program to enroll in either Medicaid or Medicare managed care programs. In developing incentives, the department, at a minimum, shall consider:*

1. *Seeking authority from the federal government to negotiate payment rates up to 100 percent of the fee-for-service for the same population group; and*

2. *Paying a premium which would allow such Medicaid recipients to enroll in Medicare health maintenance organizations as long as the premium does not exceed the Medicaid fee-for-service experience for services covered by Medicaid but not by Medicare and the services are covered by the Medicare health maintenance organization.*

(b) *The department shall work cooperatively with the Social Security Administration and the Health Care Financing Administration to identify Medicare beneficiaries who are also Medicaid recipients and encourage these persons to enroll in Medicare health maintenance organizations.*

(16) *The department shall secure the necessary federal waiver authority to assure that federal matching funds are available to pay for mandated participation in managed care programs and shall assure that sufficient capacity exists to provide adequate or improved access to health services for Medicaid recipients prior to the implementation of subsections (13), (14), and (15). The implementation of any mandated*

program shall not require additional Medicaid expenditures in the aggregate for services and administration. However, the department shall assure that sufficient resources are available to recruit managed care providers, to inform affected recipients of their rights and choices under managed care plans, and to monitor the plans' quality of care as well as patient satisfaction.

(17)(a) The department is directed to share with the Florida Health Care Purchasing Cooperative the quality assurance assessment tool that is used for monitoring the quality of care and contract performance of Medicaid prepaid health plans, including the medical records review instrument and the scheduled program for conducting on-site and desk review audits of the plans.

(b) The department shall provide the criteria that it uses to monitor patient grievances, patient satisfaction, voluntary disenrollment, quality of care, and financial viability to the Florida Health Care Purchasing Cooperative. The Florida Health Care Purchasing Cooperative may adopt the performance review criteria developed by the department, the organization conducting performance reviews for Medicare risk contracts, and other states when monitoring contracts for other government entities. The department and the cooperative shall coordinate their monitoring and information collection activities and share information to avoid duplication in performing such activities.

(c) It is the intent of the legislature that improvements in the quality assurance assessment tool developed by the Florida Health Care Purchasing Cooperative be shared with the department and that a uniform assessment tool for monitoring the quality of care in all health maintenance organizations and prepaid health plans in the state be developed and maintained by the department.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 8, line 15, after the semicolon (;) insert: amending s. 409.912, F.S.; authorizing the department to require Medicaid recipients to participate in managed care programs; directing the department to expand the MediPass program to all districts in the state; directing the department to develop public and private partnerships that will provide managed care programs for certain Medicaid eligible population groups; directing the department to provide incentives for Medicaid recipients who receive Supplemental Security Income to enroll in managed care; directing the department to seek federal waivers; providing the Florida Health Care Purchasing Cooperative with access to the department's quality assurance assessment tool; providing intent that a uniform assessment tool for monitoring the quality of care in health maintenance organizations be developed;

Senator McKay moved the following amendment to **Amendment 9** which was adopted:

**Amendment 9A**—On page 1, line 1, through page 5, line 9, strike all of said lines and insert:

Section 89. Subsection (13) is added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(13) The department is directed to conduct a comprehensive evaluation of the primary care case management program in districts 5 and 6 known as MediPass and report its findings to the Legislature on or before December 31, 1993. The evaluation shall include but not be limited to an assessment of the program's impact on quality of care, access to Medicaid services, and cost effectiveness. It is the intent of the Legislature that the department apply for a federal freedom-of-choice waiver and any other federal waivers necessary to expand MediPass to five additional districts by December 31, 1994, and to the remaining districts in the state by December 31, 1995, subject to evaluation findings that

the program is cost effective, provides quality health care, and improves access to health services. Provided that the programs authorized by this subsection shall not affect the selection of hospitals or impair the patient's freedom of choice as to hospitals providing hospital services. The department shall give first priority to County Public Health Units as defined in Chapter 154, Florida Statutes, to develop such managed care programs.

**Amendment 9** as amended was adopted.

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

**Amendment 10 (with Title Amendment)**—On page 173, between lines 16 and 17, insert:

Section 89. In order to evaluate the effectiveness of alternative strategies for reducing Medicaid inpatient hospital expenditures, the Department of Health and Rehabilitative Services shall apply for a federal waiver to implement a competitive bidding demonstration project for Medicaid inpatient hospital services by January 1, 1993. The project shall be designed to be cost effective and shall not increase Medicaid expenditures in the aggregate for inpatient hospital services and administration. The project shall be limited to District 7A or any other area where competitive bidding is most feasible based upon an analysis of client demographics and the supply of inpatient and outpatient hospital services. In awarding contracts to hospitals, the department shall consider:

1. A hospital's percentage of charity care;
2. Graduate medical education costs;
3. A hospital's participation in other state and local programs;
4. Access to hospital services by Medicaid recipients, charity care patients, and other paying patients; and
5. Price.

The department shall report to the Legislature on the implementation of the competitive bidding project on or before December 31, 1993.

(b) The department shall conduct an evaluation of the competitive bidding demonstration project and report its findings to the Legislature on or before December 31, 1995. The evaluation shall assess the project's impact on Medicaid inpatient hospital expenditures, the expenditures of other state and local government programs, access to Medicaid inpatient hospital services, quality of care, graduate medical education in the state, and access to hospital services by charity care patients.

(c) Financial and actuarial information provided by the hospital to the department for the purpose of negotiating or determining the reimbursement rate to be paid to the hospital under this provision, and any records, documents, papers, computer tapes, or other business materials obtained by the department incident to the negotiation or determination of the reimbursement rate, are proprietary confidential business information and exempt from section 119.07(1), Florida Statutes. Any meetings of the department and hospitals that are for the purpose of negotiating competitive bidding and selective contracting procedures are exempt from the provisions of section 286.011, Florida Statutes. These exemptions are subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes. Any action that the department takes as a result of this competitive bidding and selective contracting shall be exempt from the Administrative Procedure Act.

(d) Data and rating information developed by the department for the purposes of negotiating or determining reimbursement rates to be paid to hospitals under this subsection, as well as the final bids that are accepted by the department, are confidential and exempt from section 119.07(1), Florida Statutes. This exemption is subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 8, line 15, after the semicolon (;) insert: amending s. 409.912, F.S., directing the department to implement a competitive bidding demonstration project for Medicaid inpatient hospital services in District 7A; providing certain exemptions from public record requirements for certain information concerning competitive bidding and selective contracting; providing an exemption from public meetings require-

ments for certain meetings that are held to negotiate competitive bidding and selective contracting procedures; providing an exemption from the administrative procedure act for certain actions taken by the Department of Health and Rehabilitative Services as a result of competitive bidding and selective contracting for Medicaid hospital services;

Senator Jennings moved the following amendment to **Amendment 10** which was adopted:

**Amendment 10A**—On page 1, line 21, strike “limited to District 7A or any other area” and insert: in such district as determined by the Department of Health and Rehabilitative Services

**Amendment 10** as amended was adopted.

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

**Amendment 11 (with Title Amendment)**—On page 165, strike all of lines 4-9 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 8, strike all of lines 2-5 and insert: patients; amending s. 154.235, F.S.;

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

**Amendment 12**—On page 12, strike all of lines 13-15

The vote was:

Yeas—23      Nays—10

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

**Amendment 13**—On page 75, strike all of lines 28 and 29 and insert: notify such person *in writing* of the investigation and inform the person or facility of the substance *and the source* of any complaint filed against

Senator Burt moved the following amendment to **Amendment 13** which was adopted:

**Amendment 13A**—On page 1, line 13, after “facility” insert: *in writing*

**Amendment 13** as amended was adopted.

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

**Amendment 14 (with Title Amendment)**—On page 173, between lines 16 and 17, insert:

Section 89. Walk-in clinics; registration; prohibitions; penalties.—

(1) As used in this section, the term “walk-in clinic” means an organization that employs or contracts with licensed health care professionals to provide diagnosis or treatment services predominantly on a walk-in basis and that holds itself out as providing care on a walk-in basis.

(2) A walk-in clinic must register annually with the Department of Health and Rehabilitative Services. A walk-in clinic may not operate without a valid registration certificate.

(a) An applicant for registration of a walk-in clinic must provide to the department, on a form established by the department, information that includes:

1. The name, location address, mailing address, and telephone numbers of each business site at which health care services are provided, or business operations are conducted, for the clinic.

2. The name, address, and telephone number of each owner and operator of the clinic and of each physician who provides health care services in connection with the clinic.

3. The names and addresses of sites at which each owner, operator, and physician has provided health care services for the 5 years preceding the application.

4. A sworn statement that no owner or operator of the clinic has been convicted of a felony or found to be a habitual misdemeanant, including any such conviction or finding in which a plea of nolo contendere was entered or adjudication was withheld, in this state or any other jurisdiction.

(b) The owner or operator of a walk-in clinic must send to the department any change in the information required under paragraph (a) within 30 days after the change occurs.

(3) The department shall issue a registration certificate to a walk-in clinic within 60 days after it receives the completed application form, unless the department has reasonable cause to believe that an owner, operator, or health care provider of the clinic is in violation of this section. If the department has such reasonable cause, it must investigate, or request that the state attorney’s office investigate, the alleged violation.

(4) Health care services provided at a walk-in clinic must be provided by appropriate health care professionals who hold valid licenses to perform those services under the laws of this state.

(5) A person who has been convicted of a felony or found to be a habitual misdemeanant under the laws of this state or another state, or federal law, whether or not he has pleaded nolo contendere or had adjudication withheld, may not own or operate a walk-in clinic in this state. A violation of this subsection is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)(a) The department may temporarily suspend the registration of a walk-in clinic if the owner, operator, or any health care provider of the clinic is under investigation for Medicaid fraud and the department determines that such temporary suspension is necessary to protect the public health, safety, or welfare. The suspension may continue until the allegation is dismissed.

(b) The department may deny registration to, or suspend or revoke the registration of, a walk-in clinic of which an owner, operator, or health care provider has been convicted or found guilty of Medicaid fraud or of any other violation of this section.

And the title is amended as follows:

In title, on page 8, line 15, after the semicolon (;) insert: providing a definition of walk-in clinic; requiring those clinics to register with the Department of Health and Rehabilitative Services; prohibiting doing business without a valid registration; requiring an applicant for registration to submit certain information; requiring the department to issue a registration certificate under certain conditions; requiring health care services to be provided by appropriate, licensed health care professionals; providing prohibitions; providing penalties; providing for temporary suspension of registration; providing for denial, suspension, or revocation of registration;

Senator Davis moved the following amendment to **Amendment 14** which was adopted:

**Amendment 14A**—On page 1, strike all of lines 15-18 and insert: means an entity that employs or contracts with licensed health care professionals to provide diagnosis or treatment services on a walk-in basis, that holds itself out as providing care on a walk-in basis, and that does not provide overnight care. This term does not apply to an entity organized under chapter 621, Florida Statutes, or a primary care center owned and operated by a hospital licensed under chapter 395, Florida Statutes, or an ambulatory surgical center licensed under chapter 395, Florida Statutes.

## POINT OF ORDER

Senator McKay raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Committee on Appropriations.

## RULING ON POINT OF ORDER

On recommendation of Senator Gardner, Chairman of the Committee on Appropriations, the President ruled the point not well taken.

The question recurred on **Amendment 14** as amended, which was adopted.

Senator Malchon moved the following amendments which were adopted:

**Amendment 15**—On page 66, line 10, strike “Effective” and insert: *Except Effective*

**Amendment 16**—On page 112, lines 12 and 13, strike “maintain and allow for department review of” and insert: *furnish for department review maintain and allow for department review of*

Senator Davis moved the following amendment which was adopted:

**Amendment 17**—On page 82, lines 27-30, and on page 83, lines 1 and 2, strike all of said lines and insert:

~~(7) The provisions of subsections (1) and (5) do not apply to patients whose care is totally funded by the state or any of its political subdivisions or by Medicaid.~~

Senators Weinstock and Wexler offered the following amendment which was moved by Senator Weinstock:

**Amendment 18**—On page 115, line 1, insert:

Section 37. Section 395.4046, Florida Statutes, is created to read:

395.4046 Trauma service providers authorized to perform open heart surgery.—A state approved or provisional state approved trauma center which provides at least 15 percent Medicaid/charity care inpatient days as a percent of total acute/intensive care inpatient days for the hospital’s most recent fiscal year as documented by the Health Care Cost Containment Board is authorized to perform open heart surgery notwithstanding any provision of law to the contrary.

(Renumber subsequent sections.)

**POINT OF ORDER**

Senator McKay raised a point of order that pursuant to Rule 7.1 **Amendment 18** was not germane to the bill.

**RULING ON POINT OF ORDER**

On recommendation of Senator Thomas, Chairman of the Committee on Rules and Calendar, the President ruled the point not well taken.

The question recurred on **Amendment 18**, which failed. The vote was:

Yeas—7 Nays—29

**SENATOR CHILDERS PRESIDING**

**MOTION TO RECONSIDER AMENDMENT**

Senator McKay moved that the Senate reconsider the vote by which **Amendment 14** as amended was adopted. The motion failed.

**MOTION TO RECONSIDER AMENDMENT**

Senator Thomas moved that the Senate reconsider the vote by which **Amendment 12** was adopted.

On motion by Senator Johnson the following exchange on **Amendment 12** was published in the Journal:

**Senator Johnson:** You’re saying that under every other provision of the law, including concurrency and BIR, they must meet those standards; that they could not build that building on even hospital premises unless they comply with concurrency which we forced upon them by our mandate and unless they comply with BIR which we imposed on them by our mandate. This is not a loophole for them to walk through. You’re saying that to me, that’s the intention of this bill.

**Senator Forman:** That is correct.

**THE PRESIDENT PRESIDING**

The question recurred on the motion by Senator Thomas to reconsider the vote by which **Amendment 12** was adopted. The motion was adopted. The vote was:

Yeas—19 Nays—17

Senators Burt, Langley, Thomas and Forman offered the following substitute amendment for **Amendment 12** which was moved by Senator Langley:

**Amendment 19**—On page 12, line 15, following “facility” insert: *provided the land upon which the medical office building is constructed is currently zoned for use as a hospital*

Senator Johnson moved the following amendment to **Amendment 19** which was adopted:

**Amendment 19A**—On page 1, line 7, insert: *; provided the premises were zoned for hospital purposes on January 1, 1992.*

**Amendment 19** as amended was adopted.

Senator Walker moved the following amendment which was adopted:

**Amendment 20**—On page 121, line 3, after “Section 39.” strike “Section” and insert: *Effective upon this act becoming a law, section*

On motion by Senator Malchon, by two-thirds vote **SB 12-E** 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 Nays—None

On motion by Senator Langley, by two-thirds vote—

**SB 30-E**—A bill to be entitled An act relating to bingo; repealing s. 3, ch. 91-421, Laws of Florida, relating to future legislative review and repeal of s. 849.093, F.S., which permits the conduct of bingo under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote **SB 30-E** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

**REPORTS OF COMMITTEES**

The Committee on Commerce recommends the following pass: **SB 10-E**

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

The Committee on Judiciary recommends the following pass: **SJR 2-E** with 3 amendments

**The bill was referred to the Committee on Rules and Calendar under the original reference.**

The Committee on Health and Rehabilitative Services recommends the following pass: **SB 12-E** with 14 amendments

The Committee on Judiciary recommends the following pass: **SB 10-E** with 2 amendments

The Committee on Natural Resources and Conservation recommends the following pass: **SB 6-E** with 3 amendments

The Committee on Commerce recommends a committee substitute for the following: **SB 8-E**

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

**INTRODUCTION AND REFERENCE OF BILLS**

**FIRST READING**

By Senator Thurman—

**SB 14-E**—A bill to be entitled An act relating to business and environmental coordination; creating the Partners for a Better Florida Advisory Council; providing findings; providing for the appointment of members and for nonvoting members; providing powers and duties; requiring recommendations; providing for expiration; providing an appropriation; requiring certain agencies to designate economic development liaisons; providing an effective date.

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

By Senators Thurman, Kurth and Grant—

**SB 16-E**—A bill to be entitled An act relating to bingo; amending s. 849.093, F.S.; revising the definition of “authorized expenses,” “authorized organization,” “charitable purpose,” and “objects”; defining “community association” and “volunteer”; authorizing community associations to conduct bingo; providing requirements with respect to the conduct of games and use of proceeds by such associations; revising requirements relating to a report by the Division of Pari-mutuel Wagering; revising requirements relating to use of proceeds; revising provisions relating to conduct of bingo for patients in veterans’ hospitals and nursing homes; revising requirements relating to the issuance of a license to conduct bingo or act as a distributor; exempting certain applicants from background check requirements; revising application and license fees; providing for a special event license; revising the conditions for the conduct of bingo and the required procedures for the conduct of games; revising requirements relating to premises on which bingo may be conducted and lease arrangements; revising reporting requirements; revising prohibited activities and prohibiting certain persons from participating in the operation of a licensed distributor; repealing s. 849.093(18), F.S., which specifies conditions with respect to the conduct of bingo by condominium associations; providing for retroactive effect of certain license fee reductions and for application of any excess paid toward subsequent fees; amending s. 723.079, F.S.; revising provisions relating to conduct of bingo by mobile home owners’ associations; providing for a report; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Gardner—

**SB 18-E**—A bill to be entitled An act relating to taxation; amending ss. 199.032, 199.185, F.S.; providing for levy of an additional tax on intangible personal property; providing additional exemptions; amending s. 199.292, F.S.; revising distributions from the Intangible Tax Trust Fund; amending s. 199.104, F.S.; revising intangible tax credits for banks and savings associations; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

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

By Senator Gardner—

**SB 20-E**—A bill to be entitled An act relating to taxation; amending s. 212.02, F.S.; providing definitions applicable to the tax on services; specifying conditions under which sale of a service is considered a sale for resale; specifying those activities included within the meaning of “services”; creating s. 212.056, F.S.; providing for levy of the tax on sales, use, and other transactions on the sale and use of certain services; providing for collecting and remitting thereof; creating s. 212.0561, F.S.; providing rules of construction with respect to the tax; creating s. 212.0562, F.S.; providing exemptions from the tax; amending ss. 212.03, 212.61, 203.01, 790.0655, F.S.; correcting references; amending ss. 212.054, 212.0598, 212.06, 212.07, 212.12, 212.21, F.S., relating to discretionary sales surtaxes, special provisions relating to air carriers, dealers and collection of tax, penalties for violation, enforcement, and intent regarding exemptions, to include the tax on services; amending s. 212.08, F.S.; including the sale of services in the exemption for churches; amending s. 212.11, F.S.; authorizing quarterly returns for dealers registered as service providers under certain circumstances; amending s. 212.183, F.S.; authorizing the Department of Revenue to provide by rule for self-accrual of tax for purchasers of services; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; exempting the department from provisions regulating the procurement of property and services for a specified period; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing effective dates.

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

By Senators Myers and Wexler—

**SB 22-E**—A bill to be entitled An act relating to Palm Beach County; amending chapter 87-450, Laws of Florida, as amended, relating to the Palm Beach County Health Care Act; deleting requirements for posting of bonds; providing for the terms of office of members of the subdistrict governing boards; providing for the authority to impose liens and to collect funds expended by the district from liable third parties; providing for

quality assurance and utilization review programs and their exemption from ss. 119.07 and 286.011, Florida Statutes; providing for severability; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Gardner—

**SB 24-E**—A bill to be entitled An act relating to taxation; amending s. 212.02, F.S.; providing definitions applicable to the tax on services; specifying conditions under which sale of a service is considered a sale for resale; specifying those activities included within the meaning of “services”; amending s. 212.05, F.S.; providing for levy of the tax on sales, use, and other transactions on the sale, use, consumption, or storage of certain currency or coins; providing exemptions; creating s. 212.056, F.S.; providing for levy of the tax on sales, use, and other transactions on the sale and use of certain services; providing for collecting and remitting thereof; creating s. 212.0561, F.S.; providing rules of construction with respect to the tax; creating s. 212.0562, F.S.; providing exemptions from the tax; amending ss. 212.03, 212.61, 203.01, 790.0655, F.S.; correcting references; amending ss. 212.054, 212.0598, 212.06, 212.07, 212.12, 212.21, F.S., relating to discretionary sales surtaxes, special provisions relating to air carriers, dealers and collection of tax, penalties for violation, enforcement, and intent regarding exemptions, to include the tax on services; amending s. 212.08, F.S.; providing exemptions from taxes imposed by ch. 212, F.S.; amending s. 212.11, F.S.; authorizing quarterly returns for dealers registered as service providers under certain circumstances; amending s. 212.183, F.S.; authorizing the Department of Revenue to provide by rule for self-accrual of tax for purchasers of services; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; amending s. 561.501, F.S.; expanding the surcharge on alcoholic beverages sold at retail for consumption on the premises to include all alcoholic beverages sold at retail; amending the amount of the surcharge on each type of beverage; amending the provisions for distributing the revenues; allowing vendors to choose whether to pay the surcharge on purchases or on sales; providing for an inventory tax; providing for penalties; providing for the deposit of surcharge proceeds; exempting the department from provisions regulating the procurement of property and services for a specified period; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing effective dates.

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

By Senators Malchon and Kiser—

**SB 26-E**—A bill to be entitled An act relating to governmental reorganization; abolishing the Department of Administration and transferring its duties to other agencies; amending s. 20.22, F.S.; renaming the Department of General Services as the Department of Management Services and providing that the head of the department is a Secretary of Management Services appointed by the Governor; transferring the Division of Bond Finance from the Department of General Services to the State Board of Administration; transferring personnel, records, property, and unexpended balances of appropriations of the Department of General Services used to support the Office of Executive Clemency to the Florida Parole Commission; making the Division of Surplus Property a bureau within the Division of Purchasing; amending ss. 11.25, 11.44, 20.04, 20.23, 24.120, 110.107, 110.109, 110.1097, 110.1127, 110.1128, 110.116, 110.117, 110.121, 110.123, 110.1231, 110.1232, 110.1234, 110.1245, 110.1246, 110.125, 110.131, 110.151, 110.1522, 110.161, 110.171, 110.205, 110.2135, 110.215, 110.227, 110.233, 110.403, 110.405, 110.407, 110.503, 110.607, 112.0455, 112.08, 112.0804, 112.24, 112.3173, 112.352, 112.361, 112.363, 112.63, 112.665, 120.52, 120.65, 121.021, 121.025, 121.031, 121.0515, 121.055, 121.071, 121.135, 121.136, 121.35, 121.40, 122.02, 122.03, 122.09, 122.13, 122.23, 122.34, 123.01, 123.07, 123.11, 123.24, 123.25, 123.36, 132.34, 145.19, 154.04, 163.3184, 189.4035, 189.412, 189.421, 210.20, 210.75, 215.425, 215.515, 215.94, 215.96, 216.011, 216.0165, 216.262, 218.32, 230.23, 231.262, 231.36, 238.01, 238.03, 238.08, 238.11, 240.209, 240.343, 242.68, 250.22, 252.38, 253.126, 266.0006, 266.0016, 266.0026, 266.0036, 266.0046, 266.0056, 266.0066, 284.36, 287.17, 295.11, 321.04, 321.17, 321.19, 321.191, 321.202, 321.2205, 337.165, 350.0614, 350.125, 370.0821, 376.10, 381.709, 402.35, 403.061, 406.075, 408.001, 409.029, 443.131, 455.225, 650.02, 760.04, F.S.; conforming such sections to the abolition of the Department of Administration; amending ss. 11.148, 11.45, 14.057, 20.32, 24.105, 27.34, 27.54, 75.05, 110.173, 120.53, 159.345, 159.475, 159.7055, 159.803, 212.055, 215.422, 215.47, 215.62, 215.93, 215.94, 216.0152, 216.016, 216.044, 216.0445, 216.163, 216.292, 217.01,

217.02, 217.04, 217.045, 218.32, 218.37, 218.38, 229.8052, 235.018, 235.26, 240.225, 240.417, 240.441, 253.45, 255.02, 255.043, 255.05, 255.21, 255.245, 255.25, 255.253, 255.258, 255.259, 255.28, 255.29, 255.30, 255.45, 255.451, 255.502, 255.506, 255.518, 255.555, 255.565, 259.03, 265.284, 265.285, 265.2865, 267.061, 270.27, 272.03, 272.04, 272.05, 272.06, 272.07, 272.08, 272.09, 272.12, 272.121, 272.122, 272.124, 272.129, 272.16, 272.161, 272.18, 272.185, 273.04, 273.05, 273.055, 281.02, 281.07, 282.102, 282.1021, 282.103, 282.105, 282.1095, 282.111, 282.304, 282.3061, 282.3062, 282.307, 282.308, 282.309, 282.311, 282.314, 282.318, 282.402, 282.403, 283.30, 284.01, 284.04, 284.05, 284.08, 284.385, 284.42, 285.06, 285.14, 287.012, 287.025, 287.032, 287.042, 287.055, 287.057, 287.0572, 287.0595, 287.064, 287.073, 287.0834, 287.0943, 287.0945, 287.133, 287.15, 287.151, 287.155, 287.16, 288.13, 288.14, 288.15, 288.17, 288.18, 288.23, 288.24, 288.28, 288.281, 288.31, 288.33, 288.703, 288.704, 288.705, 320.0802, 327.25, 336.025, 337.02, 337.276, 338.227, 341.101, 341.322, 344.17, 348.0002, 348.241, 348.52, 348.755, 348.765, 348.94, 348.941, 348.963, 348.966, 349.05, 365.171, 373.4596, 377.703, 380.0662, 401.013, 401.015, 403.1834, 403.1835, 403.712, 403.714, 403.7145, 413.034, 420.503, 420.608, 553.77, 570.50, 627.096, 940.03, 943.03, 944.10, 944.713, 946.504, 946.515, F.S.; conforming such sections to the renaming of the Department of Management Services and to the transfer of certain of the department's duties; repealing s. 20.31, F.S., relating to the Department of Administration; repealing s. 112.192, F.S., relating to the State Officers' Compensation Commission; repealing s. 215.58(5), F.S., relating to a definition of the term "department"; providing for a study of certain functions of decisions in the Department of General Services; providing for continuation of rules of agencies involved in reorganization; providing for substitution of agencies in pending proceedings; providing for assumption of powers and duties under conflicting laws enacted in the same session; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

—was referred to the Committee on Appropriations.

By Senator Kiser—

**SB 28-E**—A bill to be entitled An act relating to environmental resources; amending s. 380.20, F.S.; revising the short title; creating s. 380.205, F.S.; providing definitions; amending ss. 380.21 and 380.22, F.S.; transferring lead agency authority under the Coastal Zone Management Act from the Department of Environmental Regulation to the Department of Community Affairs; amending s. 380.23, F.S.; providing for the transfer of authority; providing for final consistency determinations to be made by the Governor under certain circumstances for a limited time; amending s. 380.33, F.S.; designating the Secretary of Community Affairs as the chairperson of the Coastal Resources Interagency Management Committee and the Secretary of Environmental Regulation as the vice chairperson; providing for the Department of Community Affairs to provide staff to the committee; continuing ss. 380.31, 380.32, and 380.33, F.S., relating to the Coastal Resources Interagency Management Committee, notwithstanding their scheduled repeal; repealing ss. 380.31, 380.32, and 380.33, F.S., effective October 1, 1994; providing for review by the Legislature prior thereto; transferring the state coastal management program functions to the Department of Community Affairs; providing for a position; repealing ss. 380.19 and 380.28, F.S., relating to the Florida Coastal Coordinating Council and relating to the South Atlantic and Gulf States Coastal Protection Compact; providing an effective date.

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

By the Committee on Commerce and Senators Childers, Langley, Thurman, Grant, Forman, Walker, Casas and Wexler—

**SB 30-E**—A bill to be entitled An act relating to bingo; repealing s. 3, ch. 91-421, Laws of Florida, relating to future legislative review and repeal of s. 849.093, F.S., which permits the conduct of bingo under certain circumstances; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Commerce and Senators Childers, Langley, Thurman, Grant, Forman, Walker, Casas, Wexler and Kurth—

**SB 32-E**—A bill to be entitled An act relating to banks and financial institutions; rescheduling Sunset and Sundown review and repeal of specified chapters and sections from July 1, 1992, to July 1, 1993; transferring and amending s. 658.50, F.S., relating to loans or extensions of credit; reestablishing interest rate limitations on credit cards or overdraft financing arrangements; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Commerce and Senators Childers, Langley, Thurman, Grant, Forman, Walker, Casas, Wexler and Kurth—

**SB 34-E**—A bill to be entitled An act relating to insurance; amending s. 624.155, F.S.; requiring the Department of Insurance to maintain certain records; specifying form and content of notice of intent to bring an action; deleting provisions requiring return of notices; requires only persons who claim punitive damages to post in advance the costs of discovery; authorizing third-party claimants to plead statutory or common-law causes of action for bad faith; limiting recovery of damages; specifying total recoverable damages; providing legislative intent; providing for retroactive application; amending s. 627.311, F.S.; deleting a requirement that self-insurers participate in the joint underwriting association; amending s. 626.022, F.S.; revising application of part I, ch. 626, F.S.; amending s. 626.031, F.S.; redefining the term "agent" for purposes of part I, ch. 626, F.S.; amending s. 626.241, F.S.; providing requirements for licensure examinations for title insurance agents; amending s. 626.2815, F.S.; providing continuing education requirements for title insurance agents; amending s. 626.331, F.S.; providing a limitation on agents and agency licenses; amending s. 626.611, F.S.; providing circumstances under which the department may deny, suspend, revoke, or refuse to renew a title agent's license or appointment; amending s. 626.841, F.S.; providing definitions; creating s. 626.8411, F.S.; providing for application of part II, ch. 626, F.S., to and title insurance agents; providing an exemption; creating s. 626.8412, F.S.; providing licensure and appointment requirements for title insurance agents; creating s. 626.8414, F.S.; providing licensure requirements for title insurance agents; providing certain exemptions from the examination requirement; amending s. 626.8417, F.S.; revising qualification requirements for licensure as a title insurance agent; authorizing the designation of an insurer's corporate officer to take certain actions on behalf of the insurer; providing an exemption from licensing and appointment requirements; creating s. 626.8418, F.S.; providing application requirements for licensure as a title insurance agency; providing requirements for a surety deposit or bond; creating s. 626.8419, F.S.; providing for the appointment of title insurance agencies by title insurers; requiring a fidelity bond and errors and omissions insurance of specified amounts; amending s. 627.7711, F.S.; providing definitions; amending s. 627.776, F.S.; providing for the application of the Insurance Code to title insurers; amending s. 627.777, F.S.; requiring the approval of title insurance forms by the department; amending s. 627.7773, F.S.; providing for accountings and audits of forms used by title insurance agents; amending s. 627.7776, F.S.; prohibiting the furnishing of supplies; providing a penalty; amending s. 627.778, F.S.; providing certain limitations on assumption of risk by title insurers; amending s. 627.780, F.S.; prohibiting certain illegal dealings in risk premiums; amending s. 627.782, F.S.; requiring the department to adopt minimum rates for title services; providing requirements for the department in adopting premium rates; amending s. 627.783, F.S.; providing for deviations in rates for title insurance upon order of the department; creating s. 627.7831, F.S.; requiring charging and collection of the risk premium; amending s. 627.784, F.S.; prohibiting the issuance of title insurance with disregard to possible title defects; amending s. 627.7841, F.S.; providing requirements for insurance against adverse matters and defects in title; amending s. 627.7842, F.S.; providing for certain exceptions from coverage in title insurance policies; creating s. 627.7843, F.S.; providing requirements for ownership and encumbrance reports; amending s. 627.7845, F.S.; providing requirements for title searches; providing requirements for maintaining records pertaining to title searches, risk premiums, and service charges; amending s. 627.785, F.S.; preempting to the state the regulation of title insurers and title insurance; amending s. 627.786, F.S.; prohibiting the transaction of title insurance and other kinds of insurance; amending s. 627.7865, F.S.; providing for payment of unpaid outstanding claims through insurer assessments; amending s. 627.791, F.S.; providing penalties; amending s. 627.792, F.S.; providing for liability in the event of defalcation, conversion, or misappropriation of funds held in trust by a title insurance agent; reviving provisions of part V, ch. 626 and ch. 627, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing for future repeal of certain provisions of part V, ch. 626 and ch. 627, F.S.; repealing s. 627.781, F.S., relating to the definition of the term "risk premium"; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Reapportionment—

**SB 36-E**—A bill to be entitled An act relating to the establishment of congressional districts; amending s. 8.001, F.S.; providing definitions;

amending s. 8.01, F.S.; dividing the state into congressional districts; amending s. 8.011, F.S.; providing for the inclusion of unlisted territory in contiguous districts; providing contiguity for areas specified for inclusion in one district which are entirely surrounded by other districts; amending s. 8.03, F.S.; providing for the election of representatives to Congress; providing for nomination and election of candidates from congressional districts created in 1992; providing for severability; repealing s. 8.061, F.S., relating to severability of invalid portions; providing effective dates.

—was referred to the Committee on Reapportionment.

By Senators Dantzer, Forman, Walker, Davis, Weinstein and Grant—

**SB 38-E**—A bill to be entitled An act relating to workers' compensation; creating "The Workers' Compensation Reform Act of 1992"; creating s. 287.044, F.S.; providing for compliance with chapter 440, F.S.; providing definitions; requiring a sworn statement prior to bidding on a contract under certain circumstances; amending s. 287.058, F.S.; requiring certain contract documents to contain certain payment security provisions; amending ss. 350.0611 and 350.0613, F.S.; providing additional responsibilities of representation for the Public Counsel; amending s. 440.02, F.S.; providing definitions; amending s. 440.05, F.S.; providing for election of exemption; providing for revocation of an election; amending s. 440.055, F.S.; deleting the requirement that employer affidavits be made annually; amending s. 440.09, F.S.; revising coverage provisions related to injuries due to alcohol or drug abuse; amending s. 440.10, F.S.; deleting a penalty; authorizing the Division of Workers' Compensation of the Department of Labor and Employment Security to assess a penalty against certain employers; amending s. 440.101, F.S.; revising legislative intent; amending s. 440.102, F.S.; revising provisions related to the drug-free workplace program; providing certain employers are ineligible for certain discounts; providing additional requirements for followup testing; providing for payment of medical treatments; providing a penalty; providing that certain screening and testing need not comply with certain rules; providing additional employer protection provisions; creating s. 440.103, F.S.; requiring proof of secured compensation as a condition to receiving a building permit; creating s. 440.104, F.S.; providing for civil actions for competitive bidders; creating s. 440.105, F.S.; prohibiting certain activities; providing penalties; creating s. 440.106, F.S.; providing for civil remedies, stop-work orders, and liens under certain circumstances; authorizing the division to bring certain actions; amending s. 440.11, F.S.; extending to county governments certain immunity from liability; amending s. 440.13, F.S.; requiring employers to provide certain medical services and supplies; providing for eligibility of providers; requiring notice of treatment to carriers; providing for independent medical examinations; providing for utilization review; providing for resolving utilization and reimbursement disputes; providing for certification of expert medical advisors; providing for witness fees; providing for audits by the division; providing for creation of a three-member panel; providing duties; providing for managed care; amending s. 440.135, F.S.; providing legislative intent regarding certain pilot programs; providing for additional pilot programs; amending s. 440.15, F.S.; requiring the three-member panel to establish and use a uniform permanent impairment guide; specifying a basis for the guide; requiring certain forms to be filed for temporary partial disability; providing for repayment of certain benefits under certain circumstances; amending s. 440.16, F.S.; revising certain provisions related to compensation for death; amending s. 440.185, F.S.; revising certain provisions related to notice of injury or death; deleting a requirement that the division forward certain files to a judge of compensation claims; amending s. 440.19, F.S.; providing additional claim filing requirements; amending s. 440.20, F.S.; requiring the division to monitor the timely payment of compensation benefits; providing additional permissible condition for lump-sum payment; amending s. 440.21, F.S.; deleting a penalty; amending s. 440.25, F.S.; revising provisions related to certain hearings held by a judge of compensation claims; revising procedures related to such hearings; authorizing the division to adopt rules; amending s. 440.29, F.S.; requiring receipt of certain medical reports into evidence; amending s. 440.34, F.S.; deleting a penalty; amending s. 440.37, F.S.; deleting provisions relating to misrepresentation, fraudulent activities, and penalties; amending s. 440.38, F.S.; revising provisions related to securing the payment of compensation by employers; requiring the division to adopt rules; permitting employers to obtain coverage by use of a 24-hour health insurance policy; specifying certain coverages; deleting a penalty; amending s. 440.381, F.S.; requiring updating of certain insurance applications; amending s. 440.45, F.S.; revising provisions relating to membership of the statewide nominating commission; amending s. 440.48, F.S.; requiring the department annually

report to the Governor and the Legislature on administration of chapter 440, F.S.; requiring the division to complete a quarterly analysis of injuries resulting in claims; requiring the division to submit an annual closed claim report to the Governor and the Legislature; requiring the division to engage in certain continuous studies; creating a premium data collection office in the Department of Labor and Employment Security; amending s. 440.49, F.S.; revising provisions related to reemployment and rehabilitation of injured workers; providing for reemployment status review and reports; providing for reemployment assessments; providing for medical care coordination and reemployment services; providing for training and education; specifying provider qualifications; providing for cost analysis; providing for permanent disability settlements; providing for a study of the reimbursement levels to employers for employment of the disabled; amending s. 440.57, F.S.; revising provisions related to employer liability pooling; providing for pool formation, organization and responsibilities, and membership; providing procedures for failing to maintain adequate funds; providing for assessments against fund members; providing penalties; providing for dividends; creating s. 440.5701, F.S.; providing for application of certain provisions to rate filings and applications of group self-insurer's funds; providing for deviations and discounts; creating s. 440.573, F.S.; authorizing the Board of Regents to provide coverage as a self-insurer under certain circumstances; creating s. 440.574, F.S.; authorizing a group self-insurer's fund to become an assessable mutual insurer; providing requirements; creating s. 440.576, F.S.; providing for venue in certain assessment actions; creating s. 440.577, F.S.; creating the "Florida Self-Insurer's Fund Guaranty Association"; providing definitions; providing purposes; providing for a board of directors; providing powers and duties of the association; requiring the association to submit a plan of operation to the division; providing for preventing self-insurer's fund insolvencies or impairments; providing for public disclosure of certain records of the association; providing for confidentiality of certain reports and information of the association; providing for liability for unpaid claims; providing immunity; prohibiting certain advertisements or solicitations; creating s. 440.592, F.S.; exempting certain records, information, or reports of the division from public disclosure; providing exemptions; creating s. 440.593, F.S.; providing for data collection by the division; creating s. 440.595, F.S.; providing for establishment of a pilot program for legal assistance to injured workers; providing requirements of the program; creating part I of chapter 442, F.S.; creating the "Florida Workplace Safety and Health Act"; providing objectives; providing definitions; providing duties and responsibilities of employers; providing powers and jurisdiction of the division; providing for compensation of injured division employees; providing duties of carriers; requiring the division to conduct certain studies and investigations; providing penalties and sanctions; providing for enforcement; providing for notice of death; creating the Occupational Safety and Health Enhancement Trust Fund; specifying uses of the fund; providing for deposit of moneys into the fund; requiring carriers to file certified statements with the division; specifying employee rights, obligations, and responsibilities; designating ss. 442.102-442.127, F.S., as part II of chapter 442, F.S.; amending s. 442.102, F.S.; providing definitions; amending ss. 442.103, 442.104, 442.105, 442.106, 442.107, 442.108, 442.109, 442.111, and 442.112, F.S.; placing the provisions relating to the Florida Substance List and regulation of toxic substances under the authority of the division; creating s. 442.110, F.S.; requiring labelling of toxic substance containers; providing exceptions; amending s. 442.118, F.S.; exempting certain employers from certain reporting requirements; amending s. 442.123, F.S.; deleting certain civil penalty and judicial restraint provisions; amending s. 624.488, F.S.; providing for application of certain laws; amending s. 627.091, F.S.; authorizing the Department of Insurance to combine certain filing information in determining rates; amending s. 627.101, F.S.; requiring the department to publish certain approved filings; providing for effect and operation of certain filings; repealing s. 627.111(2), F.S., relating to effectiveness of certain filings; creating s. 627.212, F.S.; authorizing the department to approve certain workers' compensation coverage insurance rating plans; amending s. 627.311, F.S., relating to self-insurer participation in equitable apportionment; amending s. 627.4133, F.S.; excluding workers' compensation insurance from certain notice provisions; appropriating sums to the Office of Public Counsel, the Division of Workers' Compensation and the Department of Insurance to implement provisions of the act; requiring economic study of indemnity benefit calculation method; creating a commission to study licensing of laboratories and drug testing procedures; providing for membership; requiring a report; repealing ss. 440.152, 440.43, 440.46, 440.56, 440.59, 442.116, 442.119, 442.125, 442.20, and 627.0915, F.S., relating to division study of occupational diseases, penalty for failure to secure compensation, investigations of the division, safety rules, a risk management

report, employee rights, contractor liability and responsibility, annual evaluation reports, workplace safety, and rate filings for workers' compensation insurance and drug-free workplace employers, respectively; providing effective dates.

—was referred to the Committee on Commerce.

SB 40-E was introduced out of order and referenced this day.

**COMMITTEE SUBSTITUTES**

**FIRST READING**

By the Committee on Commerce and Senators Thomas, Margolis and Kurth—

CS for SB 8-E—A bill to be entitled An act relating to economic and trade development; providing that the Governor is the principal economic development officer of the state; creating Enterprise Florida, Inc., a corporation not for profit; providing for membership of the board of directors of the corporation, terms of office, removal of members, meetings and organization, per diem and travel expenses, and financial disclosure; creating the Enterprise Florida Nominating Council to nominate private-sector members for appointment to the Board of Directors of Enterprise Florida, Inc.; requiring certain geographical and other representation on the board; providing for an executive director and employees; providing powers of the board; providing for immunity from liability for certain acts and omissions of members, agents, employees, and departmental employees; providing powers of the board; requiring the board to coordinate the state's economic development and to develop an economic development plan; requiring the board to make recommendations; requiring an annual audit and annual report; providing for confidentiality of the identity of donors and prospective donors; providing for the establishment of a seaport employment training grants program and for a trust fund within the Department of Commerce; providing for rule-making; directing the department, the Florida International Affairs Commission, and the Florida Seaport Transportation and Economic Development Council to establish the International Trade Data Resource and Research Center; providing for contracting with the center to develop a trade information system; amending ss. 288.012, 288.025, 288.03, F.S.; authorizing the department to gather trade data, information, and research and to assist in gathering, storing, promoting, packaging, and selling trade data, information, and research; providing for construction of laws enacted at the 1992 Regular Session in relation to this act; providing an effective date.

**ROLL CALLS ON SENATE BILLS**

**SJR 2-E—Amendment 4**

Yeas—34

Madam President	Dudley	Kirkpatrick	Souto
Bankhead	Forman	Kiser	Thomas
Beard	Gardner	Kurth	Thurman
Bruner	Gordon	Langley	Walker
Burt	Grant	Malchon	Weinstein
Casas	Grizzle	McKay	Weinstock
Childers	Jenne	Meek	Wexler
Crenshaw	Jennings	Myers	
Diaz-Balart	Johnson	Plummer	

Nays—5

Dantzler	Girardeau	Yancey
Davis	Scott	

Vote after roll call:

Yea—Crotty

**SJR 2-E—Amendment 5**

Yeas—25

Bankhead	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Langley	Walker
Casas	Girardeau	McKay	Weinstein
Childers	Gordon	Meek	
Crenshaw	Grizzle	Myers	
Diaz-Balart	Jenne	Plummer	

Nays—14

Madam President	Davis	Kurth	Wexler
Beard	Grant	Malchon	Yancey
Crotty	Jennings	Scott	
Dantzler	Johnson	Weinstock	

**SJR 2-E—Amendment 7**

Yeas—29

Madam President	Forman	Kiser	Souto
Bankhead	Gardner	Kurth	Thomas
Bruner	Girardeau	Langley	Thurman
Burt	Gordon	Malchon	Weinstein
Casas	Grizzle	Meek	Wexler
Childers	Jenne	Myers	
Diaz-Balart	Jennings	Plummer	
Dudley	Kirkpatrick	Scott	

Nays—9

Beard	Davis	Walker
Crotty	Grant	Weinstock
Dantzler	Johnson	Yancey

**SJR 2-E**

Yeas—22

Madam President	Dudley	Kiser	Thurman
Bankhead	Gardner	Kurth	Weinstock
Beard	Gordon	Malchon	Wexler
Burt	Grant	McKay	Yancey
Casas	Jenne	Scott	
Davis	Johnson	Thomas	

Nays—18

Bruner	Diaz-Balart	Kirkpatrick	Souto
Childers	Forman	Langley	Walker
Crenshaw	Girardeau	Meek	Weinstein
Crotty	Grizzle	Myers	
Dantzler	Jennings	Plummer	

**SJR 2-E—Motion to Reconsider**

Yeas—20

Madam President	Davis	Johnson	Scott
Bankhead	Dudley	Kiser	Thomas
Beard	Gordon	Malchon	Weinstock
Burt	Grant	McKay	Wexler
Casas	Jenne	Myers	Yancey

Nays—16

Bruner	Dantzler	Grizzle	Meek
Childers	Diaz-Balart	Jennings	Souto
Crenshaw	Forman	Kirkpatrick	Walker
Crotty	Girardeau	Langley	Weinstein

**SJR 2-E—After Reconsideration**

Yeas—19

Madam President	Davis	Johnson	Thomas
Bankhead	Dudley	Kiser	Weinstock
Beard	Gordon	Malchon	Wexler
Burt	Grant	McKay	Yancey
Casas	Jenne	Scott	

Nays—18

Bruner	Diaz-Balart	Kirkpatrick	Souto
Childers	Forman	Langley	Walker
Crenshaw	Girardeau	Meek	Weinstein
Crotty	Grizzle	Myers	
Dantzler	Jennings	Plummer	

**SB 6-E—Amendment 4**

Yeas—19

Bankhead	Crotty	Grant	McKay
Beard	Davis	Grizzle	Myers
Bruner	Dudley	Jennings	Scott
Childers	Forman	Kiser	Walker
Crenshaw	Girardeau	Malchon	

Nays—14

Madam President	Gardner	Meek	Weinstock
Burt	Gordon	Souto	Wexler
Casas	Kirkpatrick	Thomas	
Dantzler	Kurth	Thurman	

**SB 6-E**

Yeas—36

Madam President	Dantzler	Jennings	Myers
Bankhead	Davis	Johnson	Scott
Beard	Diaz-Balart	Kirkpatrick	Souto
Bruner	Dudley	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Yancey

Nays—None

Vote after roll call:

Yea—Forman

Nay—Plummer

**SB 12-E—Amendment 12**

Yeas—23

Bankhead	Crotty	Jennings	Malchon
Beard	Dantzler	Johnson	McKay
Bruner	Davis	Kirkpatrick	Thomas
Burt	Dudley	Kiser	Walker
Casas	Grant	Kurth	Weinstock
Childers	Grizzle	Langley	

Nays—10

Madam President	Gardner	Meek	Wexler
Diaz-Balart	Girardeau	Plummer	
Forman	Jenne	Souto	

**SB 12-E****Motion to Reconsider Amendment 12**

Yeas—19

Madam President	Diaz-Balart	Jenne	Myers
Casas	Forman	Jennings	Thomas
Childers	Gardner	Kurth	Weinstein
Dantzler	Gordon	Langley	Wexler
Davis	Grant	Meek	

Nays—17

Bankhead	Girardeau	Malchon	Weinstock
Beard	Grizzle	McKay	Yancey
Bruner	Johnson	Plummer	
Crenshaw	Kirkpatrick	Souto	
Dudley	Kiser	Walker	

**SB 12-E—Amendment 18**

Yeas—7

Madam President	Kiser	Walker	Wexler
Casas	Meek	Weinstock	

Nays—29

Bankhead	Davis	Jennings	Plummer
Beard	Diaz-Balart	Johnson	Souto
Bruner	Dudley	Kirkpatrick	Thomas
Burt	Forman	Kurth	Weinstein
Childers	Gardner	Langley	Yancey
Crenshaw	Girardeau	Malchon	
Crotty	Gordon	McKay	
Dantzler	Grizzle	Myers	

**SB 12-E**

Yeas—36

Madam President	Dantzler	Jennings	Myers
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Girardeau	Kurth	Walker
Casas	Gordon	Langley	Weinstein
Childers	Grant	Malchon	Weinstock
Crenshaw	Grizzle	McKay	Wexler
Crotty	Jenne	Meek	Yancey

Nays—None

**SB 30-E**

Yeas—38

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Myers	
Dantzler	Jennings	Scott	

Nays—None

**LOCAL BILL****SB 4-E**

Yeas—35

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstein
Crenshaw	Grant	Malchon	Weinstock
Crotty	Grizzle	McKay	Wexler
Dantzler	Jenne	Meek	Yancey
Davis	Jennings	Myers	

Nays—None

**CORRECTION AND APPROVAL OF JOURNAL**

The Journal of March 23 was corrected and approved.

**CO-SPONSORS**

Senator Grant—SB 2-E

Senator Thurman withdrew as a co-sponsor of SB 30-E.

**RECESS**

On motion by Senator Thomas, the Senate recessed at 2:23 p.m. to reconvene at 9:00 a.m., Thursday, March 26 or upon call of the President.