

JOURNAL OF THE FLORIDA SENATE

Thursday, December 9, 1971

The Senate was called to order by the President at 12:00 noon. A quorum present—34:

Mr. President	Childers	Horne	Scarborough
Arnold	Deeb	Johnson (29th)	Stolzenburg
Barrow	Ducker	Johnson (34th)	Trask
Beaufort	Gong	Karl	Ware
Bishop	Graham	Lewis (33rd)	Weissenborn
Boyd	Gunter	McClain	Williams
Brannen	Haverfield	Ott	Wilson
Brantley	Henderson	Poston	
Broxson	Hollahan	Saunders	

Excused: Senator Fincher until 5:55 p.m. for medical reasons.

Prayer by Senator Broxson:

Even the youths shall faint and the young men shall utterly fall, but they that wait upon the Lord shall renew their strength, they shall mount up with wings as eagles. They shall run and not be weary, they shall walk and not faint.

Help us to hide your words in our hearts that we might not sin against thee. Let the words of our mouths and the meditations of our hearts be acceptable in thy sight, O Lord, our strength and our redeemer. And then shall come to pass the saying: "He shall be like a tree planted by the rivers of waters, that brought forth his fruit in his season, his leaf also shall not wither and whatsoever he doeth shall prosper." Amen.

The Journal of December 8 was corrected and approved as follows:

Page 62, column 2, line 21, before "Any" insert: If the chief judge does not authorize the county court to sit in the location requested, the county or municipality may apply to the supreme court for an order directing the county court to sit in the location.

ENGROSSING REPORT

Your Engrossing Clerk to whom was referred—

SB 36-D with 1 amendment, SB 37-D with 3 amendments, CSSB 8-D with 3 amendments

—reports that the House amendments have been incorporated and the bills are returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

The bills were ordered enrolled.

INTRODUCTION

Senator Horne moved that HB 13-D be admitted for introduction and consideration notwithstanding the fact that it did not fall within the purview of the Governor's call. The motion was adopted by the following vote:

Yeas—33

Mr. President	Deeb	Johnson (29th)	Stolzenburg
Arnold	Ducker	Johnson (34th)	Trask
Barrow	Gong	Karl	Ware
Beaufort	Graham	Lewis (33rd)	Weissenborn
Bishop	Gunter	McClain	Williams
Boyd	Haverfield	Ott	Wilson
Brantley	Henderson	Poston	
Broxson	Hollahan	Saunders	
Childers	Horne	Scarborough	

Nays—None

HB 13-D—A bill to be entitled An act relating to legislation; amending subsection (1) of section 3 of Chapter 71-29, Laws of

Florida, to delete the requirement of incorporating certain court related matters into the Florida Statutes; providing an effective date.

—was read the first time by title. On motions by Senator Horne, by two-thirds vote, HB 13-D was read the second time by title and, by two-thirds vote, was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Childers	Johnson (29th)	Scarborough
Arnold	Deeb	Johnson (34th)	Stolzenburg
Barrow	Ducker	Knopke	Trask
Beaufort	Gong	Lewis (33rd)	Ware
Bishop	Graham	McClain	Weissenborn
Boyd	Gunter	Ott	Williams
Brannen	Haverfield	Pope	
Brantley	Hollahan	Poston	
Broxson	Horne	Sayler	

Nays—1

Karl

By unanimous consent Senator Reuter was recorded as voting yea.

On motion by Senator Hollahan, the Senate recessed at 12:12 p.m., awaiting the call of the President.

The Senate was called to order by the President at 2:42 p.m. A quorum present.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas
President of the Senate
December 9, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and has passed as amended HB 33-D, HB 43-D.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The Honorable Jerry Thomas
President of the Senate
December 9, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has returned the Conference Committee Report on HJR 11-D, together with HJR 11-D and SJR 52-D to conference.

(Conference Committee Report, HJR 11-D and SJR 52-D attached)

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motion by Senator Horne, the Senate reconsidered the vote by which the Conference Committee Report on HJR 11-D was adopted on December 8.

On motion by Senator Horne, the Senate reconsidered the vote by which SJR 52-D passed on December 8.

On motion by Senator Horne, the Conference Committee Report on HJR 11-D, together with HJR 11-D and SJR 52-D were recommitted to the Conference Committee.

The President announced the reappointment of Senators Barron, Karl, McClain, Wilson, Boyd and Lewis (43rd) as conferees on the part of the Senate.

On motion by Senator Horne, the Senate recessed at 3:40 p.m., awaiting the call of the President.

The Senate was called to order by the President at 5:55 p.m. A quorum present—45:

Mr. President	Deeb	Johnson (34th)	Saunders
Arnold	de la Parte	Karl	Saylor
Barron	Ducker	Knopke	Scarborough
Barrow	Fincher	Lewis (33rd)	Stolzenburg
Beaufort	Gong	Lewis (43rd)	Trask
Bishop	Graham	McClain	Ware
Boyd	Gunter	Myers	Weissenborn
Brannen	Haverfield	Ott	Williams
Brantley	Henderson	Plante	Wilson
Broxson	Hollahan	Pope	
Childers	Horne	Poston	
Daniel	Johnson (29th)	Reuter	

On motion by Senator Barron the Senate reconsidered the vote by which SJR 52-D was placed on third reading.

The following Conference Committee report was read:

CONFERENCE COMMITTEE REPORT

The members of the conference committee of 12/9/71 reports to their respective houses that the conference recommends that SJR 52-D be amended by both houses as shown in the attached amendments. The conference committee further recommends that, upon approval of the foregoing by a 3/5 vote of the membership of each house, the early vote resolution, Senate Bill 53-D or its House companion be adopted.

Conferees for the Senate	Conferees for the House
<i>DEMPSEY J. BARRON</i>	<i>TALBOT D'ALEMBERTE</i>
<i>FREDERICK B. KARL</i>	<i>GRANVILLE H. CRABTREE,</i>
<i>GERALD A. LEWIS</i>	<i>JR.</i>
<i>DAVID H. McCLAIN</i>	<i>DONALD H. REED, JR.</i>
<i>HAROLD S. WILSON</i>	<i>FRED TITTLE</i>
<i>W. H. BOYD (Dissenting)</i>	<i>T. TERRELL SESSUMS</i>
	<i>JOHN E. SANTORA, JR.</i>

Senator Karl moved that the rule requiring an accompanying statement be waived. The motion was adopted by two-thirds vote.

On motion by Senator Karl the Conference Committee Report on—

SJR 52-D—A joint resolution proposing a revision of Article V of the State Constitution, relating to the judicial branch of the government.

—was accepted.

Senator Karl moved the following amendment which was adopted:

Conference Committee Amendment 1—On page 20, lines 9-10 strike everything after "of" on line 9 and insert: 100,000 according to the 1970 federal census. On the effective date of this article, there shall be an additional number of positions of circuit judges equal to the number of existing circuit judges and the number of judges of the above named courts whose term expires in 1973. Elections to such offices shall take place at the same time and manner as elections to other state judicial offices in 1972 and the terms of such offices shall be for a term of six years. Unless changed pursuant to section nine of this article, the number of circuit judges presently existing and created by this subsection shall not be changed.

Senator Karl moved the following amendment which was adopted:

Conference Committee Amendment 2—On page 20, after line 10 insert: (3) In all counties having a population of less than 100,000 according to the 1970 federal census and having more than one county judge on the date of the adoption of this article, there shall be the same number of judges of the county court as there are county judges existing on that date unless changed pursuant to section 9 of this article.

Senator Karl moved the following amendment which was adopted:

Conference Committee Amendment 3—On page 21, line 7 after "9" insert: of this Article V

On motion by Senator Karl by two-thirds vote, SJR 52-D as amended by the conference committee amendments was read the third time in full as follows:

SJR 52-D—A joint resolution proposing a revision of Article V of the State Constitution, relating to the judicial branch of the government.

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

That the following proposed revision of Article V of the State Constitution is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1972, or, if authorized by three-fourths of the membership of each house of the legislature, at a special election to be held March 14, 1972.

(Substantial rewording of Article. See Article V State Constitution, for present text.)

ARTICLE V

JUDICIARY

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

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. These rules may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

(b) The chief justice of the supreme court shall be chosen by a majority of the members of the court. He shall be the chief administrative officer of the judicial system. He shall have the power to assign justices or judges, including consenting retired justices or judges, to temporary duty in any court for which the judge is qualified and to delegate to a chief judge of a judicial circuit the power to assign judges for duty in his respective circuit.

(c) A chief judge for each district court of appeal shall be chosen by a majority of the judges thereof or, if there is no majority, by the chief justice. The chief judge shall be responsible for the administrative supervision of the court.

(d) A chief judge in each circuit shall be chosen from among the circuit judges as provided by supreme court rule. The chief judge shall be responsible for the administrative supervision of the circuit courts and county courts in his circuit.

SECTION 3. Supreme Court.—

(a) **ORGANIZATION.**—The supreme court shall consist of seven justices. Five justices shall constitute a quorum. The concurrence of four justices shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be substituted for justices.

(b) JURISDICTION.—The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from orders of trial courts and decisions of district courts of appeal initially and directly passing on the validity of a state statute or a federal statute or treaty, or construing a provision of the state or federal constitution.

(2) When provided by general law, shall hear appeals from final judgments and orders of trial courts imposing life imprisonment or final judgments entered in proceedings for the validation of bonds or certificates of indebtedness.

(3) May review by certiorari any decision of a district court of appeal that affects a class of constitutional or state officers, that passes upon a question certified by a district court of appeal to be of great public interest, or that is in direct conflict with a decision of any district court of appeal or of the supreme court on the same question of law, and any interlocutory order passing upon a matter, which upon final judgment would be directly appealable to the supreme court; and may issue writs of certiorari to commissions established by general law having statewide jurisdiction.

(4) May issue writs of prohibition to courts and commissions in causes within the jurisdiction of the supreme court to review, and all writs necessary to the complete exercise of its jurisdiction.

(5) May issue writs of mandamus and quo warranto to state officers and state agencies.

(6) May, or any justice may, issue writs of habeas corpus returnable before the supreme court or any justice, a district court of appeal or any judge thereof, or any circuit judge.

(7) Shall have the power of direct review of administrative action prescribed by general law.

(c) **CLERK AND MARSHAL.**—The supreme court shall appoint a clerk and a marshal who shall hold office during the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

SECTION 4. District Courts of Appeal.—

(a) **ORGANIZATION.**—There shall be a district court of appeal serving each appellate district. Each district court of appeal shall consist of at least three judges. Three judges shall consider each case and the concurrence of two shall be necessary to a decision.

(b) JURISDICTION.—

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

(3) A district court of appeal or any judge thereof may issue writs of habeas corpus returnable before the court or any judge thereof or before any circuit judge within the territorial jurisdiction of the court. A district court of appeal may issue writs of mandamus, certiorari, prohibition, quo warranto, and other writs necessary to the complete exercise of its jurisdiction. To the extent necessary to dispose of all issues in a cause properly before it, a district court of appeal may exercise any of the appellate jurisdiction of the circuit courts.

(c) **CLERKS AND MARSHALS.**—Each district court of appeal shall appoint a clerk and a marshal who shall hold office during the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the territorial jurisdiction of the court, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

SECTION 5. Circuit Courts.—

(a) **ORGANIZATION.**—There shall be a circuit court serving each judicial circuit.

(b) **JURISDICTION.**—The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action prescribed by general law.

SECTION 6. County Courts.—

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

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

SECTION 7. Specialized Divisions.—All courts except the supreme court may sit in divisions as may be established by general law. A circuit or county court may hold civil and criminal trials and hearings in any place within the territorial jurisdiction of the court as designated by the chief judge of the circuit.

SECTION 8. Eligibility.—No person shall be eligible for office of justice or judge of any court unless he is an elector of the state and resides in the territorial jurisdiction of his court. No justice or judge shall serve after attaining the age of seventy years except upon temporary assignment or to complete a term, one-half of which he has served. No person is eligible for the office of justice of the supreme court or judge of a district court of appeal unless he is, and has been for the preceding ten years, a member of the bar of Florida. No person is eligible for the office of circuit judge unless he is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a county court judge must be a member of the bar of Florida.

SECTION 9. Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

SECTION 10. Election and Terms.—

(a) **ELECTION.**—All justices and judges shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts.

(b) **TERMS.**—The terms of all justices of the supreme court, judges of district courts of appeal and circuit judges shall be for six years. The terms of judges of county courts shall be for four years.

SECTION 11. Vacancies.—

(a) The governor shall fill each vacancy in judicial office by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. An

election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term. The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor must make the appointment within sixty days after the nominations have been certified to him.

(b) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit.

SECTION 12. Discipline; removal and retirement.—

(a) There shall be a judicial qualifications commission composed of:

(1) Two judges of district courts of appeal selected by the judges of those courts, two circuit judges selected by the judges of the circuit courts and two judges of county courts selected by the judges of those courts;

(2) Two electors who reside in the state, who are members of the bar of Florida, and who shall be chosen by the governing body of the bar of Florida; and

(3) Five electors who reside in the state, who have never held judicial office or been members of the bar of Florida, and who shall be appointed by the governor.

(b) The members of the judicial qualifications commission shall serve staggered terms, not to exceed six years, as prescribed by general law. No member of the commission except a justice or judge shall be eligible for state judicial office so long as he is a member of the commission and for a period of two years thereafter. No member of the commission shall hold office in a political party or participate in any campaign for judicial office or hold public office; provided that a judge may participate in his own campaign for judicial office and hold that office. The commission shall elect one of its members as its chairman.

(c) The supreme court shall adopt rules regulating proceedings of the commission, the filling of vacancies by the appointing authorities and the temporary replacement of disqualified or incapacitated members. After a recommendation of removal of any justice or judge, the record of the proceedings before the commission shall be made public.

(d) Upon recommendation of two-thirds of the members of the judicial qualifications commission, the supreme court may order that the justice or judge be disciplined by appropriate reprimand, or be removed from office with termination of compensation for willful or persistent failure to perform his duties or for other conduct unbecoming a member of the judiciary, or be involuntarily retired for any permanent disability that seriously interferes with the performance of his duties. After the filing of a formal proceeding and upon request of the commission, the supreme court may suspend the justice or judge from office, with or without compensation, pending final determination of the inquiry.

(e) The power of removal conferred by this section shall be both alternative and cumulative to the power of impeachment and to the power of suspension by the governor and removal by the senate.

SECTION 13. Prohibited activities.—All justices and judges shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party.

SECTION 14. Judicial salaries.—All justices and judges shall be compensated only by state salaries fixed by general law. The judiciary shall have no power to fix appropriations.

SECTION 15. Attorneys; admission and discipline.—The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.

SECTION 16. Clerks of the circuit courts.—There shall be in each county a clerk of the circuit court who shall be selected pursuant to the provisions of Article VIII section 1. Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. There may be a clerk of the county court if authorized by general or special law.

SECTION 17. State attorneys.—In each judicial circuit a state attorney shall be elected for a term of four years. He shall be the prosecuting officer of all trial courts in that circuit and shall perform other duties prescribed by general law; provided, however, when authorized by general law, the violations of all municipal ordinances may be prosecuted by municipal prosecutors. A state attorney shall be an elector of the state and reside in the territorial jurisdiction of the circuit. He shall be and have been a member of the bar of Florida for the preceding five years. He shall devote full time to his duties, and he shall not engage in the private practice of law. State attorneys shall appoint such assistant state attorneys as may be authorized by law.

SECTION 18. Public defenders.—In each judicial circuit a public defender shall be elected for a term of four years. He shall perform duties prescribed by general law. A public defender shall be an elector of the state and reside in the territorial jurisdiction of the circuit. He shall be and have been a member of the bar of Florida for the preceding five years. Public defenders shall appoint such assistant public defenders as may be authorized by law.

SECTION 19. Judicial officers as conservators of the peace.—All judicial officers in this state shall be conservators of the peace.

SECTION 20. Schedule.—

(a) This article shall replace all of Article V of the Constitution of 1885, as amended, which shall then stand repealed.

(b) Except to the extent inconsistent with the provisions of this article, all provisions of law and rules of court in force on the effective date of this article shall continue in effect until superseded in the manner authorized by the constitution.

(c) After this article becomes effective, and until changed by general law consistent with sections 1 through 19 of this article:

(1) The supreme court shall have the jurisdiction immediately theretofore exercised by it, and it shall determine all proceedings pending before it on the effective date of this article.

(2) The appellate districts shall be those in existence on the date of adoption of this article. There shall be a district court of appeal in each district. The district courts of appeal shall have the jurisdiction immediately theretofore exercised by the district courts of appeal and shall determine all proceedings pending before them on the effective date of this article.

(3) Circuit courts shall have jurisdiction of appeals from county courts and municipal courts, except those appeals which may be taken directly to the supreme court; and they shall have exclusive original jurisdiction in all actions at law not cognizable by the county courts; of proceedings relating to the settlement of the estate of decedents and minors, the granting of letters testamentary, guardianship, involuntary hospitalization, the determination of incompetency, and other jurisdiction usually pertaining to courts of probate; in all cases in equity including all cases relating to juveniles; of all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged; in all cases involving legality of any tax assessment or toll; in the action of ejectment; and in all actions involving the titles or boundaries or right of possession of real property. The circuit court may issue injunctions. There shall be judicial circuits which shall be the judicial circuits in existence on the date of adoption of this article. The chief judge of a circuit may authorize a county court judge to order emergency hospitalizations pursuant to Chapter 71-131, Laws of Florida, in the absence from the county of the circuit judge and the county court judge shall have the power to issue all temporary orders and temporary injunctions necessary or proper to the complete exercise of such jurisdiction.

(4) County courts shall have original jurisdiction in all criminal misdemeanor cases not cognizable by the circuit courts, of all violations of municipal and county ordinances, and of all actions at law in which the matter in controversy does not exceed the sum of two thousand five hundred dollars (\$2,500.00) exclusive of interest and costs, except those within the exclusive jurisdiction of the circuit courts. Judges of county courts shall be committing magistrates. The county courts shall have jurisdiction now exercised by the county judge's courts other than that vested in the circuit court by subsection (c) (3) hereof, the jurisdiction now exercised by the county courts, the claims court, the small claims courts, the small claims magistrates courts, magistrates courts, justice of the peace courts, municipi-

pal courts and courts of chartered counties, including but not limited to the counties referred to in Article VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

(5) Each judicial nominating commission shall be composed of the following:

a. Three members appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are actively engaged in the practice of law with offices within the territorial jurisdiction of the affected court, district or circuit, and

b. Three electors who reside in the territorial jurisdiction of the court or circuit appointed by the governor;

c. Three electors who reside in the territorial jurisdiction of the court or circuit and who are not members of the bar of Florida, selected and appointed by a majority vote of the other six members of the commission.

(6) No justice or judge shall be a member of a judicial nominating commission. A member of a judicial nominating commission may hold public office other than judicial office. No member shall be eligible for appointment to state judicial office so long as he is a member of a judicial nominating commission and for a period of two years thereafter. All acts of a judicial nominating commission shall be made with a concurrence of a majority of its members.

(7) The members of a judicial nominating commission shall serve for a term of four years except the terms of the initial members of the judicial nominating commissions shall expire as follows:

a. The terms of one member of category (a) (b) and (c) in subsection (c) (5) hereof shall expire on July 1, 1974;

b. The terms of one member of category (a) (b) and (c) in subsection (c) (5) hereof shall expire on July 1, 1975;

c. The terms of one member of category (a) (b) and (c) in subsection (c) (5) hereof shall expire on July 1, 1976;

(8) All fines and forfeitures arising from offenses tried in the county court shall be collected, and accounted for by clerk of the court, and deposited in a special trust account. All fines and forfeitures received from violations of ordinances or misdemeanors committed within a county or municipal ordinances committed within a municipality within the territorial jurisdiction of the county court shall be paid monthly to the county or municipality respectively. If any costs are assessed and collected in connection with offenses tried in county court, all court costs shall be paid into the general revenue fund of the state of Florida and such other funds as prescribed by general law.

(9) Any municipality or county may apply to the chief judge of the circuit in which that municipality or county is situated for the county court to sit in a location suitable to the municipality or county and convenient in time and place to its citizens and police officers and upon such application said chief judge shall direct the court to sit in the location unless he shall determine the request is not justified. If the chief judge does not authorize the county court to sit in the location requested, the county or municipality may apply to the supreme court for an order directing the county court to sit in the location. Any municipality or county which so applies shall be required to provide the appropriate physical facilities in which the county court may hold court.

(10) All courts except the supreme court may sit in divisions as may be established by local rule approved by the supreme court.

(11) A county court judge in any county having a population of 40,000 or less according to the last decennial census, shall not be required to be a member of the bar of Florida.

(12) Municipal prosecutors may prosecute violations of municipal ordinances.

(13) Justice shall mean a justice elected or appointed to the supreme court and shall not include any judge assigned from any court.

(d) When this article becomes effective:

(1) All courts not herein authorized, except as provided by subsection (d)(4) of this section shall cease to exist and jurisdiction to conclude all pending cases and enforce all prior

orders and judgments shall vest in the court that would have jurisdiction of the cause if thereafter instituted. All records of and property held by courts abolished hereby shall be transferred to the proper office of the appropriate court under this article.

(2) Judges of the following courts, if their terms do not expire in 1973 and if they are eligible under subsection (d) (8) hereof, shall become additional judges of the circuit court for each of the counties of their respective circuits, and shall serve as such circuit judges for the remainder of the terms to which they were elected and shall be eligible for election as circuit judges thereafter. These courts are: civil court of record of Dade county, all criminal courts of record, the felony courts of record of Alachua, Leon and Volusia counties, the courts of record of Broward, Brevard, Escambia, Hillsborough, Lee, Manatee and Sarasota counties, the civil and criminal court of record of Pinellas county, and county judge's courts and separate juvenile courts in counties having a population in excess of 100,000 according to the 1970 federal census. On the effective date of this article, there shall be an additional number of positions of circuit judges equal to the number of existing circuit judges and the number of judges of the above named courts whose term expires in 1973. Elections to such offices shall take place at the same time and manner as elections to other state judicial offices in 1972 and the terms of such offices shall be for a term of six years. Unless changed pursuant to section nine of this article, the number of circuit judges presently existing and created by this subsection shall not be changed.

(3) In all counties having a population of less than 100,000 according to the 1970 federal census and having more than one county judge on the date of the adoption of this article, there shall be the same number of judges of the county court as there are county judges existing on that date unless changed pursuant to section 9 of this article.

(4) Municipal courts shall continue with their same jurisdiction until amended or terminated in a manner prescribed by special or general law or ordinances, or until January 3, 1977, whichever occurs first. On that date all municipal courts not previously abolished shall cease to exist. Judges of municipal courts shall remain in office and be subject to reappointment or reelection in the manner prescribed by law until said courts are terminated pursuant to the provisions of this subsection. Upon municipal courts being terminated or abolished in accordance with the provisions of this subsection, the judges thereof who are not members of the bar of Florida, shall be eligible to seek election as judges of county courts of their respective counties

(5) Judges, holding elective office in all other courts abolished by this article, whose terms do not expire in 1973 including judges established pursuant to Article VIII, sections 9 and 11 of the Constitution of 1885 shall serve as judges of the county court for the remainder of the term to which they were elected. Unless created pursuant to section 9, of this Article V such judicial office shall not continue to exist thereafter.

(6) By March 21, 1972, the supreme court shall certify the need for additional circuit and county judges. The legislature in the 1972 regular session may by general law create additional offices of judge, the terms of which shall begin on the effective date of this article. Elections to such offices shall take place at the same time and manner as election to other state judicial offices in 1972.

(7) County judges of existing county judge's courts and justices of the peace and magistrates' court who are not members of bar of Florida shall be eligible to seek election as county court judges of their respective counties.

(8) No judge of a court abolished by this article shall become or be eligible to become a judge of the circuit court unless he has been a member of bar of Florida for the preceding five years.

(9) The office of judges of all other courts abolished by this article shall be abolished as of the effective date of this article.

(10) The offices of county solicitor and prosecuting attorney shall stand abolished, and all county solicitors and prosecuting attorneys holding such offices upon the effective date of this article shall become and serve as assistant state attorneys for the circuits in which their counties are situate for the remainder of their terms, with compensation not less than that received immediately before the effective date of this article.

(e) Limited operation of some provisions.—

(1) All justices of the supreme court, judges of the district courts of appeal and circuit judges in office upon the effective date of this article shall retain their offices for the remainder of their respective terms. All members of the judicial qualifications commission in office upon the effective date of this article shall retain their offices for the remainder of their respective terms. Each state attorney in office on the effective date of this article shall retain his office for the remainder of his term.

(2) No justice or judge holding office immediately after this article becomes effective who held judicial office on July 1, 1957, shall be subject to retirement from judicial office because of age pursuant to section 8 of this article.

(f) Until otherwise provided by law, the nonjudicial duties required of county judges shall be performed by the judges of the county court.

(g) All provisions of Article V of the Constitution of 1885, as amended, not embraced herein which are not inconsistent with this revision shall become statutes subject to modification or repeal as are other statutes.

(h) The requirements of section 14 relative to all county court judges, or any judge of a municipal court, who continues to hold office pursuant to subsection (d) (4) hereof being compensated by state salaries shall not apply prior to January 3, 1977, unless otherwise provided by general law.

(i) Deletion of obsolete schedule items.—The legislature shall have power, by concurrent resolution, to delete from this article any subsection of this section 20 including this subsection, when all events to which the subsection to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this subsection shall be subject to judicial review.

(j) Effective date.—Unless otherwise provided herein, this article shall become effective at 11:59 o'clock P.M., Eastern Standard Time, January 1, 1973.

The Secretary called the roll and SJR 52-D passed with the required constitutional three-fifths vote of the membership and was certified to the House. The vote was:

Yeas—34

Mr. President	Fincher	Knopke	Saunders
Barron	Gong	Lewis (33rd)	Sayler
Beaufort	Graham	Lewis (43rd)	Scarborough
Broxson	Gunter	McClain	Trask
Childers	Haverfield	Myers	Ware
Daniel	Hollahan	Ott	Weissenborn
Deeb	Horne	Plante	Wilson
de la Parte	Johnson (29th)	Poston	
Ducker	Karl	Reuter	

Nays—10

Arnold	Boyd	Henderson	Williams
Barrow	Brannen	Pope	
Bishop	Brantley	Stolzenburg	

On motion by Senator Barron, by two-thirds vote, the Senate reconsidered the vote by which SB 53-D passed on December 8.

On motion by Senator Karl, the following amendment was adopted by two-thirds vote:

On page 1, line 22 strike "House Joint Resolution 11-D" and insert: Senate Joint Resolution 52-D

The question recurred on the passage of—

SB 53-D—A bill to be entitled An act relating to a special election to be held on March 14, 1972, pursuant to Section 5 of

Article XI of the State Constitution for the approval or rejection by the electors of Florida of a joint resolution revising Article V of the State Constitution relating to the judicial branch of government; providing for publication of notice and procedures; providing an effective date.

On motion by Senator Barron, SB 53-D as amended was read by title, passed with the required constitutional three-fourths vote, and certified to the House. The vote was:

Yeas—42

Mr. President	Daniel	Johnson (29th)	Reuter
Arnold	Deeb	Karl	Saunders
Barron	de la Parte	Knopke	Sayler
Barrow	Ducker	Lewis (33rd)	Scarborough
Beaufort	Fincher	Lewis (43rd)	Trask
Bishop	Gong	McClain	Ware
Boyd	Graham	Myers	Weissenborn
Brannen	Gunter	Ott	Williams
Brantley	Haverfield	Plante	Wilson
Broxson	Hollahan	Pope	
Childers	Horne	Poston	

Nays—2

Henderson	Stolzenburg
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On motion by Senator de la Parte, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas
President of the Senate

December 9, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator de la Parte and others—

SB 28-D—A bill to be entitled An act relating to the department of health and rehabilitative services, division of family services, making a supplemental appropriation; providing additional moneys for the remainder of the 1971-72 fiscal year, to pay cost of certain medical care programs; repeals section 17 of chapter 71-357, Laws of Florida, relating to county participation; providing an effective date.

Amendment 1—

In Section 2, on page 2, line 10, strike "two hundred fifty dollars (\$250)" and insert the following: "two hundred seventy dollars (\$270)"

Amendment 2—

In Section 3, on page 2, lines 14-18, strike the entire section and insert the following: Section 3. Subsection (2) of subparagraph (b) of section 17 of Chapter 71-357, Laws of Florida is amended to read:

(2) Payments for nursing home or intermediate facility care in excess of one hundred and seventy (\$170) dollars per month.

Amendment 3—

In Section 2, on page 2, line 13, add the following: No supplementary payment shall be permitted from any other state or county governmental unit.

Amendment 4—

In Title, line 10, strike "repeals" and insert the following: "amending"

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motions by Senator Myers, the Senate concurred in House amendments 1, 2, 3 and 4 to SB 28-D.

SB 28-D passed as amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—42

Mr. President	Daniel	Horne	Reuter
Arnold	Deeb	Johnson (29th)	Saunders
Barron	de la Parte	Knopke	Saylor
Barrow	Ducker	Lewis (33rd)	Scarborough
Beaufort	Fincher	Lewis (43rd)	Stolzenburg
Bishop	Gong	McClain	Trask
Boyd	Graham	Myers	Ware
Brannen	Gunter	Ott	Weissenborn
Brantley	Haverfield	Plante	Wilson
Broxson	Henderson	Pope	
Childers	Hollahan	Poston	

Nays—None

By unanimous consent Senator Karl was recorded as voting yea.

The Honorable Jerry Thomas
President of the Senate

December 9, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has accepted and adopted Conference Committee Report on HJR 11-D and has passed by the required Constitutional three-fifths vote of the membership of the House SJR 52-D, as amended by Conference Committee amendments.

(Conference Committee Report attached to original HJR 11-D)

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The Honorable Jerry Thomas
President of the Senate

December 9, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-fourths vote of the membership, SB 53-D.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The bills, contained in the foregoing messages, were ordered engrossed.

VETOED BILL 1971 REGULAR SESSION

By direction of the President, the Secretary read the following—

Honorable Richard B. Stone
Secretary of State
The Capitol
Tallahassee, Florida

June 29, 1971

Dear Sir:

Pursuant to the authority vested in me as Governor under the provisions of Section 8, Article III, Florida Constitution (1968), I hereby transmit to you, with my objections, Senate Bill 1343, enacted by the Florida Legislature of 1971, and entitled:

"An act relating to summer thoroughbred horse racing; amending Subsections (4) and (5) of Section 550.42, Florida Statutes, to provide for the distribution of the breaks tax to the Florida summer thoroughbred horse racing promotion trust fund; providing an effective date."

Senate Bill 1343 provides that the breakage taxes paid by the licensee operating a horse race track during the summer racing season shall be deposited in the Florida Summer Thoroughbred Horse Racing Promotion Trust Fund and be used to supplement purses and prizes and for the payment of breeders awards.

Currently, breakage taxes from summer thoroughbred horse racing are split 50-50 between the General Revenue Fund and the Horse Racing Promotion Trust Fund. Therefore, this bill would cause an annual loss to the General Revenue Fund of \$200,000 to \$300,000. This estimate is based on 1970-71 actual receipts through June 18, 1971, as reported by the Division of Pari-Mutuel Wagering of \$170,088 which was deposited in the General Revenue Fund.

I recognize the need for additional moneys to supplement purses and prizes and for the payment of breeders awards. For this reason I have signed into law a measure authorizing the withholding of an additional one percent of the contributions made to pari-mutuel pools on horse races which will make approximately two millions of additional dollars available for this purpose for thoroughbred horse racing in Florida. Because of the availability of these additional funds and because of the fiscal circumstances of state government at this time, I cannot approve a new law which would divert substantial revenue from the general revenue for this purpose.

For this reason, I am withholding my approval from Senate Bill 1343 of the 1971 Legislature, Regular Session, and I do hereby veto same.

Respectfully,
REUBIN O'D. ASKEW
Governor

—which was ordered filed with the Secretary of the Senate.

ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred SB 28-D with 4 amendments reports that the House amendments have been incorporated and the bill is returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

Your Engrossing Clerk to whom was referred SJR 52-D with 3 amendments reports that the conference committee amendments have been incorporated and the bill is returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

Your Engrossing Clerk to whom was referred SB 53-D with 1 amendment reports that the Senate amendment has been incorporated and the bill is returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

The bills contained in the above reports were ordered enrolled.

On motion by Senator Hollahan, the Senate recessed at 7:35 p.m. until 12:01 a.m., December 10,