

# JOURNAL OF THE FLORIDA SENATE

Thursday, February 3, 1972

The Senate was called to order by the President at 8:30 a.m. for the purpose of conducting the order of business of introduction and reference of resolutions, memorials, bills and joint resolutions pursuant to Rule 4.3.

## INTRODUCTION

By Senator Johnson (34th)—

SB 532—A bill to be entitled An act providing for the relief of Florence R. Ramus to compensate her for injuries sustained and expenses incurred as a result of the negligence of the department of transportation; providing for an appropriation; providing an effective date.

—was read the first time by title and referred to the Committee on Personnel, Retirement and Claims.

By Senator Childers—

SB 533—A bill to be entitled An act relating to campaign expenditures; amending §99.161(6)(b), Florida Statutes, as amended by chapter 70-267, Laws of Florida, to provide for a change in the maximum allowable campaign expenditures for legislators; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary—Civil B.

By Senator Thomas—

SB 534—A bill to be entitled An act relating to beach and shore preservation; amending paragraph 161.091 (1)(b) and subsection 161.101(1), Florida Statutes; providing that the state will bear the entire nonfederal share up to 50% of the project cost for federal beach erosion control projects; providing that certain amounts be paid by the project sponsoring authority; providing the sponsoring authority will hold the United States and the state of Florida free from damages due to construction, etc., of the project; providing an effective date.

—was read the first time by title and referred to the Committees on Natural Resources and Conservation and Ways and Means.

By Senator Lane—

SB 535—A bill to be entitled An act relating to the department of transportation; creating §334.27, Florida Statutes; permitting the department of transportation, with the approval of the board of trustees of the internal improvement trust fund, to lease for certain periods, air rights over state highways for such nonhighway purposes as will not impair the construction or safety of state highways; subjecting any building erected under this section to the various codes and ordinances of the governmental body where located; providing for payment of taxes on said buildings; requiring disclosure of officers and directors of leasing corporations; prohibiting erection of billboards under this section; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

The Senate was called to order by the President at 9:00 a.m. A quorum present—47:

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

Excused: Senator Brannen.

Prayer by Senator de la Parte:

In the name of the Father, the Son and the Holy Ghost: We pray for your continued guidance of our minds and hearts and the strengthening of our bodies. Inspire in us the vision to see beyond momentary advantage for the sake of future enduring good. Please forgive us of our sins and bless our country. This we ask in Christ's name. Amen.

The Journal of February 2 was corrected and approved as follows:

Page 53, counting from the bottom of column 1, strike lines 23 and 24 and insert: consolidating with a resulting state bank; amending section 659.01, Florida Statutes; amending section 659.03, Florida

## ENGROSSING REPORT

Your Engrossing Clerk to whom was referred SB 165 and SCR 177 reports that the Senate amendments have been incorporated and the bills are returned herewith.

*ELMER O. FRIDAY*  
*Secretary of the Senate*

The bills were certified to the House.

## BILLS REFERRED TO SUBCOMMITTEE

Senate Bills 99, 132, 266, 295 and 486 referred to a select committee on claims of the Committee on Personnel, Retirement and Claims.

## Amendment to Rules

The Committee on Rules, Calendar, Privileged Business and Ethics recommended the following amendment to the Senate Rules which was adopted by two-thirds vote on motion by Senator Hollahan:

Rule 4.4, page 51, paragraph 2, line 2, strike: "thirtieth (30th)" and insert twentieth (20th)

On motion by Senator Lewis (33rd), by two-thirds vote the Senate reconsidered the vote by which SB 83 passed February 2.

Senator Lewis (33rd) raised a point of order that SB 83 should be referred to the Committee on Ways and Means pursuant to Rule 4.6 and stated that the fiscal note on the bill indicated it would effect a loss of funds in the amount of \$150,000. The President ruled the point well taken.

On motion by Senator Lewis (33rd), by two-thirds vote the Senate reconsidered the vote by which SB 83 was read the third time by title on February 2.

Senator Lewis (33rd) moved that SB 83 be retained on second reading when reported by the Committee on Ways and Means. The motion was adopted.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Johnson (29th), SB 71 was withdrawn from the Committee on Governmental Efficiency by two-thirds vote and from further consideration of the Senate.

On motion by Senator Johnson (34th), SB 38 was withdrawn from the Committee on Public Schools by two-thirds vote and from further consideration of the Senate.

On motion by Senator Johnson (34th), SM 54 was removed from the calendar and from further consideration of the Senate.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Jerry Thomas  
President of the Senate*

February 2, 1972

*Sir:*

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

By the Committee on Education and Representative Reed—

CS for HB 93—A bill to be entitled An act relating to district school board meetings, location; amending subsection (2) of section 230.17, Florida Statutes, providing for additional appropriate places for regular meetings upon public notice; providing an effective date.

By Representative Sackett—

HB 154—A bill to be entitled An act relating to maternity hygiene; amending chapter 383, Florida Statutes, by adding section 383.15 requiring that within thirty-six (36) hours of termination of pregnancy a mother with Rh-negative blood having a baby with Rh-positive factor be advised of the risk of Rh sensitivity and the recommended treatment of Rh<sub>0</sub>GAM or its equivalent; providing that the mother may receive this treatment; providing for exceptions; providing an effective date.

By Representative Craig—

HB 214—A bill to be entitled An act relating to ad valorem taxation; amending section 197.071, (former section 193.50) Florida Statutes, to eliminate the provisions for installment payments; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,  
ALLEN MORRIS  
Clerk, House of Representatives*

CS for HB 93, contained in the above message, was read the first time by title and referred to the Committee on Public Schools.

HB 154, contained in the above message, was read the first time by title and referred to the Committee on Health, Welfare and Institutions.

HB 214, contained in the above message, was read the first time by title and referred to the Committee on Ways and Means.

*The Honorable Jerry Thomas  
President of the Senate*

February 2, 1972

*Sir:*

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Appropriations—

CS for HB 690—A bill to be entitled An act relating to retail food stores, food manufacturing, processing and packaging; creating section 500.121, Florida Statutes, to authorize the department of agriculture and consumer services to impose fines against or revoke or suspend permits of retail food stores, food manufacturers, processors or packers for violation of food quality and sanitation and consumer protection provisions of chapter 500, Florida Statutes; providing an effective date.

By the Committee on Education and Representative Tobiasen—

CS for HB 7—A bill to be entitled An act relating to school personnel, continuing contracts; amending section 231.36(3)(d), Florida Statutes; allowing school boards to issue continuing contracts to new teachers previously employed within the state; providing an effective date.

By Representatives Hector and Birchfield—

HB 48—A bill to be entitled An act relating to final process; amending section 56.29(6)(a), Florida Statutes; providing that the burden of proof to establish a transfer of certain property rests with a defendant who has had title to or paid for any personal property within one (1) year before service of process on said defendant, rather than within one (1) year before issuance of execution; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,  
ALLEN MORRIS  
Clerk, House of Representatives*

CS for HB 690, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

CS for HB 7, contained in the above message, was read the first time by title and referred to the Committees on Public Schools and Personnel, Retirement and Claims.

HB 48, contained in the above message, was read the first time by title and referred to the Committee on Judiciary—Civil A.

*The Honorable Jerry Thomas  
President of the Senate*

February 2, 1972

*Sir:*

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

By the Committee on House Administration & Conduct and Representative Reed—

CS for HB 89—A bill to be entitled An act to establish a code of fair procedure for legislative investigating committees; defining legislative investigating committees; providing minimum membership and voting procedure; providing for subpoena, notice to witnesses, conduct of hearings and procedure for taking testimony; providing the penalties for contempt; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,  
ALLEN MORRIS  
Clerk, House of Representatives*

CS for HB 89, contained in the above message, was read the first time by title and referred to the Committee on Rules, Calendar, Privileged Business and Ethics.

*The Honorable Jerry Thomas  
President of the Senate*

February 2, 1972

*Sir:*

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

By Representative Reed—

HB 92—A bill to be entitled An act relating to the state textbook councils; amending sections 233.09(1) and (4) and 233.10, Florida Statutes, providing for public announcements of state textbook council meetings; providing such meetings shall be public; providing councils shall file written statements of criteria used in evaluating books prior to conducting business; providing that all decisions of the councils shall be public; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,  
ALLEN MORRIS  
Clerk, House of Representatives*

HB 92, contained in the above message, was read the first time by title and referred to the Committee on Governmental Efficiency.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By Representative Firestone and others—

HB 2662—A bill to be entitled An act relating to criminal procedure; creating §§901.27, 901.28, and 901.29, authorizing an arresting officer to issue a citation to appear in court in lieu of taking a person before a magistrate in misdemeanor cases; providing a penalty; amending §901.06 and 901.23, Florida Statutes, as amended by chapter 70-339, Laws of Florida, releasing officer from duty to take a person before a magistrate when a citation to appear is issued; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
*ALLEN MORRIS*  
*Clerk, House of Representatives*

HB 2662, contained in the above message, was read the first time by title and referred to the Committee on Judiciary—Criminal.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By Representatives Firestone and Whitson—

HB 1043—A bill to be entitled An act relating to landlords and tenants; amending §83.261(2), Florida Statutes, as amended by chapter 70-360, Laws of Florida, which relates to the duty of landlords with respect to security deposits; providing that said section be applicable to mobile home parks; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
*ALLEN MORRIS*  
*Clerk, House of Representatives*

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Business Regulation and Representatives Firestone and Fleece—

CS for HB's 1041, 1042 & 1044—A bill to be entitled An act relating to mobile homes; providing grounds for which a mobile home park owner or operator may evict a mobile home owner; providing for posting of regulations; providing for additional eviction proceedings in leases; authorizing tenant to raise affirmative defenses; providing that no mobile home park owner or operator shall require a resident of the park to purchase certain equipment from the park, or charge an additional fee for certain interior installations and improvements in mobile homes; providing that mobile home park owners or operators shall disclose all fees, charges, assessments, rules and regulations to tenants; providing that undisclosed fees, charges, and assessments shall not be collectible; providing that mobile home park owners or operators shall not unreasonably restrict the sale of mobile homes within the park, require that removal

of a mobile home solely on the basis of such sale, or exact a fee for such sale unless the park owner or operator acted as agent for the mobile home owner in the sale pursuant to a written contract; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
*ALLEN MORRIS*  
*Clerk, House of Representatives*

HB 1043 and CS for HB's 1041, 1042 and 1044, contained in the above messages, were read the first time by title and referred to the Committee on Commerce.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Health & Rehabilitative Services—

HB 912—A bill to be entitled An act relating to family planning and birth control clinic information; amending §741.01, Florida Statutes, to provide for issuance of the marriage license where application for such license has been submitted; to raise license fee to five dollars; to provide that the county judge shall distribute a list of family planning and birth control clinics in the county to all applicants for marriage licenses; amending §154.06, Florida Statutes, to provide that the county health officer shall prepare the list of such clinics and transmit copies of it to the office of the county judge for distribution; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
*ALLEN MORRIS*  
*Clerk, House of Representatives*

HB 912, contained in the above message, was read the first time by title and referred to the Committee on Health, Welfare and Institutions.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By Representative Nixon—

HB 718—A bill to be entitled An act relating to the department of legal affairs; providing for restitution for damages caused by escapees and inmates of state institutions under the department of health and rehabilitative services; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
*ALLEN MORRIS*  
*Clerk, House of Representatives*

HB 718, contained in the above message, was read the first time by title and referred to the Committees on Judiciary—Criminal and Ways and Means.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Health & Rehabilitative Services—

HB 655—A bill to be entitled An act relating to adoptions of hard-to-place children; providing a program to encourage such adoptions; providing for administration of program by division of family services of department of health and rehabilitative services; providing for waiver of adoption fees and funding of program; providing for financial and medical assistance; retaining eligibility of child for services of department; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
**ALLEN MORRIS**  
*Clerk, House of Representatives*

HB 655, contained in the above message, was read the first time by title and referred to the Committee on Health, Welfare and Institutions.

*The Honorable Jerry Thomas*  
*President of the Senate*

February 1, 1972

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By Representative D'Alemberte and others—

HB 120—A bill to be entitled An act relating to wrongful death action; amending chapter 768, Florida Statutes, by adding sections 768.16, 768.17, 768.18, 768.19, 768.20, 768.21, 768.22, 768.23, 768.24, 768.25, 768.26, and 768.27; providing for a right of action on behalf of the survivors and the estate by the personal representative of a decedent whose death is caused by the wrongful act, negligence, default, or breach of contract or warranty of any person; repealing sections 768.01, 768.02, and 768.03, Florida Statutes; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
**ALLEN MORRIS**  
*Clerk, House of Representatives*

HB 120, contained in the above message, was read the first time by title and referred to the Committee on Judiciary—Civil A.

Senator Knopke raised a point of order that SB 155 affects appropriations and should be removed from the calendar and referred to the Committee on Ways and Means pursuant to Rule 4.6. The President ruled the point well taken.

Senator de la Parte raised a point of order that Senate Bills 67, 131, 186 and 140 affect appropriations and should be removed from the calendar and referred to the Committee on Ways and Means pursuant to Rule 4.6. The President ruled the point well taken.

Senator Daniel raised a point of order that Senate Bills 203 and 204 affect appropriations and should be referred to the Committee on Ways and Means pursuant to Rule 4.6. The President ruled the point well taken.

On motion by Senator Plante, SJR 193 was withdrawn from the Committee on Public Schools by two-thirds vote and referred to the Committee on Universities and Community Colleges.

#### UNFINISHED BUSINESS

CS for SB 68 with pending amendment was taken up. Senator Hollahan withdrew the pending amendment.

Senator Poston raised a point of order that CS for SB 68 affects appropriations and should be referred to the Committee on Ways and Means pursuant to Rule 4.6. The President ruled the point well taken.

Senator Hollahan moved that CS for SB 68 be retained on second reading when reported by the Committee on Ways and Means. The motion was adopted.

#### SECOND READING

SB 66 was taken up, together with:

By the Committee on Transportation—

CS for SB 66—A bill to be entitled An act relating to drivers of motor vehicles; providing for a prearrest chemical breath test for drivers under certain circumstances; providing a penalty; providing an effective date.

—which was read the first time by title and SB 66 was laid on the table.

On motion by Senator Poston, by two-thirds vote CS for SB 66 was read the second time by title.

Senator Karl excused.

The Committee on Transportation offered the following amendment which was moved by Senator Poston and failed:

**Amendment 1**—On page 2, line 1, section 1, strike “shall submit to a chemical test of his” and insert: shall submit to a prearrest chemical test of his

Senator Wilson moved the adoption of the following amendment:

**Amendment 2**—On page 2, line 8 strike “Failure to submit to such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of three (3) months.”

The amendment was adopted by the following vote:

Yeas—20

Mr. President	Deeb	Johnson (34th)	Scarborough
Bell	Ducker	Lane	Stolzenburg
Bishop	Graham	Myers	Ware
Brantley	Henderson	Plante	Weissenborn
Childers	Johnson (29th)	Saunders	Wilson

Nays—16

Arnold	de la Parte	Lewis (43rd)	Poston
Beaufort	Fincher	McClain	Reuter
Broxson	Hollahan	Ott	Trask
Daniel	Lewis (33rd)	Pope	Williams

On motion by Senator Wilson the following amendment was adopted:

**Amendment 3**—on page 2, line 1 strike “shall” and insert: may be requested to

Senators Wilson and Barron offered the following amendment which was adopted on motion by Senator Wilson:

**Amendment 4**—on page 1, line 28 strike “who operates” and insert: while operating

Senator Karl was recorded present.

Senator Childers moved that the Senate reconsider the vote by which amendment 2 was adopted this day. The motion failed by the following vote:

## Yeas—19

Arnold	Childers	Horne	Poston
Barrow	Daniel	Knopke	Scarborough
Beaufort	de la Parte	McClain	Trask
Bishop	Gunter	Ott	Williams
Broxson	Hollahan	Pope	

## Nays—22

Mr. President	Fincher	Lane	Stolzenburg
Barron	Gong	Lewis (33rd)	Ware
Bell	Graham	Lewis (43rd)	Weissenborn
Boyd	Henderson	Myers	Wilson
Brantley	Johnson (29th)	Plante	
Ducker	Johnson (34th)	Saunders	

On motion by Senator Weissenborn the following amendment was adopted:

**Amendment 5**—On page 2, line 7, after "impairment." insert: no person shall be given the chemical test provided for in this act within fifteen (15) minutes of the time he is initially detained without being arrested by the law enforcement officer.

Senator McClain moved the adoption of the following amendment:

**Amendment 6**—On page 2, line 1 strike "to a prearrest chemical test of his breath to determine the alcohol content thereof" and insert: to prearrest tests, including a chemical test of his breath, to determine his ability to operate a motor vehicle

Senator de la Parte moved that debate on the amendment be limited to 5 minutes and the motion was adopted.

Senator Poston moved that further consideration of CS for SB 66 with pending amendment be deferred.

On substitute motion by Senator Daniel, by two-thirds vote, CS for SB 66 with pending amendment was referred to the Committee on Judiciary—Criminal.

Senator de la Parte raised a point of order that Senate Bills 173, 350, 286, 285, 225, 60 and 226 affect appropriations and should be referred to the Committee on Ways and Means pursuant to Rule 4.6. The President ruled the point well taken.

## CO-INTRODUCER

By permission, Senator Fincher was recorded as a co-introducer of Senate Bills 498, 491, 490 and 489; Senator Beaufort as co-introducer of SB 407.

Senator Deeb presiding.

On motion by Senator Gunter the rules were waived and the Senate reverted to—

## UNFINISHED BUSINESS

SB 11—A bill to be entitled An act relating to obscene materials and privacy; authorizing a civil action for invasion of right of privacy; providing for damages and assessment of attorney's fees; providing an effective date.

—was taken up with a pending amendment which was withdrawn by Senator Ducker.

Senators Gunter and Graham offered the following amendment which was moved by Senator Gunter:

On pages 1 and 2, on page 1 strike lines 23-31; page 2 strike lines 1 and 2 and insert: Section 1. Any person who knowingly or negligently transmits, distributes, sends, or displays, without request, any obscene, lewd, lascivious, or filthy matter to another, or any person who knowingly or negligently transmits, distributes, sends, or displays to a minor any obscene, lewd, lascivious, or filthy matter, without the prior request or approval of the parent or guardian of such minor, shall be liable in a civil action for compensatory and punitive damages for invasion of the right of privacy of the person to whom the matter was transmitted, distributed, sent or displayed.

The President presiding.

On motion by Senator Hollahan, the Senate adjourned at 11:42 a.m. to convene at 8:30 a.m., February 4, for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions.