



Journal of the Senate

Number 2—Special Session E

Tuesday, October 21, 2003

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CALL TO ORDER

The Senate was called to order by President King at 1:00 p.m. A quorum present—38:

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wise
Crist	Margolis	

Excused: Senators Hill and Wilson

PRAYER

The following prayer was offered by Senator Fasano:

Heavenly Father, we come before you this day with humble hearts to face the momentous task before us. Thank you for this opportunity to be your servants. May we be worthy for the duty you have given us. We ask for your hand upon each member as we deliberate the deepest issues of life and the precious gift that you have provided. May we look to you for the guidance we need this day to make one of the most important decisions that we may make as public servants. We thank you and ask this in thy name. Amen.

PLEDGE

Senator Campbell led the Senate in the pledge of allegiance to the flag of the United States of America.

By direction of the President, the Secretary read the following proclamation:

PROCLAMATION

State of Florida
Executive Office of the Governor
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND HOUSE OF REPRESENTATIVES:

WHEREAS, on October 9, 2003, I called a Special Session commencing at 12:00 p.m. on Monday, October 20, 2003, and extending through 5:00 p.m., on Friday, October 24, 2003; and

WHEREAS, the purpose of this Special Session is to convene the Legislature to consider legislation relating to the use by the State of Florida of one-time only funds provided as part of the President's economic stimulus package for use in several major new and existing economic development opportunities; and

WHEREAS, an immediate and urgent need has arisen to address the removal of nutrition or hydration in legal proceedings concerning incapacitated patients; and

WHEREAS, an overwhelming amount of public outcry and support has been received by both the Governor and the Legislature to issue a stay in cases involving patients in a persistent vegetative state, where no written advance directive authorizes withholding or withdrawing hydration or nutrition and interested persons have challenged the decision to withhold or withdraw nutrition or hydration; and

WHEREAS, it is in the best interest of the people of the State of Florida to expand the scope of the call for this Special Session;

NOW, THEREFORE, I, Jeb Bush, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

The call to the Legislature of the State of Florida for this Special Session is expanded for the sole purpose of considering the following:

1. Legislation authorizing the Governor to issue a one-time stay in certain cases where the action of withholding or withdrawing nutrition or hydration from a patient in a permanent vegetative state has already occurred and there is no written advance directive and a family member has challenged the withholding or withdrawing in a court of law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this Proclamation convening the Legislature in Special Session at the Capitol, this 20th day of October, 2003.

Jeb Bush
GOVERNOR

ATTEST:
Glenda E. Hood
SECRETARY OF STATE

SPECIAL ORDER CALENDAR

SB 12-E—A bill to be entitled An act relating to the authority for the Governor to issue a one-time stay; authorizing the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration under certain circumstances; providing for expiration of the stay; authorizing the Governor to lift the stay at any time; providing for revocation of the stay; providing that a person is not civilly liable and is not subject to regulatory or disciplinary sanctions for taking an action in compliance with any such stay; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 12-E** to **HB 35-E**.

SENATOR PRUITT PRESIDING

THE PRESIDENT PRESIDING

Pending further consideration of **SB 12-E** as amended, on motion by Senator Webster, by two-thirds vote **HB 35-E** was withdrawn from the Committee on Rules and Calendar.

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

HB 35-E—A bill to be entitled An act relating to the authority for the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration from a patient; authorizing the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration under certain circumstances; providing for expiration of the stay; authorizing the Governor to lift the stay under certain circumstances; providing that a person is not civilly liable and is not subject to regulatory or disciplinary sanctions for taking action in compliance with any such stay; providing an effective date.

—a companion measure, was substituted for **SB 12-E** as amended and by two-thirds vote read the second time by title.

Senator Webster moved the following amendment which was adopted:

Amendment 1 (123042)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. (1) *The Governor shall have the authority to issue a one-time stay to prevent the withholding of nutrition and hydration from a patient if, as of October 15, 2003:*

- (a) *That patient has no written advance directive;*
- (b) *The court has found that patient to be in a persistent vegetative state;*
- (c) *That patient has had nutrition and hydration withheld; and*
- (d) *A member of that patient's family has challenged the withholding of nutrition and hydration.*

(2) *The Governor's authority to issue the stay expires 15 days after the effective date of this act, and the expiration of that authority does not impact the validity or the effect of any stay issued pursuant to this act. The Governor may lift the stay authorized under this act at any time. A person may not be held civilly liable and is not subject to regulatory or disciplinary sanctions for taking any action to comply with a stay issued by the Governor pursuant to this act.*

(3) *Upon the issuance of a stay, the chief judge of the circuit court shall appoint a guardian ad litem for the patient to make recommendations to the Governor and the court.*

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the authority for the Governor to issue a one-time stay; authorizing the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration under certain circumstances; providing for expiration of the stay; authorizing the Governor to lift the stay at any time; providing that a person is not civilly liable and is not subject to regulatory or disciplinary sanctions for taking an action in compliance with any such stay; providing for the chief judge of the circuit court to appoint a guardian ad litem; providing an effective date.

On motion by Senator Webster, by two-thirds vote **HB 35-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—23

Mr. President	Crist	Lawson
Atwater	Diaz de la Portilla	Lee
Campbell	Fasano	Lynn
Clary	Garcia	Miller
Constantine	Haridopolos	Peaden
Cowin	Jones	Posey

Pruitt	Sebesta	Wise
Saunders	Webster	
Nays—15		

Alexander	Carlton	Margolis
Argenziano	Dawson	Siplin
Aronberg	Dockery	Smith
Bennett	Geller	Villalobos
Bullard	Klein	Wasserman Schultz

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

By Senators Saunders and Lynn—

SB 14-E—A bill to be entitled An act relating to workers' compensation; changing from January 1, 2004, to July 1, 2004, the effective date of amendments made by chapter 2003-412, Laws of Florida, to ss. 440.02, 440.05, and 440.077, F.S., which govern coverage requirements for workers' compensation, the election of an exemption from coverage requirements, and the effect of such election; providing an effective date.

—was referred to the Committee on Banking and Insurance

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

By Senators Cowin and Lynn—

SB 16-E—A bill to be entitled An act relating to workers' compensation; changing from January 1, 2004, to July 1, 2004, the effective date of amendments made by chapter 2003-412, Laws of Florida, to ss. 440.02, 440.05, and 440.077, F.S., which govern coverage requirements for workers' compensation, the election of an exemption from coverage requirements, and the effect of such election; providing an effective date.

—was referred to the Committee on Banking and Insurance

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

By Senators Alexander and Lynn—

SB 18-E—A bill to be entitled An act relating to phosphate mining; amending s. 211.3103, F.S.; amending the tax on phosphate rock; providing for the distribution of tax proceeds; deleting obsolete provisions; amending s. 378.021, F.S.; directing the Department of Environmental Protection to amend the master reclamation plan; amending s. 378.031, F.S.; providing additional intent concerning reclamation activities; amending s. 378.035, F.S.; amending authorized uses of funds deposited in the Nonmandatory Land Reclamation Trust Fund; removing requirements for a reserve; limiting reclamation expenditures for fiscal year 2003-2004; amending s. 378.036, F.S.; creating a not-for-profit partnership to assist in phosphate reclamation; providing duties of the partnership; providing for the administration of partnership funds; providing an appropriation; amending s. 378.212, F.S.; providing authority for a variance for certain reclamation activities; amending s. 378.404, F.S.; allowing variances for water supply development; amending s. 403.4154, F.S.; providing criminal penalties for certain violations; prohibiting the distribution of certain company assets under specified circumstances; provid-

ing for the declaration of an imminent hazard if certain financial conditions exist; providing limited liability for entities assisting in the abatement of imminent hazards; amending a provision granting certain rebates of phosphate fees; amending s. 403.4155, F.S.; directing that rules be developed for financial assurance, interim stack management, and stack closure; requiring the Department of Environmental Protection to conduct a study; providing funds for the study; providing for the transfer of certain funds from the Nonmandatory Land Reclamation Trust Fund to the General Revenue Fund; providing an appropriation for the funding of a study by the Florida Institute of Phosphate Research; providing an effective date.

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

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Lee, the rules were waived and the Committees on Banking and Insurance; and Education were granted permission to meet from 4:00 p.m. until 6:00 p.m. in lieu of 2:15 p.m. until 4:15 p.m. as scheduled this day.

On motion by Senator Lee, the rules were waived and the Committees on Criminal Justice; and Judiciary were granted permission to meet jointly from 6:15 p.m. until 8:15 p.m. in lieu of 4:30 p.m. until 6:30 p.m. as scheduled this day.

On motion by Senator Lee, the rules were waived and the Committee on Natural Resources was granted permission to meet from 8:30 p.m. until 10:30 p.m. in lieu of 10:00 a.m. until 2:00 p.m. as scheduled this day.

On motion by Senator Lee, the rules were waived and the amendment deadline for CS for SB 6-E was set for 2 hours after the committee substitute becomes available.

ANNOUNCEMENTS

Senator Lee announced that the Committee on Banking and Insurance was scheduled to meet October 22 from 7:00 p.m. until completion.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bill to be placed on the Special Order Calendar for Tuesday, October 21, 2003: SB 12-E

Respectfully submitted,
Tom Lee, Chair

The Committee on Commerce, Economic Opportunities, and Consumer Services recommends the following pass: SB 8-E with 1 amendment

The bill was referred to the Committee on Governmental Oversight and Productivity under the original reference.

The Committee on Judiciary recommends the following pass: SJR 4-E

The Committee on Rules and Calendar recommends the following pass: SB 12-E with 1 amendment

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

The Committee on Commerce, Economic Opportunities, and Consumer Services recommends a committee substitute for the following: SB 6-E

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

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senators Atwater and Klein—

CS for SB 6-E—A bill to be entitled An act relating to establishment of a biomedical research institution and campus; creating s. 288.955, F.S.; creating the Scripps Florida Funding Corporation to facilitate the establishment and operation of a biomedical research institution for the purposes of enhancing education and research and promoting economic development and diversity; providing for its board of directors; prohibiting conflicts of interest; providing penalties; providing powers and duties of the corporation; providing for investment of funds; requiring an operating plan; requiring the corporation and Scripps Florida or another entity operating such an institution to enter into a contract; providing for disbursement and reinvestment of funds; requiring reports, audits, and evaluations; providing for performance measures as conditions for disbursement of funds; limiting the use of funds; providing that the appropriation of funds does not constitute a debt of the state or a subdivision of the state nor does it subject the state or a subdivision to liability; creating the Joint Legislative Committee on Biomedical Investment Oversight; providing its membership and duties; providing legislative intent with respect to creating economic opportunity and improving public health through the establishment of a biomedical research institution; amending s. 403.973, F.S.; specifying that projects that are part of the biomedical research institution and campus are eligible for the expedited permitting process; providing for challenges to state agency action in expedited permitting related to the institution and campus; providing an appropriation; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed HB 35-E and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representatives Stargel and others—

HB 35-E—A bill to be entitled An act relating to the authority for the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration from a patient; authorizing the Governor to issue a one-time stay to prevent the withholding of nutrition and hydration under certain circumstances; providing for expiration of the stay; authorizing the Governor to lift the stay under certain circumstances; providing that a person is not civilly liable and is not subject to regulatory or disciplinary sanctions for taking action in compliance with any such stay; providing an effective date.

—was referred to the Committee on Rules and Calendar

RETURNING MESSAGES—FINAL ACTION

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed HB 35-E, as amended.

John B. Phelps, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of October 20 was corrected and approved.

CO-SPONSORS

Senators Aronberg—SB 10-E; Campbell—SB 12-E; Crist—SB 12-E

RECESS

On motion by Senator Lee, the Senate recessed at 3:48 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 9:00 a.m., Thursday, October 23 or upon call of the President.