



# Journal of the Senate

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## CALL TO ORDER

The Senate was called to order by President Haridopolos at 2:16 p.m.  
A quorum present—40:

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

## PRAYER

The following prayer was offered by David McMullen, Pastor, Athena Baptist Church, Perry:

Dear Heavenly Father, we come to you this afternoon on behalf of all who are gathered together in this chamber. We pause a few moments to say, "Thank you." Thank you for your many blessings that we partake of each day. Thank you for the sustaining power that you give so that we may fulfill the calling you have given to each of us as Florida citizens, whether it be in state government, private enterprise, or wherever you have placed us. Thank you for the freedoms we have in this nation—the God-given rights to express ourselves, to grow, learn, and mature as you have enabled us to be a productive society.

Lord, your holy word says in the book of Romans, "Let every soul be subject to the governing authorities. For there is no authority except from God, and the authorities that exist are appointed by God . . . For he is God's minister to you for good."

For this reason I come to you, Father, on behalf of these men and women who, like all people, experience the day-to-day problems,

and issues with which all people deal. Lord, I especially lift up Senator Bullard to you this afternoon. Lord, I ask you to build a hedge around these Senators and their families to protect and strengthen them.

Father, I ask that you graciously grant them knowledge and wisdom to govern amid these difficult times, compassion for the welfare and needs of our diverse peoples of this state, a deep desire for justice for all, and the ability to work together in harmony even when there are honest disagreements.

I pray for the business that is before this body during this session. May the outcome be pleasing to you and may it also bless the citizens who live and work in this great State of Florida. It is in the most precious and holy name I pray, Amen.

## PLEDGE

Senate Pages, Seth Heard of Apopka; Layne Garrett of Tallahassee; Corey Darnell of Blountstown; and Atticus Stephens of Quincy, led the Senate in the pledge of allegiance to the flag of the United States of America.

## ADOPTION OF RESOLUTIONS

At the request of Senator Joyner—

By Senator Joyner—

**SR 700**—A resolution honoring the Women's Heart Health Initiative.

WHEREAS, heart disease, often called the "silent killer," continues to be the number one killer of women, with a woman dying from heart disease every 34 seconds, and

WHEREAS, heart disease claims more women's lives than the next eight causes of death combined, including breast cancer, and

WHEREAS, two-thirds of American women who die suddenly from heart disease had no prior symptoms, and

WHEREAS, African-American and Hispanic women have higher heart disease risk factors than Caucasian women of comparable socioeconomic status, with heart disease being the number one killer of African-American women, and

WHEREAS, in an effort to raise awareness about heart disease in women and improve the prevention and treatment of women who suffer from or are at risk for heart disease, the Cardiovascular Research Foundation began the Women's Heart Health Initiative, and

WHEREAS, the Women's Heart Health Initiative explores nontraditional venues, such as obstetrician and gynecologist appointments, to provide further assistance in the early identification, education, and prevention of heart disease in women, NOW, THEREFORE,

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

That the Women's Heart Health Initiative is commended and honored for its dedicated efforts in the prevention and treatment of heart disease in women.

—**SR 700** was introduced, read and adopted by publication.

At the request of Senator Garcia—

By Senator Garcia—

**SR 1194**—A resolution recognizing the founding of the Chronic Obstructive Pulmonary Disease (COPD) Coalition of Florida and expressing appreciation for the organizers' commitment to raising awareness of this disease.

WHEREAS, chronic obstructive pulmonary disease (COPD), which includes chronic bronchitis and emphysema, is the fourth leading cause of death in the United States and, unlike many diseases yielding to advances in medicine, this disease is not experiencing a decline in death rates, and

WHEREAS, COPD is a chronic, progressive disease that impacts an estimated 1.8 million Floridians and affects 24 million persons nationwide, with as many as half remaining undiagnosed, and

WHEREAS, the primary risk factor for COPD is smoking, which accounts for up to 90 percent of COPD-related deaths, with other risk factors including environmental exposure, air pollution, secondhand smoke, a history of childhood respiratory infections, and alpha-1 antitrypsin deficiency, and

WHEREAS, in 2007, \$1.3 billion was spent in Florida on health care costs related to COPD, and there were more than 63,000 hospitalizations due to the disease, and

WHEREAS, nationwide, the annual cost of COPD is nearly \$50 billion, including \$29.5 billion in direct health care expenditures, \$8 billion in indirect morbidity costs, and \$12.4 billion in indirect mortality costs, and

WHEREAS, early COPD screening and detection is critical as most people with COPD are not diagnosed until they have already lost half of their lung function, and

WHEREAS, coordinated community efforts such as "DRIVE 4 COPD," the nation's single largest awareness and screening campaign for COPD which has screened more than 2 million people since its launch in February 2010, can dramatically improve public health, and

WHEREAS, there is no cure for COPD, but proper management of the disease can lead to improved quality of life and self-sufficiency for COPD patients, many of whom receive through public programs care that slows damage to their heart and lungs, NOW, THEREFORE,

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

That the members of the Senate recognize the founding of the Chronic Obstructive Pulmonary Disease (COPD) Coalition of Florida and express appreciation to the national COPD Foundation, the National Heart Lung and Blood Institute, and Florida stakeholders for their commitment to raising awareness of this disease.

—**SR 1194** was introduced, read and adopted by publication.

At the request of Senator Jones—

By Senator Jones—

**SR 2034**—A resolution recognizing February 14 and 15, 2012, as "Massage Therapy Legislative Awareness Days" in Florida.

WHEREAS, members of the Florida State Massage Therapy Association and the Florida Chapter of the American Massage Therapy Association throughout this state are actively involved in public awareness and health programs aimed at improving the health and quality of life of Florida residents, and

WHEREAS, the Florida State Massage Therapy Association and the Florida Chapter of the American Massage Therapy Association have been holding Massage Therapy Legislative Awareness Days since 1988 for the purpose of educating the Legislature and the public concerning the many health benefits of massage therapy, and

WHEREAS, massage therapists have been licensed and regulated in this state since 1943 and, today, more than 30,323 massage therapists

are regulated by the Board of Massage Therapy within the Department of Health under chapter 480, Florida Statutes, and

WHEREAS, massage therapy is a low-cost, high-quality means of enhancing and restoring health, and increased awareness of the benefits of massage therapy will lead to improved health and vitality of the residents of this state, and

WHEREAS, the Legislature recognizes the benefits of massage therapy for wellness and preventive health measures, NOW, THEREFORE,

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

That February 14 and 15, 2012, are recognized as "Massage Therapy Legislative Awareness Days" in Florida.

—**SR 2034** was introduced, read and adopted by publication.

At the request of Senator Bennett—

By Senator Bennett—

**SR 2108**—A resolution recognizing February 14, 2012, as "Golf Day at the Capitol" in Florida.

WHEREAS, the golf industry has become an integral part of the economy, identity, and quality of life in this state, and

WHEREAS, golf has become a major component of Florida's economy, with a direct economic impact in 2007 of \$7.5 billion and an indirect economic benefit of \$13.8 billion, and

WHEREAS, the golf industry employs 167,000 Floridians and has an annual payroll of \$4.7 billion, and

WHEREAS, Florida is home to the PGA TOUR in Ponte Vedra Beach, the LPGA in Daytona Beach, PGA of America in Palm Beach Gardens, and The First Tee, the World Golf Hall of Fame, and the World Golf Foundation in St. Augustine, and

WHEREAS, Florida is home to more than 1,200 public and private golf course facilities, more than any other state in America, which generate revenues of \$3.4 billion, more than all other spectator sports in the state combined, and

WHEREAS, Florida will host 15 professional golf championships in 2012, including six PGA Tour events, three Champions Tour events, two Nationwide Tour events, and one LPGA Tour event, and

WHEREAS, two of golf's most prestigious events are played in Florida, THE PLAYERS Championship at TPC Sawgrass in Ponte Vedra Beach and the World Golf Championships - Cadillac Championship, played since 2007 at the Blue Monster Course of the Doral Golf Resort & Spa, and

WHEREAS, Florida's golf industry is a top contributor to charitable organizations, with donations totaling more than \$312 million annually from numerous charitable golf outings and events as well as the charitable giving associated with professional golf tournaments, and

WHEREAS, beneficiaries of these charitable events include Miami Children's Hospital, First Tee Miami, the Make-A-Wish Foundation, Baptist Children's Hospital, the Children's Miracle Network hospitals, the Nicklaus Children's Health Care Foundation, The First Tee National School Program, Boy Scouts of America, the American Red Cross, the Alzheimer's Support Network, Big Brothers/Big Sisters of Southwest Florida, and many others, and

WHEREAS, Florida's golf courses and superintendents have continued to be stewards of the environment by using best practices in hazardous waste management, wetland and stormwater protection, and wastewater minimization, and

WHEREAS, the game of golf assists in the development of Florida's youth through the introduction of life skills experiences, management of emotions, goal setting, conflict resolution, and improving relationships with family and community, and

WHEREAS, the concentration of golf activity in Florida in 2012 will bring an unprecedented amount of worldwide exposure to this state, and

WHEREAS, golf is a tremendous asset to this state, impacting quality of life and tourism and strengthening the state's position as a great place to live and do business, and

WHEREAS, the golf industry has a tremendous impact on the state's economy, provides recreation and wellness opportunities for residents of all ages, fosters strong character development for Florida's youth, contributes significantly to charitable organizations, and is intrinsic to the brand of the Sunshine State, NOW, THEREFORE,

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

That the Florida Senate recognizes February 14, 2012, as "Golf Day at the Capitol" in Florida, the official golf day in this state.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the affiliated organizations of the World Golf Foundation as a tangible token of the sentiments of the Florida Senate.

—**SR 2108** was introduced, read and adopted by publication.

**SPECIAL GUESTS**

President Haridopolos introduced Governor Rick Scott's mother, Esther Scott, who was present in the chamber.

**MOTIONS RELATING TO COMMITTEE REFERENCE**

On motion by Senator Thrasher, by two-thirds vote **CS for SB 440**, **CS for SB 578**, **CS for CS for CS for SB 682**, and **CS for CS for CS for SB 694** were withdrawn from the Committee on Budget; and **SB 1460** was withdrawn from the Committee on Education Pre-K - 12.

**MOTIONS**

On motion by Senator Alexander, by two-thirds vote **SB 2000** and **SB 2002** were placed on the Special Order Calendar to be considered on Thursday, February 23. The rules were waived and the deadline for filing amendments to **SB 2000** and **SB 2002** was set for 1:30 p.m., Tuesday, February 21, and the deadline for filing amendments to amendments and substitute amendments was set for 1:30 p.m., Wednesday, February 22.

**BILLS ON THIRD READING**

**CS for SB 186**—A bill to be entitled An act relating to misdemeanor pretrial substance abuse programs; amending s. 948.16, F.S.; providing that a person who is charged with a nonviolent, nontraffic-related misdemeanor and identified as having a substance abuse problem or who is charged with certain other designated misdemeanor offenses, and who has not previously been convicted of a felony, may qualify for participation in a misdemeanor pretrial substance abuse program; providing an effective date.

—was read the third time by title.

On motion by Senator Ring, **CS for SB 186** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dean	Gardiner
Alexander	Detert	Gibson
Altman	Diaz de la Portilla	Hays
Benacquisto	Dockery	Jones
Bennett	Evers	Joyner
Bogdanoff	Fasano	Latvala
Braynon	Gaetz	Lynn
Bullard	Garcia	Margolis

Montford	Richter	Smith
Negron	Ring	Sobel
Norman	Sachs	Storms
Oelrich	Simmons	Thrasher
Rich	Siplin	Wise

Nays—None

**SB 436**—A bill to be entitled An act relating to video voyeurism; amending s. 810.145, F.S.; revising the definition of the term "place and time when a person has a reasonable expectation of privacy" to include the interior of a residential dwelling; increasing the classification of specified video voyeurism offenses; amending s. 921.0022, F.S.; ranking a violation of s. 810.145(8)(b), F.S., above its default value for purposes of the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

—was read the third time by title.

Senators Joyner and Lynn offered the following amendment which was moved by Senator Joyner:

**Amendment 1 (120684)**—Delete lines 28-31 and insert:

(6) Except as provided in subsections (7) and (8);

(a) A person who is 18 years of age or younger and who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who is older than 18 years of age and who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**MOTION**

On motion by Senator Joyner, by the required two-thirds vote, consideration of the following amendment was allowed:

Senators Joyner and Lynn offered the following substitute amendment which was moved by Senator Joyner and adopted by two-thirds vote:

**Amendment 2 (704602)**—Delete lines 28-31 and insert:

(6) Except as provided in subsections (7) and (8);

(a) A person who is under 19 years of age and who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who is 19 years of age or older and who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

On motion by Senator Storms, **SB 436** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for SB 226**—A bill to be entitled An act relating to disabled parking permits; amending s. 318.18, F.S.; providing for a parking enforcement specialist or agency to validate compliance for the disposition of a citation issued for illegally parking in a space provided for people who have disabilities; amending s. 320.0848, F.S.; revising requirements for renewal or replacement of a disabled parking permit; prohibiting applying for a new disabled parking permit for a certain period of time upon a second finding of guilt or plea of nolo contendere to unlawful use of such permit; requiring the Department of Highway Safety and Motor Vehicles to randomly review disabled parking permitholders, verify certain information, and invalidate the permit of a deceased permitholder; directing the department to implement a means for reporting abuse of disabled parking permits; providing an effective date.

—as amended February 13 was read the third time by title.

On motion by Senator Margolis, **CS for SB 226** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for SB 346**—A bill to be entitled An act relating to flag etiquette; creating s. 256.015, F.S.; requiring that the Governor adopt a protocol on flag display; requiring the protocol to have guidelines for proper flag display and for lowering the state flag to half-staff on certain occasions; authorizing the Governor to adopt, repeal, or modify any rule or custom as the Governor deems appropriate which pertains to the display of the state flag; providing an effective date.

—was read the third time by title.

On motion by Senator Ring, **CS for SB 346** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**SB 528**—A bill to be entitled An act relating to special license plates; amending s. 320.089, F.S.; providing for the issuance of a Combat Infantry Badge license plate; providing qualifications and requirements for the plate; providing for the use of proceeds from the sale of the plate; providing an effective date.

—was read the third time by title.

On motion by Senator Bennett, **SB 528** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for CS for SB 600**—A bill to be entitled An act relating to electronic filing of construction plans; amending s. 468.604, F.S.; providing a legislative finding; providing for certain documents to be electronically signed and sealed by the licensee and electronically transmitted to a building code administrator or building official for approval; providing an effective date.

—as amended February 13 was read the third time by title.

On motion by Senator Bennett, **CS for CS for SB 600** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for SB 780**—A bill to be entitled An act relating to airport parking fees; amending s. 316.1964, F.S.; exempting vehicles transporting power mobility devices for use by persons who have a disability from payment of parking fees at a publicly owned or operated airport; providing an effective date.

—was read the third time by title.

On motion by Senator Ring, **CS for SB 780** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for CS for CS for SB 206**—A bill to be entitled An act relating to public meetings; creating s. 286.0114, F.S.; requiring that a member of the public be given a reasonable opportunity to be heard before a board or commission takes official action on a proposition before a board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision; providing that the opportunity to be heard is subject to rules or policies adopted by the board or commission; specifying certain exceptions; providing requirements for rules or policies governing the opportunity to be heard; providing that compliance with the requirements of the act is presumed under certain circumstances; authorizing a court to assess reasonable attorney fees in actions filed against a board or commission; providing that any action taken by a board or commission which is found in violation of the act is not void; providing that circuit courts have jurisdiction to issue injunctions for purposes of the act; providing an effective date.

—as amended February 13 was read the third time by title.

On motion by Senator Negron, **CS for CS for CS for SB 206** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**SB 990**—A bill to be entitled An act relating to natural guardians; amending s. 744.301, F.S.; revising provisions relating to the authority of natural guardians to act on behalf of their children; providing an effective date.

—was read the third time by title.

On motion by Senator Joyner, **SB 990** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

**CS for SB 1856**—A bill to be entitled An act relating to public meetings and public records; providing an exemption from public meeting requirements for certain meetings of a peer review panel under the James and Esther King Biomedical Research Program and the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program; providing an exemption from public records requirements for certain records related to biomedical research grant applications; providing an exemption from public records requirements for research grant applications provided to, and reviewed by, the peer review panel; providing exceptions to the exemption; providing for legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

**MOTION**

On motion by Senator Flores, by the required two-thirds vote, consideration of the following amendment was allowed:

Senator Flores moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (804748)**—Delete line 40 and insert:

*(5) Subsections (1), (2), (3), and (4) are subject to the Open*

On motion by Senator Flores, **CS for SB 1856** as amended was passed by the required constitutional two-thirds vote of the members present, ordered engrossed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fasano	Negron
Alexander	Flores	Norman
Altman	Gaetz	Oelrich
Benacquisto	Garcia	Rich
Bennett	Gardiner	Richter
Bogdanoff	Gibson	Ring
Braynon	Hays	Sachs
Bullard	Jones	Simmons
Dean	Joyner	Siplin
Detert	Latvala	Smith
Diaz de la Portilla	Lynn	Sobel
Dockery	Margolis	Storms
Evers	Montford	Thrasher

Nays—None

Vote after roll call:

Yea—Wise

**SB 2058**—A bill to be entitled An act relating to the Office of Legislative Services; amending ss. 11.045, 11.0455, and 112.3148, F.S.; providing for duties related to the registration and reporting of legislative lobbyists to be conducted by the office rather than the Division of Legislative Information Services within the office; amending s. 11.242, F.S.; requiring that certain content relating to the published edition of the Florida Statutes be determined by the office rather than by the Division of Statutory Revision within the office; amending s. 119.15, F.S.; requiring that the office, rather than the Division of Statutory Revision, certify to the Legislature public records and public meetings exemptions that are scheduled for repeal; providing an effective date.

—was read the third time by title.

On motion by Senator Thrasher, **SB 2058** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Flores	Oelrich
Alexander	Gaetz	Rich
Altman	Garcia	Richter
Benacquisto	Gardiner	Ring
Bennett	Gibson	Sachs
Bogdanoff	Hays	Simmons
Braynon	Jones	Siplin
Bullard	Joyner	Smith
Dean	Latvala	Sobel
Detert	Lynn	Storms
Diaz de la Portilla	Margolis	Thrasher
Dockery	Montford	Wise
Evers	Negron	
Fasano	Norman	

Nays—None

Consideration of **CS for CS for SB 2038** was deferred.

## SPECIAL ORDER CALENDAR

On motion by Senator Bennett—

**CS for SB 692**—A bill to be entitled An act relating to the formation of local governments; amending s. 165.031, F.S.; deleting definitions; amending s. 165.041, F.S.; revising the deadline for submission of a feasibility study of a proposed incorporation of a municipality; revising a requirement for the content of the study; amending s. 257.171, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

Senator Bennett moved the following amendment which was adopted:

**Amendment 1 (560862) (with title amendment)**—Delete line 136 and insert:

Section 4. Subsection (8) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(8) An initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment is prohibited. *However, any local government charter provision that was in effect as of June 1, 2011, for an initiative or referendum process in regard to development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented.*

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

And the title is amended as follows:

Delete lines 2-8 and insert: An act relating to local government; amending s. 165.031, F.S.; deleting definitions; amending s. 165.041, F.S.; revising the deadline for submission of a feasibility study of a

proposed incorporation of a municipality; revising a requirement for the content of the study; amending s. 257.171, F.S.; conforming a cross-reference; amending s. 163.3167, F.S.; authorizing a local government to retain certain initiatives or referendum processes that were in effect as of a specified date; providing

## MOTION

On motion by Senator Bennett, by the required two-thirds vote, consideration of the following amendment was allowed:

Senator Bennett moved the following amendment which was adopted:

**Amendment 2 (314328) (with title amendment)**—Between lines 135 and 136 insert:

Section 4. *Municipal conversion of independent special districts upon elector-initiated and approved referendum.*—

(1) *The qualified electors of an independent special district created by judicial decree or a special act of the Legislature, a majority of whose board is popularly elected, may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district proposing to be converted. The provisions of this section do not apply to a special district created pursuant to chapter 298, Florida Statutes, or a special act, a majority of whose governing board is elected on a one-acre, one-vote basis, unless the governing board consents to conversion, or to a special district in which all or a portion of the district is located within the jurisdictional limits of a municipality.*

(2)(a) *The petition must include signatures of at least 40 percent of the qualified electors of the independent special district and must be submitted not later than 1 year after the start of the qualified elector-initiated municipal conversion proceeding.*

(b) *The petition must comply with, and be circulated in, the following form:*

### PETITION FOR MUNICIPAL CONVERSION OF INDEPENDENT SPECIAL DISTRICT

*We, the undersigned electors and legal voters of (...name of independent special district...), qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors and legal voters of (...name of independent special district proposed to be converted to a municipality...) for their approval or rejection at a referendum held for that purpose, a proposal to convert (...name of independent special district...) and incorporate (...proposed name of municipality...).*

*In witness thereof, we have signed our names on the date indicated next to our signatures.*

*Date Name (print under signature) Home Address*

(c) *The petition must be validated by a signed statement by a witness who is a duly qualified elector of the independent special district, a notary public, or another person authorized to take acknowledgements.*

(d) *A statement that is signed by a witness who is a duly qualified elector of the district shall be accepted for all purposes as the equivalent of an affidavit. The statement must be in substantially the following form:*

*"I, (...name of witness...), state that I am a duly qualified voter of (...name of independent special district...). Each of the (...insert number...) persons who have signed this petition sheet has signed his or her name in my presence on the dates indicated above and identified himself or herself to be the same person who signed the sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a materially false statement, shall subject me to the penalties of perjury."*

*Date Signature of Witness*

(e) A statement that is signed by a notary public or another person authorized to take acknowledgements must be in substantially the following form:

*“On the date indicated above before me personally came each of the (...insert number...) electors and legal voters whose signatures appear on this petition sheet, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the same person who signed the petition, and I declare that the foregoing information they provided was true.”*

Date Signature of Witness

(f) An alteration or correction of information appearing on a petition's signature line, other than a signature that was not initialed, and date, does not invalidate the signature. In matters of form, this paragraph must be liberally construed, not inconsistent with substantial compliance thereto and the prevention of fraud.

(3) The appropriately signed petition must be filed with the governing body of the independent special district. The petition must be submitted to the supervisor of elections of the county in which the district lands are located. The supervisor of elections shall, within 30 business days after receipt of the petition, certify to the governing body the number of signatures of qualified electors contained on the petition.

(4) Upon verification by the supervisor of elections of the county within which the independent special district lands are located that 40 percent of the qualified electors have petitioned for municipal conversion and that all such petitions have been executed within 1 year after the date of the initiation of the qualified-elector conversion process, the governing body of the independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated combined conversion and incorporation plan. The proposed plan must include:

(a) The name of the independent special district to be converted to a municipality.

(b) The name of the municipality to be created.

(c) The conversion schedule.

(d) Notwithstanding s. 165.061(1)(d), Florida Statutes, the municipal boundaries must be certified by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county.

(e) The rights, duties, and obligations of the municipality, and a feasibility study which contains the requirements under s. 165.041(1)(b), Florida Statutes, except the provisions of s. 165.061(1)(b)-(d), Florida Statutes, do not apply if the plan and the buildout of the current land use and zoning designations will meet the requirements of s. 163.3177, Florida Statutes.

(f) The territorial boundaries of the proposed municipality.

(g) The governmental organization of the proposed municipality and independent special district as the organization concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials.

(h) An accounting of the independent special district's assets, including, but not limited to, real and personal property, and the current value of the property.

(i) An accounting of the independent special district's liabilities and indebtedness, bonded and otherwise, and the current value of the liabilities and indebtedness.

(j) Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the independent special district, jointly, separately, or in defined proportions.

(k) Terms for the common administration and uniform enforcement of existing laws within the proposed municipality.

(l) An estimated date for final payment of any bonded indebtedness of the independent special district, and if maintained by the district after

incorporation, the estimated date of automatic dissolution of the independent special district.

(m) The time and place for a public hearing on the proposed incorporation.

(n) The effective date of the proposed incorporation.

(5) The resolution endorsing the proposed elector-initiated municipal incorporation plan must be approved by a majority vote of the governing body of the independent special district and must be adopted at least 60 business days before any general or special election on the proposed elector-initiated plan.

(6) Within 5 business days after the independent special district approves the proposed elector-initiated municipal incorporation plan, the governing body must:

(a) Cause a copy of the proposed elector-initiated municipal incorporation plan, along with a descriptive summary of the plan, to be displayed and be readily accessible to the public for inspection in at least three public places within the territorial limits of the independent special district, unless the independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the independent special district.

(b) If applicable, cause the proposed elector-initiated municipal incorporation plan, along with a descriptive summary of the plan and a reference to the public places within the independent special district where a copy of the plan may be examined, to be displayed on a website maintained by the district or otherwise on a website maintained by the county in which the district is located.

(c) Arrange for a descriptive summary of the proposed elector-initiated municipal incorporation plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general circulation within the independent special district at least once each week for 4 successive weeks.

(7) The governing body of the independent special district shall set a time and place for one or more public hearings on the proposed elector-initiated combined municipal incorporation plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed elector-initiated merger plan. An interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

(8) Notice of the final public hearing on the proposed elector-initiated combined municipal incorporation plan must be published pursuant to the notice requirements in s. 189.417, Florida Statutes, and must provide a descriptive summary of the elector-initiated municipal incorporation plan and a reference to the public places within the independent special district where a copy of the plan may be examined.

(9) After the final public hearing, the governing body of the independent special district may amend the proposed elector-initiated municipal incorporation plan if the amended version complies with the notice and public hearing requirements provided in this section. The governing body shall approve a final version of the plan within 60 business days after the final hearing.

(10) After the final public hearing, the governing body must notify the supervisor of elections of the county in which district lands are located of the adoption of the resolution by the governing body. The supervisor of elections shall schedule a date for the referendum for the district.

(11) Notice of a referendum on the municipal incorporation of the independent special district must be provided pursuant to the notice requirements in s. 100.342, Florida Statutes. The notice must include:

(a) A brief summary of the resolution and elector-initiated municipal incorporation plan;

(b) A statement as to where a copy of the resolution and petition for municipal incorporation may be examined;

(c) The name of the independent special district to be converted to a municipality and a description of the territory included in the plan;

(d) *The time and place at which the referendum will be held; and*

(e) *Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct of the referendum and the canvass of the returns.*

(12) *The referenda must be held in accordance with the Florida Election Code and may be held pursuant to ss. 101.6101-101.6107, Florida Statutes. The costs associated with the referenda must be borne by the independent special district.*

(13) *The ballot question in the referendum placed before the qualified electors of the independent special district to be incorporated must be in substantially the following form:*

*“Shall (name of independent special district...) be converted into (...name of newly created municipality...), which will assume all authority, powers, rights, and obligations of the district?”*

\_\_\_\_YES

\_\_\_\_NO”

(14) *In any referendum held pursuant to this section, the ballots must be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the independent special district.*

(15) *The incorporation plan will not take effect unless a majority of the votes cast in the independent special district are in favor of the plan.*

(16) *If the incorporation plan is approved by a majority of the votes cast in the independent special district, the district shall notify the special district information program pursuant to s. 189.418(2), Florida Statutes, and the local general-purpose governments in which any part of the independent special district is situated pursuant to s. 189.418(7), Florida Statutes.*

(17) *If the referendum fails, the conversion process under this paragraph may not be initiated for the same purpose within 2 years after the date of the referendum.*

(18) *Independent special districts proposed for conversion under an elector-initiated municipal incorporation plan must continue to be governed as before the approved referendum until the effective date specified in the adopted elector-initiated municipal incorporation plan.*

(19) *The effective date of the incorporation shall be as provided in the elector-initiated combined conversion and incorporation plan, as appropriate, and is not contingent upon a future act of the Legislature.*

And the title is amended as follows:

Delete line 8 and insert: 257.171, F.S.; conforming a cross-reference; providing that qualified electors of certain independent districts may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district; providing an exception; providing criteria for the petition; providing that the petition must be filed with the governing body of the independent special district and submitted to the supervisor of elections of each county in which the district lands are located; requiring that the supervisor of elections certify within a certain time to the governing body the number of signatures of qualified electors contained in the petition; requiring the governing body to meet, prepare, and approve by resolution, a proposed elector-initiated combined conversion and incorporation plan; providing criteria for the plan; providing criteria for approving the resolution; requiring the governing body to provide notice and public access to the elector-initiated combined municipal incorporation plan; providing criteria for a public hearing on the proposed elector-initiated combined municipal incorporation plan; providing notice of a final public hearing, a descriptive summary of the elector-initiated combined municipal incorporation plan, and a reference to the public place where a copy of the plan can be examined; authorizing the governing body to amend the municipal incorporation plan after the final hearing if notice and public hearing requirements are met; requiring the governing body to approve the final version of the plan within a certain time after the final hearing; requiring the governing body to notify the supervisor of elections of the county within which the special district is located of the adoption of the resolution; providing for notice of the referendum; requiring that the referenda be held in accordance with the election code; requiring the

independent special district to bear the costs associated with the referendum; providing for the form of the ballot question; providing for the counting of ballots, making and canvassing of returns, and certifying the results; requiring a majority of the votes cast in the independent special district for the incorporation plan to take effect; requiring that the independent special district notify the special district information program and certain local general-purpose governments that the plan was approved; prohibiting a conversion process from being initiated for 2 years if the referendum fails; providing for interim governance of the district; providing for an effective date of the incorporation; providing

Pursuant to Rule 4.19, **CS for SB 692** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

**SM 1822**—A memorial to the Congress of the United States, urging Congress to repeal the Sarbanes-Oxley Act of 2002.

WHEREAS, the Sarbanes-Oxley Act was enacted on July 30, 2002, in Pub. L. No. 107-204, and

WHEREAS, the stated purpose of the act is “to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws ...,” and

WHEREAS, this federal legislation was passed with the best of corrective intentions after the discovery of corporate fraud and accounting scandals that cost investors and retirees billions of dollars, and

WHEREAS, the Sarbanes-Oxley Act, in spite of the good intentions that motivated its passage, has created an extremely complex maze of federal regulations that are costly and damaging to public companies and diminish the companies’ ability to compete against foreign financial entities that are not subject to its regulations, and

WHEREAS, the costs that businesses must bear to comply with the extensive provisions of the Sarbanes-Oxley Act are unnecessary and crippling, disproportionately affecting smaller businesses, and

WHEREAS, financial market scholars have observed that the Sarbanes-Oxley Act has produced the unfortunate consequence of discouraging American businesses from listing with New York stock exchanges and listing instead in England where the markets and stock exchanges are less heavily regulated, and

WHEREAS, the Sarbanes-Oxley Act is a very costly example of Federal Government intrusion that imposes unnecessary regulatory costs on American businesses and interferes with basic free market principles, and

WHEREAS, instead of preventing fraud and ensuring transparency, the extensive regulations created by the Sarbanes-Oxley Act have thwarted the creation of new public companies, driven business away from domestic stock markets, and cost the industrial sector billions of dollars, NOW, THEREFORE,

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

That the Congress of the United States is urged to repeal the Sarbanes-Oxley Act of 2002 to remove the damaging obstacles that the act has created for American public companies and replace it with reasonable non-intrusive measures to protect investors.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

**SENATOR SIMMONS PRESIDING**

**THE PRESIDENT PRESIDING**

—was read the second time in full. On motion by Senator Hays, **SM 1822** was adopted and certified to the House.



By direction of the President, the rules were waived and the Senate reverted to—

**BILLS ON THIRD READING**

**CS for CS for SB 2038**—A bill to be entitled An act relating to the privatization of correctional facilities; creating s. 944.7115, F.S.; requiring that the Department of Management Services, working with the Department of Corrections, privatize the management and operation of certain correctional facilities and assigned correctional units; requiring that the Department of Management Services issue two or more requests for proposals; providing a timeframe for proposals submitted in response to a request for proposals; requiring the department to prepare a business case for the privatization before issuing the requests for proposals; providing certain cost-saving requirements; requiring that the Department of Corrections determine the costs incurred for the 2010-2011 fiscal year for each correctional facility and assigned correctional unit according to a specified formula; limiting the costs to be incurred by the state in the second or subsequent contract years; providing that the provisions in a request for proposals which relate to cost savings are not subject to challenge in any protest of the specifications of a request for proposals; requiring that each contractor selected as a result of a request for proposals manage and operate the correctional facilities and all assigned correctional units at certain capacities; requiring that the Department of Corrections classify all inmates without regard for and without consideration of whether the inmates will be assigned to facilities operated by the Department of Corrections or by a contractor; requiring that each facility's medical and psychological grade population percentages remain substantially unchanged from the average daily population calculated for the 2010-2011 fiscal year; requiring that the Office of Program Policy Analysis and Government Accountability conduct a review of the assignments of inmates by the Department of Corrections; requiring that the office submit a report of its findings to the Governor and Legislature by a specified date each year; requiring that certain accounts associated with the correctional facilities and assigned correctional units continue to be remitted to the General Revenue Fund; providing that certain statutory provisions regarding contractual arrangements with private entities for the operation and maintenance of correctional facilities and the certification of private correctional officers do not apply to a request for proposals or a contract authorized by the act; providing that s. 216.023, F.S., regarding legislative budget requests furnished to the Legislature, does not initially apply to the Department of Corrections or the Department of Management Services with respect to the services required to be privatized under the act; providing for a performance audit by the Office of Program Policy and Government Analysis of any contract awarded pursuant to the act; specifying the requirements for any contract resulting from a request for proposals; limiting the term of the contract and providing for renewal; requiring the appointment of a contract monitor; providing requirements for the certification of private correctional officers at the contractor's expense; providing required performance measures for a contract that results from a request for proposals; requiring the contract to specify that employees of the contractor do not have the right to strike; requiring that the contractor purchase services and supplies for the operation and maintenance of the correctional facilities or assigned correctional units from a subcontractor or supplier that is located in this state or that employs residents of this state under certain circumstances; providing an exception; requiring that the contractor reimburse the state for the total cost of unused, accumulated leave actually paid by the state to former employees of the Department of Corrections who were employed at the correctional facilities and assigned correctional units and who leave employment with the Department of Corrections; requiring that the Department of Management Services certify to the contractor the amount that must be reimbursed; requiring that the contractor pay the reimbursement to the state within a specified period after receiving the department's certification; prohibiting the cost of such unused, accumulated leave from being included in the costs incurred by the state for the 2010-2011 fiscal year and in the 7 percent cost savings; requiring that the contractor pay to the Department of Management Services the reasonable and direct costs associated with the pursuit or apprehension of an escapee from a correctional facility and incurred by any state or local law enforcement agency while involved in the pursuit or apprehension of an escapee; requiring that a specified percentage of the cost savings from the privatization required under the act be directed to the

Department of Juvenile Justice for the purpose of funding the CINS/ FINS program; requiring that the Department of Management Services provide reports to the legislative appropriations committees regarding the performance of each contractor; requiring that the Department of Corrections prepare and submit to the Legislative Budget Commission proposed revisions to its operating budget; requiring that the Department of Management Services enter into a contract with one or more winning bidders after approval by the Legislative Budget Commission; requiring that current employees at each designated correctional facility and assigned correctional unit be given first preference for continued employment; requiring that the Department of Corrections make reasonable efforts for finding job placements for employees who wish to continue to be employed by the state; requiring that the Department of Economic Opportunity expeditiously provide assistance and services to employees of the Department of Corrections who are not employed by the contractor or who do not continue employment with the Department of Corrections; providing requirements for the request for appropriation of funds; limiting the authority of the Department of Corrections with respect to such appropriation; requiring that the Department of Corrections be solely responsible for the operation and maintenance of any correctional facility at which the death penalty is administered; authorizing the Department of Management Services and the Department of Corrections to adopt rules; providing an effective date.

—as amended January 31 and February 13 was read the third time by title.

**MOTION**

On motion by Senator Alexander, by the required two-thirds vote, consideration of the following amendment was allowed:

Senator Alexander moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (824506)**—In title, delete lines 55 and 56 and insert: a performance audit by the Office of Program Policy Analysis and Government Accountability of any contract awarded

**SENATOR SIMMONS PRESIDING**

**THE PRESIDENT PRESIDING**

**SENATOR BENNETT PRESIDING**

**THE PRESIDENT PRESIDING**

On motion by Senator Thrasher, **CS for CS for SB 2038** as amended failed to pass. The vote was:

Yeas—19

Mr. President	Flores	Norman
Alexander	Gaetz	Richter
Altman	Garcia	Simmons
Benacquisto	Gardiner	Thrasher
Bennett	Hays	Wise
Bogdanoff	Lynn	
Detert	Negron	

Nays—21

Braynon	Gibson	Rich
Bullard	Jones	Ring
Dean	Joyner	Sachs
Diaz de la Portilla	Latvala	Siplin
Dockery	Margolis	Smith
Evers	Montford	Sobel
Fasano	Oelrich	Storms

**DISCLOSURE**

My wife, Lori K. Weems Evers a/k/a Lori K. Weems, is a registered lobbyist for the Florida Professional Firefighters, Florida Building & Construction Trades Council, Fraternal Order of Police - Florida Lodge and Florida AFL-CIO. It is my understanding that these organizations are all opposed to Senate Bill 2038 relating to privatization of prisons which has been calendared on the Florida Senate Special Order Calendar on January 31, 2012.

*Senator Greg Evers, 2nd District*

**REPORTS OF COMMITTEES**

The Committee on Education Pre-K - 12 recommends the following pass: CS for SB 250

The Committee on Environmental Preservation and Conservation recommends the following pass: SB 648

**The bills contained in the foregoing reports were referred to the Committee on Budget under the original reference.**

The Committee on Education Pre-K - 12 recommends the following pass: SB 1010

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

The Committee on Rules recommends the following pass: SM 672

**The bill was placed on the Calendar.**

The Committee on Community Affairs recommends a committee substitute for the following: CS for SB 1108

The Committee on Education Pre-K - 12 recommends a committee substitute for the following: SB 980

**The bills with committee substitute attached contained in the foregoing reports were referred to the Committee on Budget under the original reference.**

The Committee on Education Pre-K - 12 recommends a committee substitute for the following: SB 1348

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

The Committee on Environmental Preservation and Conservation recommends a committee substitute for the following: CS for CS for SB 268

**The bill with committee substitute attached was placed on the Calendar.**

The Committee on Environmental Preservation and Conservation recommends the following not pass: SB 958

The Committee on Rules recommends the following not pass: SB 1560

**The bills were laid on the table.**

**REPORTS OF COMMITTEES RELATING TO EXECUTIVE BUSINESS**

The Committee on Education Pre-K - 12 recommends that the Senate confirm the following appointments made by the Governor:

*Office and Appointment**For Term Ending*

State Board of Education

Appointee: Chartrand, Gary

12/31/2014

The Committee on Environmental Preservation and Conservation recommends that the Senate confirm the following appointments made by the Governing Board:

*Office and Appointment**For Term Ending*

Executive Director of Northwest Florida Water Management District

Appointee: Barr, Douglas E.

Pleasure of the Board

Executive Director of St. Johns River Water Management District

Appointee: Tanzler III, Hans G.

Pleasure of the Board

Executive Director of South Florida Water Management District

Appointee: Meeker, Melissa L.

Pleasure of the Board

Executive Director of Suwannee River Water Management District

Appointee: Still, David

Pleasure of the Board

The Committee on Environmental Preservation and Conservation recommends that the Senate confirm the following appointments made by the Governor:

*Office and Appointment**For Term Ending*

Governing Board of the St. Johns River Water Management District

Appointee: Robbins III, George W.

03/01/2012

**The appointments were referred to the Rules Subcommittee on Ethics and Elections under the original reference.**

**INTRODUCTION AND REFERENCE****BILLS REFERRED TO SUBCOMMITTEE**

February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on Criminal and Civil Justice Appropriations which will report to this standing committee within 180 days: CS for CS for SB 834, CS for CS for SB 964, CS for SB 1272, and CS for SB 1846.

*Senator JD Alexander, Chair  
Committee on Budget*

February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on Education Pre-K - 12 Appropriations which will report to this standing committee within 60 days: CS for CS for SB 554 and CS for SB 1366.

*Senator JD Alexander, Chair*  
Committee on Budget

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February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on Finance and Tax which will report to this standing committee within 60 days: CS for SB 1022 and SB 1226.

*Senator JD Alexander, Chair*  
Committee on Budget

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February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on General Government Appropriations which will report to this standing committee within 60 days: SB 442, CS for CS for SB 716, SB 1426, SB 1430, CS for SB 1782, and CS for SB 1858.

*Senator JD Alexander, Chair*  
Committee on Budget

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February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on Health and Human Services Appropriations which will report to this standing committee within 60 days: SB 1130, CS for SB 1228, CS for SB 1350, CS for SB 1382, SB 1474, SB 1808, and CS for SB 2052.

*Senator JD Alexander, Chair*  
Committee on Budget

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February 14, 2012

Pursuant to Senate Rule 4.6(4), the following has been referred to the Budget Subcommittee on Higher Education Appropriations which will report to this standing committee within 60 days: SB 1606.

*Senator JD Alexander, Chair*  
Committee on Budget

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February 14, 2012

Pursuant to Senate Rule 4.6(4), the following have been referred to the Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations which will report to this standing committee within 60 days: CS for SB 100, CS for SB's 590 and 568, CS for SB 868, and CS for SB 1298.

*Senator JD Alexander, Chair*  
Committee on Budget

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Environmental Preservation and Conservation; Commerce and Tourism; and Transportation; and Senator Wise—

**CS for CS for CS for SB 268**—A bill to be entitled An act relating to the sponsorship of state greenways and trails; creating the “John Anthony Wilson Bicycle Safety Act”; creating s. 260.0144, F.S.; providing for the Department of Environmental Protection to enter into concession agreements for commercial sponsorship displays to be displayed on certain state greenway and trail facilities or property; providing requirements for concession agreements; specifying which greenways and trails may be included in the sponsorship program; providing for distribution of proceeds from the concession agreements; authorizing the department to adopt rules; providing an effective date.

By the Committee on Education Pre-K - 12; and Senator Margolis—

**CS for SB 980**—A bill to be entitled An act relating to discretionary sales surtaxes; amending s. 212.055, F.S.; expanding the purposes for which revenues from the school capital outlay surtax may be used; making the use of surtax revenues for specified additional purposes contingent upon certain school board actions relating to the reduction of certain property taxes during the time the surtax is in effect; requiring approval of the electors in order to use surtax revenues for the additional purposes authorized by the act; providing an effective date.

By the Committees on Community Affairs; and Commerce and Tourism; and Senator Altman—

**CS for CS for SB 1108**—A bill to be entitled An act relating to taxation; amending s. 196.199, F.S.; providing an exemption from intangible tax for lessees performing a governmental, municipal, or public purpose or function; providing for retroactive application; amending s. 212.08, F.S.; exempting certain items used to manufacture, produce, or modify aircraft engines and gas turbine engines and parts from the tax on sales, use, and other transactions; providing effective dates.

By the Committee on Education Pre-K - 12; and Senators Wise and Gaetz—

**CS for SB 1348**—A bill to be entitled An act relating to eminent domain; amending s. 1002.36, F.S.; authorizing the Board of Trustees of the Florida School for the Deaf and the Blind to exercise the power of eminent domain after receiving approval from the Administration Commission; providing an effective date.

## REFERENCE CHANGES PURSUANT TO RULE 4.7(2)

By the Committee on Health Regulation; and Senator Gaetz—

**CS for SB 1316**—A bill to be entitled An act relating to health care; amending s. 395.002, F.S.; redefining the term “accrediting organizations” as it applies to the regulation of hospitals and other licensed facilities; amending s. 400.474, F.S.; revising the fine that may be imposed against a home health agency for failing to timely submit certain information to the Agency for Health Care Administration; amending s. 400.9905, F.S.; revising the definition of the term “clinic” as it relates to the Health Care Clinic Act; amending s. 409.221, F.S.; revising the background screening requirements for persons rendering care in the consumer-directed care program administered by the Agency for Health Care Administration; amending s. 409.907, F.S.; extending the records-retention period for certain Medicaid provider records; revising the provider agreement to require Medicaid providers to report changes in any principal of the provider to the agency; defining the term “administrative fines” for purposes of revoking a Medicaid provider agreement due to changes of ownership; authorizing, rather than requiring, an onsite inspection of a Medicaid provider’s service location before entering into a provider agreement; specifying the principals of a hospital or nursing home provider for the purposes of submitting fingerprints for background screening; removing certain providers from being subject to agency background checks; amending s. 409.913, F.S.; defining the term “Medicaid provider” or “provider” for purposes of oversight of the integrity of the Medicaid program; authorizing the agency to review and analyze information from sources other than Medicaid-enrolled providers for purposes of determining fraud, abuse, overpayment, or neglect; extending the records-retention period for certain Medicaid provider records; revising the grounds for terminating a provider from the Medicaid program; requiring the agency to base its overpayment audit reports on certain information; deleting a requirement that the agency pay interest on certain withheld Medicaid payments; requiring payment arrangements for overpayments and fines to be made within a certain time; specifying that the venue for all Medicaid program integrity cases lies in Leon County; authorizing the agency and the Medicaid Fraud Control Unit to review certain records; amending s. 409.920, F.S.; clarifying the applicability of immunity from civil liability extended to persons who provide information about fraud or suspected fraudulent acts by a Medicaid provider; amending s. 409.967, F.S.; specifying required

components of a Medicaid managed care plan relating to the provisions of medications; amending s. 429.23, F.S.; requiring the agency to submit a report to the Legislature on adverse incident reports from assisted living facilities; amending s. 429.26, F.S.; authorizing the agency to require a resident of an assisted living facility to undergo a physical examination if the agency questions the appropriateness of the resident's placement in that facility; authorizing release of the results of the examination to a medical review team to be used along with additional information to determine whether the resident's placement in the assisted living facility is appropriate; providing for resident notification and relocation if the resident's continued placement in the facility is not appropriate; authorizing the agency to require the evaluation of a mental health resident by a mental health professional; authorizing an assisted living facility to discharge a resident who requires more services or care than the facility is able to provide; amending s. 456.0635, F.S.; revising the grounds under which the Department of Health or corresponding board is required to refuse to admit a candidate to an examination and refuse to issue or renew a license, certificate, or registration of a health care practitioner; providing an exception; amending s. 456.036, F.S.; providing that all persons who were denied renewal of licensure, certification, or registration under s. 456.0635(3), F.S., may regain licensure, certification, or registration only by completing the application process for initial licensure; providing an exception; amending s. 456.074, F.S.; revising the federal offenses for which the Department of Health must issue an emergency order suspending the license of certain health care professionals; amending ss. 458.309 and 459.005, F.S.; requiring a physician or osteopathic physician who performs certain medical procedures relating to liposuction in an office setting to register the office with the Department of Health unless that office is licensed as a facility under ch. 395, F.S., relating to hospital licensing and regulation; amending s. 463.002, F.S.; conforming provisions to changes made by the act; amending s. 463.005, F.S.; authorizing the Board of Optometry to adopt rules for the administration and prescription of ocular pharmaceutical agents; amending s. 463.0055, F.S.; authorizing certified optometrists to administer and prescribe pharmaceutical agents under certain circumstances; requiring that a certified optometrist complete a course and subsequent examination on general and ocular pharmacology; providing requirements for the course; requiring that the Florida Medical Association and the Florida Optometric Association jointly develop and administer the course and examination; revising qualifications of certain members of the formulary committee; providing for a formulary of topical ocular pharmaceutical agents which the committee may modify; specifying the agents that make up the statutory formulary of oral pharmaceutical agents; authorizing the deletion of an oral pharmaceutical agent listed in the statutory formulary under certain circumstances; prohibiting the board, the Department of Health, or the State Surgeon General from deleting an oral pharmaceutical agent listed in the statutory formulary; amending ss. 463.0057 and 463.006, F.S.; conforming provisions to changes made by the act; amending s. 463.0135, F.S.; requiring that a certified optometrist administer and prescribe oral ocular pharmaceutical agents in a certain manner; requiring that a licensed practitioner who diagnoses a patient who has a neovascular form of glaucoma or progressive glaucoma immediately refer the patient to a physician who is skilled in the diseases of the eye; requiring that comanagement of postoperative care be conducted pursuant to an established protocol; requiring that the patient be informed that a physician will be available for emergency care throughout the postoperative period; requiring that the patient consent in writing to the comanagement relationship; amending s. 463.014, F.S.; revising certain prohibited acts regarding an optometrist conducting surgery and dispensing, administering, ordering, supplying, or selling certain drugs; creating s. 463.0141, F.S.; requiring that adverse incidents in the practice of optometry be reported to the Department of Health; providing requirements for notifying the department of an adverse incident; providing a definition; requiring that the department review each incident and determine whether it involved conduct that is subject to disciplinary action; requiring that the Board of Optometry take disciplinary action if necessary; amending s. 483.035, F.S., relating to licensure and regulation of clinical laboratories operated by practitioners for exclusive use; providing applicability to clinical laboratories operated by practitioners licensed to practice optometry; amending s. 483.041, F.S.; revising the definition of the term "licensed practitioner" to include a practitioner licensed under ch. 463, F.S.; amending s. 483.181, F.S.; requiring clinical laboratories to accept human specimens

submitted by practitioners licensed to practice under ch. 463, F.S.; amending s. 499.003, F.S.; removing a requirement that a contract provider or subcontractor maintain prescription drugs of the agency or entity in its possession separate and apart from other prescription drugs; amending s. 766.102, F.S.; providing that the claimant has the burden of proving by clear and convincing evidence that the actions of a health care provider represented a breach of the prevailing professional standard of care in an action for damages based on death or personal injury which alleges that the death or injury resulted from the failure of a health care provider to order, perform, or administer supplemental diagnostic tests; amending s. 766.106, F.S.; authorizing a prospective defendant to obtain informal discovery by conducting ex parte interviews of treating health care providers; requiring advance notice to the claimant of an ex parte interview; creating s. 766.1091, F.S.; authorizing a health care provider or health care clinic and a patient to agree to submit a claim of medical negligence to arbitration; requiring that the arbitration agreement be governed by ch. 682, F.S.; authorizing the arbitration agreement to contain a provision that limits an award of damages; amending s. 893.02, F.S.; revising the definition of the term "practitioner" to include certified optometrists for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act; amending s. 893.05, F.S.; prohibiting certified optometrists from administering and prescribing certain controlled substances; requiring the Agency for Health Care Administration to prepare a report for public comment and submission to the Legislature following the expansion of services to new populations or of new services; providing effective dates.

—was referred to the Committees on Judiciary; and Budget.

By the Committee on Health Regulation; and Senator Garcia—

**CS for SB 1884**—A bill to be entitled An act relating to health regulation by the Agency for Health Care Administration; amending s. 83.42, F.S., relating to exclusions from part II of ch. 83, F.S., the Florida Residential Landlord and Tenant Act; clarifying that the procedures in s. 400.0255, F.S., for transfers and discharges are exclusive to residents of a nursing home licensed under part II of ch. 400, F.S.; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; deleting a provision regarding retroactivity of the act; deleting a provision specifying that the act does not abrogate the right of an employer under state law to conduct drug tests before a certain date; deleting a provision that requires a laboratory to submit to the Agency for Health Care Administration a monthly report containing statistical information regarding the testing of employees and job applicants; amending s. 318.21, F.S.; providing that a portion of the additional fines assessed for traffic violations within an enhanced penalty zone be remitted to the Department of Revenue and deposited into the Brain and Spinal Cord Injury Trust Fund of the Department of Health to serve certain Medicaid recipients; repealing s. 383.325, F.S., relating to confidentiality of inspection reports of licensed birth center facilities; creating s. 385.2031, F.S.; designating the Florida Hospital/Sandford-Burnham Translational Research Institute for Metabolism and Diabetes as a resource for research in the prevention and treatment of diabetes; amending s. 395.002, F.S.; redefining the term "accrediting organizations" as it applies to the regulation of hospitals and other licensed facilities; conforming a cross-reference; amending s. 395.003, F.S.; deleting an obsolete provision; authorizing a specialty-licensed children's hospital that has at least a specified number of licensed neonatal intensive care unit beds to provide obstetrical services that are restricted to the diagnosis, care, and treatment of certain pregnant women; authorizing the Agency for Health Care Administration to adopt rules; amending s. 395.0161, F.S.; deleting a requirement that facilities licensed under part I of ch. 395, F.S., pay licensing fees at the time of inspection; amending s. 395.0193, F.S.; requiring a licensed facility to report certain peer review information and final disciplinary actions to the Division of Medical Quality Assurance of the Department of Health rather than the Division of Health Quality Assurance of the Agency for Health Care Administration; amending s. 395.1023, F.S.; providing for the Department of Children and Family Services rather than the Department of Health to perform certain functions with respect to child protection cases; requiring certain hospitals to notify the Department of Children and Family Services of compliance; amending s. 395.1041, F.S., relating to hospital emergency services and care; deleting obsolete provisions; repealing s. 395.1046, F.S., relating to complaint investigation procedures; amending s.

395.1055, F.S.; requiring that licensed facility beds conform to standards specified by the Agency for Health Care Administration, the Florida Building Code, and the Florida Fire Prevention Code; amending s. 395.3025, F.S.; authorizing the disclosure of patient records to the Department of Health rather than the Agency for Health Care Administration in accordance with an issued subpoena; requiring the department, rather than the agency, to make available, upon written request by a practitioner against whom probable cause has been found, any patient records that form the basis of the determination of probable cause; amending s. 395.3036, F.S.; correcting a cross-reference; repealing s. 395.3037, F.S., relating to redundant definitions for the Department of Health and the Agency for Health Care Administration; amending s. 395.602, F.S.; revising the definition of the term "rural hospital" to delete an obsolete provision; amending s. 400.021, F.S.; revising the definitions of the terms "geriatric outpatient clinic" and "resident care plan"; amending s. 400.275, F.S.; revising agency duties with regard to training nursing home surveyor teams; revising requirements for team members; amending s. 400.474, F.S.; revising the requirements for a quarterly report submitted to the Agency for Health Care Administration by each home health agency; amending s. 400.484, F.S.; revising the classification of violations by a home health agency for which the agency imposes an administrative fine; amending and reenacting s. 400.506, F.S., relating to licensure of nurse registries, to incorporate the amendment made to s. 400.509, F.S., in a reference thereto; authorizing an administrator to manage up to five nurse registries under certain circumstances; requiring an administrator to designate, in writing, for each licensed entity, a qualified alternate administrator to serve during the administrator's absence; amending s. 400.509, F.S.; providing that organizations that provide companion services only to persons with developmental disabilities, under contract with the Agency for Persons with Disabilities, are exempt from registration with the Agency for Health Care Administration; amending s. 400.601, F.S.; redefining the term "hospice" to include a limited liability company as it relates to nursing homes and related health care facilities; amending s. 400.606, F.S.; revising the content requirements of the plan accompanying an initial or change-of-ownership application for licensure of a hospice; revising requirements relating to certificates of need for certain hospice facilities; amending s. 400.915, F.S.; correcting an obsolete cross-reference to administrative rules; amending s. 400.931, F.S.; requiring each applicant for initial licensure, change of ownership, or license renewal to operate a licensed home medical equipment provider at a location outside the state to submit documentation of accreditation, or an application for accreditation, from an accrediting organization that is recognized by the Agency for Health Care Administration; requiring an applicant that has applied for accreditation to provide proof of accreditation within a specified time; deleting a requirement that an applicant for a home medical equipment provider license submit a surety bond to the agency; amending s. 400.967, F.S.; revising the classification of violations by intermediate care facilities for the developmentally disabled; providing a penalty for certain violations; amending s. 400.9905, F.S.; revising the definitions of the terms "clinic" and "portable equipment provider"; authorizing the Agency for Health Care Administration to deny or revoke an exemption from licensure based on certain criteria if a health care clinic receives payment for health care services under personal injury protection insurance coverage; including health services provided at multiple locations within the definition of the term "portable health service or equipment provider"; amending s. 400.991, F.S.; conforming terminology; revising application requirements relating to documentation of financial ability to operate a mobile clinic; amending s. 408.033, F.S.; providing that fees assessed on selected health care facilities and organizations may be collected prospectively at the time of licensure renewal and prorated for the licensing period; amending s. 408.034, F.S.; revising agency authority relating to licensing of intermediate care facilities for the developmentally disabled; amending s. 408.036, F.S.; deleting an exemption from certain certificate-of-need review requirements for a hospice or a hospice inpatient facility; amending s. 408.037, F.S.; revising requirements for the financial information to be included in an application for a certificate of need; amending s. 408.043, F.S.; revising requirements for certain free-standing inpatient hospice care facilities to obtain a certificate of need; amending s. 408.061, F.S.; revising data reporting requirements for health care facilities; amending s. 408.07, F.S.; deleting a cross-reference; amending s. 408.10, F.S.; removing agency authority to investigate certain consumer complaints; amending s. 408.7056, F.S.;

providing that the Subscriber Assistance Program applies to health plans that meet certain requirements; repealing s. 408.802(11), F.S.; removing applicability of part II of ch. 408, F.S., relating to general licensure requirements, to private review agents; amending s. 408.804, F.S.; providing penalties for altering, defacing, or falsifying a license certificate issued by the agency or displaying such an altered, defaced, or falsified certificate; amending s. 408.806, F.S.; revising agency responsibilities for notification of licensees of impending expiration of a license; requiring payment of a late fee for a license application to be considered complete under certain circumstances; amending s. 408.8065, F.S.; revising the requirements for becoming licensed as a home health agency, home medical equipment provider, or health care clinic; amending s. 408.809, F.S.; revising provisions to include a schedule for background rescreenings of certain employees; amending s. 408.810, F.S.; requiring that the controlling interest of a health care licensee notify the agency of certain court proceedings; providing a penalty; amending s. 408.813, F.S.; authorizing the agency to impose fines for unclassified violations of part II of ch. 408, F.S.; amending s. 409.912, F.S.; revising the components of the Medicaid prescribed-drug spending-control program; amending s. 409.91195, F.S.; revising the membership of the Medicaid Pharmaceutical and Therapeutics Committee; providing the requirements for the members; providing terms of membership; requiring the Agency for Health Care Administration to serve as staff for the committee and assist the committee with its duties; providing additional requirements for presenting public testimony to include a product on a preferred drug list; requiring that the committee be informed in writing of the agency's action when the agency does not follow the recommendation of the committee; amending s. 409.975, F.S.; providing that an essential provider and a hospital that is necessary for a managed care plan to demonstrate an adequate network as determined by the Agency for Health Care Administration is part of that managed care plan's network for purposes of the provider's or hospital's application for enrollment or expansion in the Medicaid program; requiring that a managed care plan's payment under this provision to an essential provider be made in accordance with s. 409.975, F.S., regarding managed care plan accountability; repealing s. 429.11(6), F.S., relating to provisional licenses for assisted living facilities; amending s. 429.294, F.S.; revising a cross-reference; amending s. 429.71, F.S.; revising the classification of violations; amending s. 429.915, F.S.; revising agency responsibilities regarding the issuance of conditional licenses; amending ss. 430.80 and 430.81, F.S.; conforming cross-references; repealing s. 440.102(9)(d), F.S., relating to a requirement that laboratories submit to the Agency for Health Care Administration a monthly report containing statistical information regarding the testing of employees and job applicants; amending s. 483.035, F.S.; providing for a clinical laboratory to be operated by certain nurses; amending s. 483.051, F.S.; requiring the Agency for Health Care Administration to provide for biennial licensure of all nonwaived laboratories that meet certain requirements; requiring the agency to prescribe qualifications for such licensure; defining nonwaived laboratories as laboratories that do not have a certificate of waiver from the Centers for Medicare and Medicaid Services; deleting requirements for the registration of an alternate site testing location when the clinical laboratory applies to renew its license; amending s. 483.245, F.S.; prohibiting a clinical laboratory from placing a specimen collector or other personnel in any physician's office, unless the clinical lab and the physician's office are owned and operated by the same entity; authorizing a person who is aggrieved by a violation to bring a civil action for appropriate relief; amending s. 483.294, F.S.; revising the frequency of agency inspections of multiphasic health testing centers; amending s. 499.003, F.S.; redefining the term "wholesale distribution" with regard to the Florida Drug and Cosmetic Act to remove certain requirements governing prescription drug inventories; amending and creating, respectively, ss. 627.602 and 627.6513, F.S.; providing that the Uniform Health Carrier External Review Model Act and the Employee Retirement Income Security Act apply to individual and group health insurance policies except those subject to the Subscriber Assistance Program under s. 408.7056, F.S.; creating s. 641.312, F.S.; requiring the Office of Insurance Regulation within the Department of Financial Services to administer the National Association of Insurance Commissioners' Uniform Health Carrier External Review Model Act; providing that the Uniform Health Carrier External Review Model Act does not apply to a health maintenance contract that is subject to the Subscriber Assistance Program under s. 408.7056, F.S.; amending s. 651.118, F.S.;

conforming a cross-reference; providing a directive to the Division of Statutory Revision; providing effective dates.

—was referred to the Committee on Budget.

### MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE BUSINESS

#### EXECUTIVE APPOINTMENTS SUBJECT TO CONFIRMATION BY THE SENATE:

The Secretary of State has certified that pursuant to the provisions of section 114.05, Florida Statutes, certificates subject to confirmation by the Senate have been prepared for the following:

*Office and Appointment*

*For Term  
Ending*

Executive Director of Northwest Florida Water Management District

Appointee: Barr, Douglas E., Tallahassee

Pleasure of  
the Board

Executive Director of St. Johns River Water Management District

Appointee: Tanzler III, Hans G., Confidential pursuant to s. 119.071(4), F.S.

Pleasure of  
the Board

Executive Director of South Florida Water Management District

*Office and Appointment*

Appointee: Meeker, Melissa L., Stuart

*For Term  
Ending  
Pleasure of  
the Board*

Executive Director of Suwannee River Water Management District

Appointee: Still, David, Lake City

Pleasure of  
the Board

**Referred to the Committee on Environmental Preservation and Conservation; and Rules Subcommittee on Ethics and Elections.**

#### CORRECTION AND APPROVAL OF JOURNAL

The Journal of February 13 was corrected and approved.

#### CO-INTRODUCERS

Senators Altman—SB 290, CS for SB 494, CS for CS for SB 964, CS for SB 1880; Gaetz—SM 672; Margolis—SB 340; Smith—CS for SB 818

#### RECESS

On motion by Senator Thrasher, the Senate recessed at 5:18 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 9:45 a.m., Thursday, February 23 or upon call of the President.