

JOURNAL OF THE FLORIDA SENATE

Wednesday, May 9, 1973

The Senate was called to order by the President at 9:00 a.m.
A quorum present—29

Mr. President	Henderson	Saylor	Weber
Childers	Johnson	Sims	Williams
de la Parte	Johnston	Smathers	Wilson
Firestone	Lewis	Stolzenburg	Winn
Gillespie	Peterson	Sykes	Zinkil
Glisson	Plante	Trask	
Graham	Poston	Vogt	
Gruber	Saunders	Ware	

Excused: Senator Barron until 11:00 a.m. Senators Lane (31st) and Lane (23rd) due to illness.

Senator Brantley was recorded present at 9:02 a.m., Senators Gallen and Deeb at 9:03 a.m., Senator Pettigrew at 9:04 a.m., Senators Myers and McClain at 9:05 a.m., Senator Scarborough at 9:06 a.m. and Senator Gordon at 9:42 a.m.

Prayer by the Senate Chaplain, Dr. R. M. McMillan:

In the midst of government and concern for others these your servants have their own personal and family needs and for these we seek your gracious aid.

May they not spend themselves for others and neglect their own.

May the demands of service not crowd out the ministry or fellowship of family.

May personal health, both mental and physical, be included as a necessary requirement of their living that they may serve you longer. Teach them the wisdom of lights that burn on in the night of human need and the foolishness of lights that burn out.

We pray also for our associate, Senator David Lane. Minister to him and his family during these days of concern.

Thank you for the fellowship in the Senate as well as the competition and dialogue.

In the name of our Lord, amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Wednesday, May 9, 1973:

HCR 1556	To be considered at 10:00 a.m.		
CS for HB 1090	SB 606	SB 1187	
SB 556	SB 608	SB 975	
SB 553	SB 609		
SB 681	SB 901		

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Judiciary recommends a Committee Substitute for the following: SB 296

CS for SB 296 is now in corrected form as passed by Judiciary Committee. Corrections are on pages 25 and 33.

The Committee on Health and Rehabilitative Services recommends a Committee Substitute for the following: SB 486

The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.

ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred SB 798 with 4 amendments reports that the Senate amendments have been incorporated and the bill is returned herewith.

ELMER O. FRIDAY, Secretary

The bill was placed on the calendar on third reading.

Your Engrossing Clerk to whom was referred—

SB 847 with 2 amendments SB 905 with 2 amendments

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

ELMER O. FRIDAY, Secretary

The bills were certified to the House.

Your Engrossing Clerk to whom was referred—

SB 152 with 2 amendments SB 228 with 2 amendments

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

ELMER O. FRIDAY, Secretary

The bills were ordered enrolled.

ENROLLING REPORTS

Your Enrolling Clerk to whom was referred SB 152 reports same has been enrolled, signed by the required Constitutional officers and presented to the Governor on May 9, 1973.

ELMER O. FRIDAY, Secretary

Your Enrolling Clerk to whom was referred—

SB 100	SB 175	SB 241	SB 366
SB 171	SB 211	SB 352	

—reports same have been enrolled, signed by the required Constitutional officers and presented to the Governor on May 9, 1973.

ELMER O. FRIDAY, Secretary

The Select Subcommittee of the Natural Resources and Conservation Committee recommends SB 1164, favorably with Committee Substitute to the standing committee.

On motion by Senator Firestone, by two-thirds vote the report of the Committee on Rules and Calendar was amended and SB 103 was placed first on the Special Order Calendar.

On motion by Senator Zinkil, the rules were waived and SB 847 which passed May 8 as amended was immediately certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Saunders, SJR 237 was withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

On motion by Senator Graham, HCR 1039 was withdrawn from the Committee on Natural Resources and Conservation by two-thirds vote and placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 10 days for the consideration of the following:

SB 314 by Senator Johnson	HB 736 by Representative Birchfield
SB 469 by Senator McClain	
SB 605 by Senator Poston	HB 737 by Representative Birchfield
HB 609 by Representative Birchfield	

The Committee on Criminal Justice requests an extension of 10 days for the consideration of the following:

SB 816 by Senator Pettigrew	SB 587 by Senator Glisson
SB 784 by Senator Vogt	SB 476 by Senator Poston
SB 466 by Senator Firestone	SB 483 by Senator Glisson
SB 583 by Senators Deeb and Myers	SB 480 by Senator Firestone
	SB 474 by Senator Pettigrew

The Committee on Governmental Operations requests an extension of 10 days for the consideration of the following:

SB 470 by Senator Poston	SB 671 by Senator Firestone
SB 472 by Senator Brantley	HB 192 by Representative Steinberg
SB 487 by Senator Poston	
SB 656 by Senator Scarborough	CS for HB 378 by Committee on Community Affairs
SB 668 by Senator Johnson	

The Committee on Natural Resources and Conservation requests an extension of 10 days for the consideration of the following:

SB 593 by Senator Poston	SB 1157 by Senator Pettigrew
SB 1118 by Senator Graham	SB 1288 by Senator Graham

MESSAGES FROM THE GOVERNOR

The Governor advised that he had filed in the office of the Secretary of State Senate Bills 152 and 374 which he had approved on May 9, 1973.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Harris—

HB 1298—A bill to be entitled An act relating to the department of health and rehabilitative services; amending chapter 402.17(3), Florida Statutes, relating to money received by the department in payment of claims for care and maintenance; providing an effective date.

By the Committee on Elections and Representative Martinez and others—

HB 1889—A bill to be entitled An act relating to elections; amending §102.012 (8) and (9), Florida Statutes, to remove the requirement that names of inspectors and clerks be advertised and providing for the appointment and training of certain elections officials; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1298, contained in the above message, was read the first time by title and referred to the Committee on Ways and Means.

HB 1889, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Webb—

HB 1052—A bill to be entitled An act relating to food products in semblance of frozen desserts; amending chapter 503, Florida Statutes, by adding section 503.062 to require food products in semblance of frozen desserts to be controlled by inspection, stop sale, license, manufacture, sanitation, bacteriological, and health standards of chapter 503, Florida Statutes, and to be labeled distinctly from frozen desserts; providing an effective date.

By Representative David C. Clark—

HB 739—A bill to be entitled An act relating to plant preservation; amending §865.06(1)(b) and (c), Florida Statutes, 1972 Supplement, as amended by §1, chapter 72-37, Laws of Florida; providing for the preservation of certain Florida plants; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1052, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

HB 739, contained in the above message, was read the first time by title and referred to the Committee on Agriculture.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Harris—

HB 814—A bill to be entitled An act relating to the Governor's Council on Criminal Justice; authorizing reimbursements to the Law Enforcement Assistance Administration for unallowable expenditures from federal funds; providing an effective date.

By Representative Melvin and others—

HB 1089—A bill to be entitled An act relating to the department of transportation; designating U.S. Highway 90 in Okaloosa County as the James W. Lee Boulevard; authorizing the department of transportation to affix markers; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 814, contained in the above message, was read the first time by title and referred to the Committee on Ways and Means.

HB 1089, contained in the above message, was read the first time by title and referred to the Committee on Transportation.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representatives Craig and Williams—

HB 267—A bill to be entitled An act relating to an official state play; designating the "Cross and Sword" pageant of St. Augustine as the official play of this state; providing an effective date.

By Representative Hodes—

HB 290—A bill to be entitled An act relating to public health; repealing §392.241, Florida Statutes, 1971, which au-

thorizes the division of health to establish a tuberculosis hospital in Union County; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 267, contained in the above message, was read the first time by title and referred to the Committee on Governmental Operations.

HB 290, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

The Honorable Mallory E. Horne, President May 8, 1973

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

By the Committee on Insurance and Representatives Steinberg and Birchfield—

HB 1357—A bill to be entitled An act relating to insurance; amending sections 626.951 through 626.963, Florida Statutes, 1971, to revise part VII of chapter 626, Florida Statutes, relating to unfair trade practices; providing definitions; prohibiting misrepresentations and false advertising of insurance policies; prohibiting false information and false advertising generally as well as defamatory material and filing of false financial statements and entries; prohibiting agreements aimed at boycott, coercion, and intimidation; prohibiting issuance or delivery of stock as an inducement for insurance; prohibiting certain kinds of unfair discrimination in trade matters; prohibiting certain rebates with regard to insurance contracts; prohibiting certain defined unfair claim settlement practices; prohibiting the failure of an insurance company to maintain certain complaint handling procedures; prohibiting the refusal of certain risks; prohibiting misrepresentation in insurance contracts; prohibiting certain misleading representations and comparisons; permitting certain advertising gifts; prohibiting free insurance; prohibiting excess or reduced premium charges; providing for statement of insurance costs included in an overall purchase price or financing; prohibiting certain insurance transactions through credit card facilities; prohibiting certain interlocking ownership and management; prohibiting certain arrangements with regard to funerals and funeral directors; prohibiting false claims, requiring written proposals for investment plans; prohibiting certain activities with regard to insolvent insurers; prohibiting coercion of persons borrowing money to purchase specific insurance policies; providing that the department of insurance may charge any person with unfair trade practices whether defined by this act or not; providing procedures for hearings under this act; providing for powers of the department with respect to unfair trade practices; providing for judicial review of certain actions brought under the act; providing penalties; providing immunity from prosecution for certain witnesses testifying under the act; repealing sections 626.964, 626.965, 626.966, 626.967, 626.968, 626.969, 626.970, 626.971, 626.972, 626.975, 626.976, 626.977, 626.978, 626.980, 626.981, 626.982, 626.983, 626.985, and 626.986, Florida Statutes, 1971, and sections 626.974, 626.979, 626.984, and 626.987, Florida Statutes, 1969, as amended, relating to trade practices and frauds, to conform to this act; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1357, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

The Honorable Mallory E. Horne, President May 8, 1973

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

By the Committee on Judiciary and Representative Forbes—

CS for HB 1023—A bill to be entitled An act relating to trial juries; amending §53.031, Florida Statutes; providing the

right to the parties to conduct the first examination of voir dire; providing that the court shall determine the order and may ask additional questions; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

CS for HB 1023, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Holloway and others—

HB 1310—A bill to be entitled An act amending chapter 206, Florida Statutes, by changing the name of the state roads trust fund to state transportation trust fund; authorizing the statutory revision division to effectuate this change in name of the trust fund throughout the statutes; providing an effective date.

By Representative Holloway and others—

HB 1311—A bill to be entitled An act amending chapter 334, Florida Statutes, by changing the name of the road districts to transportation districts; authorizing the statutory revision division to effectuate this change in name of the districts throughout the statutes; providing an effective date.

By Representative Holloway and others—

HB 1312—A bill to be entitled An act amending chapter 334, Florida Statutes, by changing the name of the Florida highway code to Florida transportation code; authorizing the statutory revision division to effectuate this change in name of the code throughout the statutes; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

House Bills 1310, 1311 and 1312 contained in the above message, were read the first time by title and referred to the Committee on Transportation.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Harlee—

HB 475—A bill to be entitled An act relating to jurors; amending §40.24, Florida Statutes, 1972 Supplement, to provide that any juror who is excused from serving on any jury at his own request shall not be entitled to any compensation; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 475, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Webb—

HB 1053—A bill to be entitled An act relating to frozen desserts; amending section 503.031(2), Florida Statutes, to au-

thorize inspection of frozen desserts; amending section 503.031, Florida Statutes, by adding subsection (5) to authorize issue of order of stop sale; providing effective date.

By Representative Wilson—

HB 215—A bill to be entitled An act relating to the Florida National Guard; repealing §250.15, Florida Statutes, relating to the granting of an exemption from jury duty to honorary contributing members of the guard; providing an effective date.

By Representative Randell and others—

HB 1180—A bill to be entitled An act relating to game and fresh water fish; amending §372.71, Florida Statutes, 1971, relating to fines, penalties and forfeiture of licenses for violation of the provisions of chapter 372, Florida Statutes; providing specifically for resisting arrest and wounding or killing persons or domestic animals; modifying forfeiture of license provisions for violations of the chapter generally; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1053, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

HB 215, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

HB 1180, contained in the above message, was read the first time by title and referred to the Committee on Natural Resources and Conservation.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Nelson and others—

HB 1242—A bill to be entitled An act relating to candidates for public office; adding subsection (5) to §99.012, Florida Statutes, 1971, to provide an exception to restrictions on individuals qualifying for public office when said individuals serve on an appointive board or authority without salary; providing an effective date.

By Representative Tucker—

HB 304—A bill to be entitled An act relating to the interstate compact on juveniles; amending §39.26, Florida Statutes, to add the out-of-state confinement amendment to the compact; providing an effective date.

By the Committee on Commerce and Representative Tucker—

CS for HB 312—A bill to be entitled An act relating to workmen's compensation; amending subsection (6) of section 440.02, Florida Statutes; including in the definition of "injury" damage to dentures, eyeglasses, prosthetic devices and artificial limbs; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1242, contained in the above message, was read the first time by title and referred to the Committee on Governmental Operations.

HB 304, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

CS for HB 312, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

The Honorable Mallory E. Horne, President May 7, 1973

I am directed to inform the Senate that the House of Representatives has passed as amended, by the required Constitutional three-fifths vote of the membership of the House—

By the Committee on Appropriations—

CS for HJR 637—A joint resolution proposing an amendment to Section 9, Article IV of the State Constitution, relating to the appointment of game and fresh water fish commission members and to approval of the commission's budget by the legislature.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

CS for HJR 637, contained in the above message, was read the first time and referred to the Committee on Ways and Means.

The Honorable Mallory E. Horne, President May 7, 1973

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

By the Committee on Insurance and Representative Carlucci and others—

HB 1105—A bill to be entitled An act relating to medical examination reports; amending section 458.16, Florida Statutes, 1971; providing for the furnishing of medical examination reports upon written authorization of the patient or his designee; providing for a reasonable charge for furnishing such reports; providing an exception; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1105, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

The Honorable Mallory E. Horne, President May 7, 1973

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

By the Committee on Insurance—

HB 1891—A bill to be entitled An act relating to insurance; repealing subsection (3) of section 627.677, Florida Statutes, 1971; removing the exclusion of life or disability insurance sold in connection with real estate loans of more than thirty-six (36) months duration from the definition of credit life and disability insurance; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1891, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

The Honorable Mallory E. Horne, President May 7, 1973

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

By the Committee on Elections and Representative Kershaw and others—

HB 1890—A bill to be entitled An act relating to elections; amending §97.021(6)(d) and adding §97.021(6)(f), Florida Statutes, defining "absent elector"; amending §97.041(2), Florida Statutes, relating to voter qualifications; amending §97.063(1), (3), and (4), Florida Statutes, relating to absentee regis-

tration by certain persons; amending §97.102, Florida Statutes, relating to absentee voting by electors moving within the state or moving out of the state; amending §101.62(2) and (3), Florida Statutes, relating to applications for absentee ballots; amending §101.64(1)(c), Florida Statutes, relating to absentee balloting procedures; amending §101.65(3), Florida Statutes, relating to persons authorized to witness oaths of absentee electors; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1890, contained in the above message, was read the first time by title and referred to the Committee on Judiciary.

The Honorable Mallory E. Horne, President May 7, 1973

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

By Representatives Spicola and Brown—

HB 584—A bill to be entitled An act relating to noise pollution control and abatement; directing the department of transportation to use noise control methods in the construction and use of state highways, especially where the highways abut residential development; directing the department to consider both artificial and natural means of highway noise abatement; emphasizing the uses of vegetative barriers; providing for co-operation and consultation; providing for use of federal funds; providing for a report to the legislature; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 584, contained in the above message, was read the first time by title and referred to the Committee on Transportation.

The Honorable Mallory E. Horne, President May 7, 1973

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

By the Committee on Insurance and Representative Avon and others—

HB 1104—A bill to be entitled An act relating to medical review committees; renumbering section 458.20, Florida Statutes, as section 768.131, Florida Statutes; amending subsection (1) of said section and adding subsection (4), exempting proceedings of medical review committees from discovery except under certain conditions; providing an effective date.

By the Committee on Insurance and Representative Avon and others—

HB 1106—A bill to be entitled An act relating to health care services; requiring hospitals or nursing homes to furnish copies of records; providing for a reasonable charge for payment therefor; providing for examination of certain records; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1104, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

HB 1106, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Hodes—

HB 713—A bill to be entitled An act relating to the licensing of hospitals; amending section 395.03, Florida Statutes, providing for the licensing of hospitals operated or administered by the state; providing an effective date.

By Representative Harlee—

HB 776—A bill to be entitled An act relating to motor vehicle title certificates; amending §319.28(1)(b), Florida Statutes, 1971, to provide that when the previous owner of a motor vehicle dies testate and when the estate is administered in the probate division of any circuit court in the state, then a title certificate shall be issued to the new owner upon application for new title accompanied by specified documents; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 713, contained in the above message, was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

HB 776, contained in the above message, was read the first time by title and referred to the Committee on Transportation.

The Honorable Mallory E. Horne, President May 8, 1973

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

By Representative Harris—

HB 1015—A bill to be entitled An act relating to the Florida Banking Code amending Section 658.08, Florida Statutes, providing for the imposition and increase of various application fees; imposing an examination fee for the examination of trust companies; amending existing Section 656.22, Florida Statutes, making examination and assessment fees applicable to industrial savings banks; providing an effective date.

—and requests the concurrence of the Senate therein.

Allen Morris, Clerk

HB 1015, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

INTRODUCTION

By Senators Lane (23rd), de la Parte and McClain—

SB 1336—A bill to be entitled An act relating to Hillsborough County, hospital and welfare services; amending chapter 67-1498, Laws of Florida; providing for the appointment and terms of members of the hospital council and the welfare council; providing for an effective date.

Evidence of notice and publication was established by the Senate as to SB 1336.

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

By Senator Horne—

SB 1337—A bill to be entitled An act creating a consolidated charter government for Leon County and the City of Tallahassee; providing general and urban services districts; providing legislative and executive branches and providing for the organization powers, duties and functions thereof; providing the powers of the consolidated government; providing powers and procedures with respect to budget and financial matters, including the levy of ad valorem and other taxes, expenditures, investments, debt service, bonds and pledges therefor; providing for local improvements, election of officers, retirement and

pension systems and miscellaneous matters; providing method of amending this charter; providing for orderly transition of present governmental functions to the consolidated government; providing for a special election to ratify this charter; providing an effective date.

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

By Senator Poston—

SB 1338—A bill to be entitled An act relating to Monroe County; repealing chapters 59-1583 and 61-2495, Laws of Florida, which provide procedures relating to bids and purchases made by the Monroe County board of public instruction in lieu of the procedures provided by §237.02(1) and (2), Florida Statutes; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1338.

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

By Senators Peterson and Trask—

SB 1339—A bill to be entitled An act relating to the Yankee-town-Inglis special water and sewerage district in Levy County; providing for a board of commissioners, its powers and duties; providing for taxation and financing of the district; providing that all residents within the district must subscribe to its services; providing a penalty; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 1339.

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

On motion by Senator Childers, Rule 4.4 was waived and the following bill was introduced:

By Senators Childers, Poston, de la Parte, Johnston, Vogt, Stolzenburg, Sims, Gillespie, Henderson, Lewis, Gordon, Myers, Pettigrew, Smathers, Scarborough, Deeb, Glisson, Trask, McClain, Zinkil, Winn, Firestone, Gallen, Plante, Peterson, Sykes, Johnson, Ware, Wilson, Gruber, Weber, Brantley, Saunders, Barron, Horne and Graham—

SB 1340—A bill to be entitled An act relating to the designation of the Robert L. F. Sikes Bridge over Santa Rosa Sound on State Road 399; authorizing the department of transportation to affix markers; providing an effective date.

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

On motion by Senator Childers, SB 1340 was withdrawn from the Committee on Rules and Calendar by two-thirds vote and placed on the calendar.

On motion by Senator Childers, unanimous consent was obtained to take up SB 1340 out of order.

On motions by Senator Childers, SB 1340 was read the second time by title by two-thirds vote, the third time by title by two-thirds vote, passed and certified to the House. The vote was:

Yeas—30

Mr. President	Glisson	Peterson	Trask
Brantley	Graham	Plante	Vogt
Childers	Gruber	Poston	Ware
Deeb	Henderson	Scarborough	Wilson
de la Parte	Johnson	Sims	Winn
Firestone	Lewis	Smathers	Zinkil
Gallen	McClain	Stolzenburg	
Gillespie	Myers	Sykes	

Nays—None

By unanimous consent Senators Johnston and Pettigrew were recorded as voting yea.

On motion by Senator Henderson, unanimous consent was obtained to take up out of order—

SCR 1327—A concurrent resolution expressing regret at the death of Ross E. Boyer.

On motions by Senator Henderson, SCR 1327 was read the second time in full, adopted and certified to the House. The vote was:

Yeas—34

Mr. President	Graham	Plante	Vogt
Brantley	Gruber	Poston	Ware
Childers	Henderson	Saylor	Weber
Deeb	Johnson	Scarborough	Williams
de la Parte	Lewis	Sims	Wilson
Firestone	McClain	Smathers	Winn
Gallen	Myers	Stolzenburg	Zinkil
Gillespie	Peterson	Sykes	
Glisson	Pettigrew	Trask	

Nays—None

On motion by Senator Henderson the rules were waived and SCR 1327 was immediately certified to the House.

SPECIAL ORDER

SB 103 was taken up, together with:

By the Committee on Criminal Justice—

CS for SB 103—A bill to be entitled An act relating to criminal justice; amending section 903.03, Florida Statutes, to provide for release on recognizance; creating sections 903.025, 903.031, 903.032, 903.033, 903.034, and 903.035, Florida Statutes, providing a definition; providing for conditions of release on recognizance, appellate review of conditions of release, penalty for violations of these conditions, penalty for failure to appear when on recognizance and providing standards for money bail; providing an effective date.

—which was read the first time by title and SB 103 was laid on the table.

On motion by Senator Firestone, by two-thirds vote CS for SB 103 was read the second time by title.

On motion by Senator Ware the following amendment was adopted:

Amendment 1—On page 2, line 6, strike "court" and insert: Chief Judge of the Circuit

Senator Johnson moved the adoption of the following amendment which failed:

Amendment 2—On page 4, strike all of lines 27, 28, 29, 30 and on page 5 strike all of lines 1 and 2 and re-number Sections (e) through (g).

The vote was:

Yeas—16

Childers	Henderson	Peterson	Stolzenburg
Deeb	Johnson	Plante	Sykes
Gallen	Johnston	Sims	Trask
Gruber	Lewis	Smathers	Wilson

Nays—18

Mr. President	Gordon	Poston	Williams
Brantley	Graham	Saunders	Winn
de la Parte	McClain	Saylor	Zinkil
Firestone	Myers	Vogt	
Glisson	Pettigrew	Ware	

Parliamentary inquiry by Senator Johnson—

President: State your inquiry.

Senator Johnson: Article 5 of the Florida Constitution provides that the Supreme Court can make rules of procedure for the courts of Florida and that these rules can only be modified by the Legislature by two-thirds vote of each house. I further call attention to Supreme Court rule 3.130, Section 3, which provides “. . . the judge shall . . . consider all available relevant factors and determine whether . . . it is necessary to assure the defendant's appearance . . .”. In effect, the rule states that the trial judge may, in his discretion, release a defendant on his own recognizance. It therefore becomes material, and is the basis of my inquiry, as to whether the provisions of this bill would constitute such a modification of a Supreme Court rule so as to require a two-thirds vote.

President: The question really calls upon the chair to make a determination as to whether it is a matter of substance or of procedure—whether it is such as to be constitutionally preempted to the court, subject only to a two-thirds vote of the Legislature for change by anyone other than the court. I recognize Senator Pettigrew to further discuss the matter.

Senator Pettigrew: Mr. President, matters of this nature put the presiding officer in an extremely difficult posture of apparently ruling on constitutional questions—in a forum obviously not appropriate for resolving such questions of constitutionality. Because of this Justice James Adkins and I met and discussed this very issue as it relates to this “gray area” between substantive law and matters of procedure. We proposed a working relationship between the judiciary and the Legislature which was discussed by him with the entire court, the parameters of which are as follows: Obviously neither the legislative body itself or the court should make, nor should it attempt to make, an informal determination as to whether pending legislative matters be substantive or procedural. The Legislature, in any matter seemingly in the gray areas, should act without further concern to the problem of procedure versus substance, or the two-thirds vote requirement. Such questions could afterwards be considered by the court in a litigated posture and the court would, where it deemed appropriate, conform its rules to that legislation. Should the court deem such to be inappropriate then it would obviously adopt rules inconsistent with the legislative expression—and the Legislature could thereafter consider such and modify same (by two-thirds vote).

We would agree that the two bodies should attempt to keep each other advised as to such matters and changes.

President: I am concerned with the very delicate proposition of relating to the power of the chair speaking for a deliberative body. Though the matter before us be in conflict with or to some degree modifying of a rule of the Supreme Court, the real question is not the question of whether there be such conflict but whether the particular matter was constitutionally granted as a prerogative of the court. For the chair to presume to itself the right or power to so determine the life or death of a question, the question itself would have to be an extraordinarily clearly defined one of violation or contradiction of the constitutional language . . . and to sustain a point such as raised by Senator Johnson would have that effect. I will not assume that power by ruling that this requires a two-thirds as opposed to a majority vote, and will leave it to a later decision within the court system or to the judgment of this body should you decide or prefer to give it such a construction (of intent) and a two-thirds vote. It is my judgment and ruling that the point is not well taken and, in its present posture as representative of legislative intent requires only a majority vote.

Senator Glisson moved that the rules be waived and the Senate immediately reconsider the vote by which Amendment 2 failed. The motion failed by the following vote:

Yeas—16

Childers	Henderson	McClain	Stolzenburg
Gallen	Johnson	Peterson	Sykes
Glisson	Johnston	Plante	Trask
Gruher	Lewis	Sims	Wilson

Nays—17

Mr. President	Graham	Sayler	Winn
Brantley	Myers	Scarborough	Zinkil
de la Parte	Pettigrew	Vogt	
Firestone	Poston	Ware	
Gordon	Saunders	Williams	

Senator Johnston moved the adoption of the following amendment which failed:

Amendment 3—On page 2, strike everything from line 6 through line 3 on page 3. The vote was:

Yeas—16

Childers	Henderson	Plante	Sykes
Deeb	Johnson	Scarborough	Trask
Gallen	Johnston	Sims	Weber
Gruber	Peterson	Stolzenburg	Wilson

Nays—19

Mr. President	Graham	Poston	Ware
Brantley	Lewis	Saunders	Williams
de la Parte	McClain	Sayler	Winn
Firestone	Myers	Smathers	Zinkil
Gordon	Pettigrew	Vogt	

Senator Johnson moved the adoption of the following amendment which failed:

Amendment 4—On page 4, strike everything from line 13 through line 21

On motion by Senator Plante the following amendment was adopted:

Amendment 5—On page 3, line 21, strike “shall be released on recognizance or on bail” and insert: may be released on recognizance

Senator Sykes moved the adoption of the following amendment which failed:

Amendment 6—On page 8, line 19, in Section 4 strike: “October 1, 1973” and insert: October 1, 1974

Senator Firestone moved that the rules be waived and CS for SB 103 as amended be read the third time by title.

The motion failed to receive the necessary two-thirds vote for adoption. The vote was:

Yeas—18

Mr. President	Glisson	Poston	Williams
Childers	Gordon	Saunders	Winn
de la Parte	McClain	Scarborough	Zinkil
Firestone	Myers	Vogt	
Gillespie	Pettigrew	Ware	

Nays—17

Brantley	Johnson	Sims	Weber
Deeb	Johnston	Smathers	Wilson
Gallen	Lewis	Stolzenburg	
Gruber	Peterson	Sykes	
Henderson	Plante	Trask	

By unanimous consent Senator Graham was recorded as voting yea.

CS for SB 103 was ordered engrossed.

HCR 1556—A concurrent resolution to commend The Florida State University Flying High Circus for their achievements in captivating audiences the world over.

—was read the second time in full. On motion by Senator Firestone, HCR 1556 was adopted and certified to the House. The vote was:

Yeas—32

Mr. President	Glisson	McClain	Stolzenburg
Brantley	Gordon	Myers	Sykes
Childers	Graham	Peterson	Trask
Deeb	Gruber	Poston	Ware
de la Parte	Henderson	Saunders	Williams
Firestone	Johnson	Sayler	Wilson
Gallen	Johnston	Scarborough	Winn
Gillespie	Lewis	Smathers	Zinkil

Nays—None

By unanimous consent Senators Weber, Barron, Sims and Vogt were recorded as voting yea.

SCR 1289 was laid on the table.

Senator Vogt moved that the Senate reconsider the vote by which Amendment 7 to SB 798 was adopted on May 8. The collateral matter to reconsider Amendment 7 was carried over by order of the President.

HB 1090—A bill to be entitled An act relating to crawfish regulations; amending §370.14(1), (3)(c) and (f), and (4), Florida Statutes, 1972 Supplement, and adding paragraph (g) to subsection (3) of said section; providing legislative intent; providing that no person, firm, or corporation may take crawfish by means of grains, spears, grabs, hooks, and similar devices; removing the requirement of intent from the crime of molesting without permission traps, lines, or buoys belonging to another; requiring licensed seafood dealers to notify the division of marine resources of the department of natural resources of the name of the seagoing vessel or airplane and point of destination when it enters the state's territorial waters; providing that possession of more than twenty-four (24) crawfish by a licensed seafood dealer not holding a permit under the section is punishable as a misdemeanor of the second degree; requiring special permits for seagoing vessels or airplanes transporting saltwater crawfish for purchase by licensed seafood dealers; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote HB 1090 was read the third time by title, passed and certified to the House. The vote was:

Yeas—32

Mr. President	Graham	Pettigrew	Trask
Brantley	Gruber	Poston	Vogt
Childers	Johnson	Saunders	Ware
de la Parte	Johnston	Sayler	Weber
Firestone	Lewis	Sims	Williams
Gallen	McClain	Smathers	Wilson
Gillespie	Myers	Stolzenburg	Winn
Gordon	Peterson	Sykes	Zinkil

Nays—None

By unanimous consent Senator Glisson was recorded as voting yea.

SB 229 and committee substitute therefor were laid on the table.

SB 556 was taken up, together with:

By the Committee on Judiciary—

CS for SB 556—A bill to be entitled An act relating to medical review committees; renumbering section 458.20, Florida Statutes, as section 768.131, Florida Statutes; amending subsection (1) of said section and adding subsection (4), exempting proceedings of medical review committees from discovery except under certain conditions; providing an effective date.

—which was read the first time by title and SB 556 was laid on the table.

On motion by Senator McClain, by two-thirds vote, CS for SB 556 was read the second time by title.

Pending further consideration of CS for SB 556, on motion by Senator McClain, by two-thirds vote HB 1104 was withdrawn from the Committee on Commerce and placed on the calendar. On motion by Senator McClain, by two-thirds vote—

HB 1104—A bill to be entitled An act relating to medical review committees; renumbering section 458.20, Florida Statutes, as section 768.131, Florida Statutes; amending subsection (1) of said section and adding subsection (4), exempting proceedings of medical review committees from discovery except under certain conditions; providing an effective date.

—a companion measure to CS for SB 556 was substituted therefor and read the second time by title by two-thirds vote. On motion by Senator McClain, by two-thirds vote HB 1104 was read the third time by title, passed and certified to the House. The vote was:

Yeas—30

Mr. President	Glisson	Myers	Sykes
Barron	Gordon	Peterson	Trask
Brantley	Graham	Pettigrew	Vogt
Childers	Gruber	Poston	Ware
de la Parte	Johnson	Sayler	Winn
Firestone	Johnston	Sims	Zinkil
Gallen	Lewis	Smathers	
Gillespie	McClain	Stolzenburg	

Nays—2

Deeb Wilson

CS for SB 556 was laid on the table.

The Journal of May 8 was corrected and approved.

CO-INTRODUCERS

By permission Senators Sayler and Gillespie were recorded as co-introducers of SB 553.

On motion by Senator Barron, the Senate adjourned at 11:05 a.m. to reconvene at 9:00 a.m., May 10, 1973.