

## SPECIAL SESSION

# JOURNAL OF THE SENATE

Tuesday, August 29, 1967

The Senate was called to order by the President Pro Tempore at 9:00 a. m. The following Senators were recorded present:

Mr. President	de la Parte	Hollahan	Sayler
Askew	Edwards	Horne	Shevin
Bafalis	Elrod	Johnson	Slade
Barron	Fincher	Knopke	Spencer
Barrow	Fisher	Lane	Stockton
Bell	Friday	McClain	Stolzenburg
Boyd	Gibson	Mathews	Stone
Broxson	Gong	O'Grady	Thomas
Chiles	Griffin	Ott	Weber
Clayton	Gunter	Plante	Weissenborn
Cross	Haverfield	Poston	Wilson
Deeb	Henderson	Reuter	Young

48. A quorum present.

Excused: Senators Askew and Broxson at 11:15 a. m. for the purpose of attending a funeral in Pensacola.

Prayer by the Secretary of the Senate:

Heavenly Father, the preamble of this document inspires each of us to be grateful for the privilege of being part of this land. The assurances therein guarantee each of us measures of contentment, happiness and security. The provisions subsequent implement fully those signs which would chart the travels of our people for years to come. Bless these servants who have labored so diligently in this cause. In this conclusion, may their wisdom give to us a covenant of letter perfection, and basically, an instrument adherent to thy law. Joyfully, we sing laudits in our master's name. Amen.

The Journal of August 28 was corrected and approved.

### REPORT OF COMMITTEE

August 28, 1967

The Committee on Rules and Calendar recommends that Rule 7.1 be amended as follows:

The Senate shall meet each legislative day at 9:00 a. m. and recess at 12 noon to reconvene at 1:30 p. m. and remain in session until 6:00 p. m., except for a recess of one hour at 3:00 p. m. at which time committees shall meet.

On motion by Senator Mathews the committee report was adopted.

On motion by Senator Mathews, pursuant to Rule 5.12 the Senate resolved itself into a Committee of the Whole for the purpose of further consideration of SJR 2-4X(67).

### COMMITTEE OF THE WHOLE

Senator Barron presiding.

Senator O'Grady offered the following amendment:

**Amendment 291—DECLARATION OF RIGHTS, Section 3, on page 1, beginning at line 27, strike present Declaration of Rights, Section 3. and insert in lieu thereof the following:**

**Section 3. RELIGIOUS FREEDOM.—There shall be no law respecting the establishment of any religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with the morals, peace, or safety of the public. No money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.**

Senators O'Grady, Deeb and Plante offered the following substitute amendment for Amendment 291 which was moved by Senator O'Grady:

**DECLARATION OF RIGHTS, Section 3, on page 1, beginning at line 27, strike present Declaration of Rights, Section 3. and insert in lieu thereof the following:**

**Section 3. RELIGIOUS FREEDOM.—There shall be no law respecting the establishment of any religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with the morals, peace, or safety of the public. No money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution. Nothing contained herein shall preclude the provision of any public service directly to any persons.**

Senator Broxson presiding.

Senator Pope presiding.

Senator Shevin offered the following amendment to the substitute amendment which was adopted:

In Declaration of Rights, Section 3, line 9, page 1, following "of any sectarian institution." Strike: "Nothing contained herein shall preclude the provision of any public service directly to any persons." and insert the following: Nothing contained in this Article shall preclude the provision of health and welfare or other non-curricular services authorized by law for the benefit of all school children nor prevent the distribution of federal funds in accordance with the terms of the federal law.

The vote was:

Yeas—21

Mr. President	Gibson	Knopke	Weber
Barron	Gong	Lane	Weissenborn
Barrow	Haverfield	Poston	Wilson
Chiles	Henderson	Shevin	
de la Parte	Hollahan	Spencer	
Fincher	Horne	Stone	

Nays—20

Bafalis	Deeb	Johnson	Plante
Bell	Edwards	McClain	Stockton
Boyd	Elrod	Mathews	Stolzenburg
Clayton	Fisher	O'Grady	Thomas
Cross	Gunter	Ott	Young

The substitute amendment as amended was adopted. The vote was:

Yeas—24

Mr. President	Fincher	Hollahan	Shevin
Barron	Fisher	Horne	Spencer
Barrow	Gibson	Knopke	Stone
Chiles	Gong	Lane	Weber
Cross	Haverfield	Mathews	Weissenborn
de la Parte	Henderson	Poston	Wilson

Nays—16

Bafalis	Edwards	McClain	Stockton
Bell	Elrod	O'Grady	Stolzenburg
Clayton	Gunter	Ott	Thomas
Deeb	Johnson	Plante	Young

The Liaison Committee offered the following amendment which was moved by Senator Friday:

**Amendment 25-a—Article III, Section 3, Subsection (b), strike section 3(b) and insert in lieu thereof:**

(b) A regular session of the legislature shall convene on the first Tuesday after the first Monday in April of each odd-numbered year, and on the first Tuesday after the first Monday in April, or such other date as may be fixed by law, of each even-numbered year.

**Senator Cross presiding.**

Senators Spencer, Stone and Sayler offered the following substitute amendment which was moved by Senator Spencer and failed:

Section 3, Subsection (b), strike section 3(b) and insert in lieu thereof:

(b) A regular session of the legislature shall convene on the first Tuesday after the first Monday in April of each odd-numbered year.

**Senator Pope presiding.**

The vote was:

Yeas—16

Bafalis	Gong	Lane	Slade
Cross	Horne	Ott	Spencer
Edwards	Johnson	Poston	Weber
Elrod	Knopke	Sayler	Weissenborn

Nays—27

Mr. President	Deeb	Haverfield	Stockton
Barron	de la Parte	Henderson	Stolzenburg
Barrow	Fincher	Hollahan	Stone
Bell	Fisher	McClain	Thomas
Boyd	Friday	Mathews	Wilson
Chiles	Gibson	O'Grady	Young
Clayton	Gunter	Shevin	

Amendment 25-a was adopted.

The Liaison Committee offered the following amendment which was adopted on motion by Senator Shevin:

Amendment 27-a—Article IV, Section 7, Subsection (c), on page 28, beginning at line 10, strike Subsection (c) and insert in lieu thereof the following:

(c) There may be created by law a Parole and Probation Commission with power to supervise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the Commission shall be prescribed by law.

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by the President at 11:40 a. m. A quorum present.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate recesses it recess to reconvene at 2:00 p. m.

On motion by Senator Mathews, pursuant to Rule 5.12 the Senate resolved itself into a Committee of the Whole for the purpose of further consideration of SJR 2-4X(67).

**COMMITTEE OF THE WHOLE****Senator Pope presiding.**

The Liaison Committee offered the following amendment which was adopted on motion by Senator Shevin:

Amendment 28-a—Article IV, Section 8 (9 engrossed), on page 28, beginning at line 24, strike Section 8 and insert in lieu thereof the following:

Section 8. **Game and Fresh Water Fish Commission.**—There shall be a game and fresh water fish commission, composed of five members appointed by the governor for staggered terms of five years. The commission shall exercise the non-judicial powers of the state with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating regulations of the commission shall be prescribed by specific statute.

The hour of recess having arrived, a point of order was called and the Committee of the Whole recessed at 12 noon.

**AFTERNOON SESSION**

The Committee of the Whole was called to order by Senator Barron at 2:00 p. m. A quorum present.

The Liaison Committee offered the following amendment which was moved by Senator Hollahan:

Amendment 31-a—Article IV, Section 2, on page 23, beginning at line 23, insert new Section 2 and renumber all subsequent sections.

Section 2. **Lieutenant Governor—duties of lieutenant governor—succession to the office of governor—service as acting governor—limitation of terms governor may serve.**—

(a) There shall be a lieutenant governor. The lieutenant governor shall perform such duties pertaining to the office of governor as shall be assigned to him by the governor and such other duties as may be prescribed by law.

(b) The lieutenant governor shall become governor upon failure for a period of thirty days of the governor-elect to qualify, or upon death, resignation or removal of the governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve for the remainder of the term.

(c) Upon impeachment of the governor and until completion of trial thereof, or during his physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by four cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature or four cabinet members. Incapacity to serve as governor may also be established by certificate filed with the supreme court by the governor declaring his incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

(d) No person shall be elected to the office of governor for more than two consecutive terms, and no person who has held the office of governor, or acted as governor, for more than two years of a term to which some other person was elected governor shall be elected to the office of governor more than one succeeding and consecutive term.

Senator Fisher offered the following amendment to Amendment 31-a which failed:

Subsection (a), beginning at line 8, add: The lieutenant governor shall preside as president of the senate and shall vote in case of a tie.

Amendment 31-a was adopted.

Senator Mathews moved that the rules be waived and the Committee of the Whole recess at 3:30 p. m. to reconvene at 4:30 p. m. The motion was adopted.

The Liaison Committee offered the following amendment which was adopted on motion by Senator Stockton:

Amendment 32-a—Article VII, Section 3, on page 44, beginning at line 29, strike all of Section 3 and insert the following in lieu thereof:

Section 3. **CONSOLIDATION.**—The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. By special law a [A] consolidation plan may be proposed which [provided by legislative act or by act of the governing bodies of each of the governments affected. A consolidation plan] shall become effective only if approved by vote of the electors of the county, or of the county and municipalities affected as may be provided in the plan. Consolidation shall not extend the territorial scope of taxation for the payments of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

Amendment 33-a—Article VII, Section 4, on page 45, be-

ginning at line 15, strike all of Section 4 and insert the following in lieu thereof:

(4) **Transfer of Powers.**—By law or by resolution of the governing bodies of each of the governments affected, any functions or powers of a municipality or a special district may be transferred to the county in which the municipality or special district is located or to any other municipality or special district in the county, after approval by vote of the electors of the transferor and approval of the governing body of the transferee.

Senators Haverfield, Hollahan, Poston and Gong offered the following amendment which was adopted on motion by Senator Haverfield:

**Amendment 315**—Article XII, on page 70, following line 19, following present section 14 add a new section 15 to be worded as follows and renumber following sections:

**Section 15. DADE COUNTY—POWERS CONFERRED UPON MUNICIPALITIES.**—To the extent not inconsistent with the powers of existing municipalities or general law the Metropolitan Government of Dade County may exercise all the powers conferred now or hereafter by general law upon municipalities.

Consideration of Amendments 26-a, 34-a, and 35-a was temporarily deferred.

Senator Sayler offered the following amendment which failed:

**Amendment 318**—Declaration of Rights, Section 6, on page 2, beginning at line 13, strike all of Section 6 and insert in lieu thereof:

**Section 6. RIGHT TO WORK.** The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or association. The right of employees, except public employees, [public or private,] by and through a labor union or association, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

The Liaison Committee offered the following amendment which was adopted on motion by Senator Wilson:

**Amendment 36-a**—Article IV, Section 6, on page 27, beginning at line 16, strike Section 6 and insert in lieu thereof the following:

**Section 6. Suspensions—filling office during suspensions.**—

(a) By executive order stating the ground and filed with the secretary of state, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony, and may fill the office by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the governor.

(b) The senate may, in proceedings prescribed by law, remove from office or reinstate the suspended official and for such purpose the senate may be convened in special session by its president or by a majority of its membership.

(c) By order of the governor any elected municipal officer indicted for crime may be suspended from office until acquitted, and the office filled by appointment for the period of suspension, unless these powers are vested elsewhere by law or the municipal charter.

Senator Mathews offered the following amendment which was adopted:

**Amendment 321**—Article IV, Section 1, subsection (f) on page 23, beginning at line 10, strike subsection (f) and insert in lieu thereof the following:

(f) **When not otherwise provided for in this constitution** [He] he shall fill by appointment any vacancy in state or county office[, when not otherwise provided by general law or uniform application,] for the remainder of the term if less than twenty eight months, otherwise until the first Tuesday after the first Monday following the next general election. Vacancy in office shall occur upon the creation of an office, upon the death of the incumbent or his removal from office, resignation, succes-

sion to another office, unexplained absence for six months, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term.

**Senator Cross presiding.**

The Liaison Committee offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 37-a**—Article III, Section 13, on page 17, beginning at line 12, delete entire section 13.

The Liaison Committee also offered the following amendment which was moved by Senator Friday:

**Amendment 38-a**—Article IV, Section 3, on page 24, beginning at line 18, strike section 3 and insert in lieu thereof the following:

**Section 3. Election of governor, lieutenant governor and cabinet members—qualifications—length of term.**—At a statewide general election in a calendar year the number of which is even but not evenly divisible by four, the qualified electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning at noon on the first Tuesday after the first Monday in January of the succeeding year. The lieutenant governor shall run with the governor and the electors shall cast a single ballot for governor and lieutenant governor. Any candidate for governor seeking nomination in any party primary shall, at the time he qualified therefor, file his designation of a candidate for lieutenant governor together with such candidate's acceptance and the qualification papers prescribed by law. Electors in the primary shall cast a single ballot for candidates for nomination for the office of governor and lieutenant governor. When elected, both the governor and lieutenant governor and each cabinet member must be qualified electors not less than thirty years of age and must have been citizens and residents of the state for the preceding ten years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected to this office for the succeeding term. [The attorney general must have been a member of the Florida Bar for at least five years prior to assuming the office.]

Senator Stockton offered the following amendment to Amendment 38-a which was adopted:

Line 28, following the period insert the following: The attorney general must have been an attorney authorized to practice law in Florida for 5 years prior to election.

Amendment 38-a as amended was adopted.

Consideration of Amendment 39-a by the Liaison Committee was temporarily deferred on motion by Senator Friday.

Senators Weissenborn and Stone offered the following amendment:

**Amendment 305**—Article X, Section 10, on page 58, beginning at line 27, add a new Section 10, renumber present Section 10 as Section 11 and subsequent sections accordingly.

**Section 10. Sovereignty Lands.**—Reaffirming the law applicable in this state since its admission to the United States of America on March 3, 1845, the title to lands within the borders of this state under navigable waters, including the shores on or space between ordinary high and low water marks, is held by the state by virtue of its sovereignty in trust for all the people, and limited disposition of portions of such lands, or the use thereof, may be made by the state only when such limited disposition is in the interest of the public welfare. The state cannot abdicate general control over such lands and the water thereon, even where such limited disposition is made, because of the state's paramount duty to preserve and control such lands for the public good. The Legislature shall enact such legislation as shall be necessary to implement this section.

Senators Weissenborn and Stone offered the following substitute amendment which was adopted on motion by Senator Weissenborn:

Article X, Section 10, on page 58, beginning at line 27, add a new Section 10, renumber present Section 10 as Section 11 and subsequent sections accordingly:

**Section 10. Sovereignty Lands.**—The title to lands within the borders of this state under navigable waters, including the shores on or space between ordinary high and low water marks, is held by the state, by virtue of its sovereignty, in trust for all the people, and limited disposition of portions of such lands, or the use thereof, may be made by the state only when such limited disposition is in the interest of the public welfare. The state shall not abdicate general control over such lands and the water thereon, even where such limited disposition is made. The Legislature shall enact such legislation as shall be necessary to implement this section.

The vote was:

Yeas—25

Bell	Gunter	Poston	Thomas
Cross	Haverfield	Reuter	Weissenborn
Deeb	Henderson	Shevin	Wilson
Elrod	Hollahan	Slade	Young
Fincher	Johnson	Spencer	
Fisher	Knopke	Stolzenburg	
Gong	Ott	Stone	

Nays—18

Mr. President	Clayton	Lane	Sayler
Barron	Edwards	McClain	Stockton
Barrow	Friday	Mathews	Weber
Boyd	Griffin	O'Grady	
Chiles	Horne	Plante	

On motion by Senator Friday, the Committee of the Whole reconsidered the vote by which Amendment 31-a was adopted this day.

The Liaison Committee offered the following amendment to Amendment 31-a, which was adopted on motion by Senator Friday:

Article IV, strike all of subsection (d) of Section 2, relating to Lieutenant Governor, etc. and Section 4.

On motion by Senator Friday, Amendment 31-a as amended was adopted.

The Liaison Committee offered the following amendment which was adopted on motion by Senator Friday:

\* **Amendment 40-a**—Article IV, Section 7, Subsection (a), on page 28, beginning at line 11, strike subsection (a) and insert:

(a) By executive order filed with the secretary of state, the governor may suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of three members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses except treason and those where impeachment results in conviction.

On motion by Senator Mathews, the rules were waived and the time of adjournment was extended until final disposition of Committee Amendments on file with the Secretary of the Senate.

The Liaison Committee also offered the following amendment which was moved by Senator Friday:

**Amendment 41-a**—Article VII, Section 1, Subsection (c), on page 42, beginning at line 16, as follows:

(c) **County Officers.** Except as otherwise provided by county charter, there shall be elected by the qualified electors for a term of four (4) years a clerk of the circuit court, a sheriff, a tax assessor, a tax collector and a supervisor of elections. Their powers, duties, and qualifications, except as provided in a county charter, shall be as prescribed by law. The care and custody of all county funds and a method of reporting and paying out of such funds shall be provided for by law.

Senator Chiles offered the following amendment to Amendment 41-a which was adopted:

In line 2 of Amendment 41-a following the words "by county charter" insert: or referendum

Amendment 41-a as amended was adopted.

The Liaison Committee also offered the following amendment which was moved by Senator Chiles:

**Amendment 30-a**—Article X, Section 11, on page 59, beginning at line 17, insert new section:

**Section 11. Sovereign Immunity.**—Sovereign immunity from liability in tort or contract shall not exist, provided however, the legislature may provide by general law for the method and procedure of bringing suits against the state or any public body therein.

Senator Poston offered the following amendment to Amendment 30-a which failed:

In line 4 strike "may" and insert shall

Amendment 30-a was adopted.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Henderson:

**Amendment 42-a**—Article XII, insert new section.

**Section .... Sovereign immunity; effective date.**—Article X, Section 11 of this constitution shall be effective only as to liabilities arising on or after October 1, 1969.

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by Senator Cross at 6:33 p. m. A quorum present.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate adjourns it adjourn to reconvene at 9:30 a. m., August 30, 1967.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 6:34 p. m. to reconvene at 9:30 a. m., August 30, 1967.