



Journal of the Senate

Number 2—Special Session

Wednesday, November 28, 1979

The Senate was called to order by Senator Williamson 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. Senator Gordon represented the Committee on Rules and Calendar.

INTRODUCTION

By Senator Gordon (by request)—

SB 23-C—A bill to be entitled An act relating to ad valorem taxation; providing legislative intent with respect to equalization of funding efforts among school districts; amending s. 236.081(4), Florida Statutes; providing duties of Department of Revenue and Commissioner of Education with respect to computation of required local effort under the Florida Education Finance Program; providing for consideration of the school district's assessment level; providing a limitation; providing definitions; amending s. 236.25(1), Florida Statutes; providing requirements with respect to computation of the district school tax; amending s. 195.098(1) and (2), Florida Statutes; providing duties of the Assessment Administration Review Commission with respect to complaints relating to the determination of the level of assessment; providing for actions by the school board or the Commissioner of Education to contest such determination; amending s. 195.096, Florida Statutes; providing requirements with respect to review of county assessment rolls by the Division of Ad Valorem Tax; revising time periods; providing for publication of results; providing for determination of projected levels of assessment for certain counties; providing requirements with respect to audits of the administration of ad valorem tax laws by the Auditor General; amending s. 195.097, Florida Statutes; providing requirements and procedures with respect to notification by the executive director of the department to property appraisers regarding defects in assessment rolls; providing duties of property appraiser upon receipt of an administrative order relating thereto; providing for continuing supervision; revising time periods and providing for an extension of deadlines; providing an appropriation; providing an effective date.

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

By Senator Gordon (by request)—

SB 24-C—A bill to be entitled An act relating to ad valorem taxation; creating s. 193.1145, Florida Statutes, providing intent; providing for interim assessment rolls under specified circumstances; specifying the valuations to be shown on such assessment rolls; requiring taxing units to levy provision millage rates upon such assessment rolls and to certify the rates to the property appraiser; providing for the applicability of certain laws to such rates; providing duties of property appraisers, tax collectors, and circuit court clerks with respect to such interim assessment rolls; specifying certain notice in tax bills based on such assessment rolls; providing for the recomputation of millage rates and for the reconciliation of interim and approved assessment rolls for certain purposes; providing for and restricting billings and refunds based upon such reconciliation; authorizing delays in supplemental billing or refunding; providing a form for notice of supplemental bills or refunds; providing for review of interim assessments; providing for the applicability of certain delinquent tax provisions to delinquent provisional taxes based upon such interim assessment rolls; providing that the recomputation of millage rates shall not affect the amount of revenues to school districts, counties and municipalities; providing for the effect of provisional millage rates levied by multi-county taxing authorities; amending s. 197.012, Florida Statutes, specifying an alternative date by which tax collectors must collect delinquent taxes; creating s. 197.0125, Florida Statutes, authorizing certain de-

lays in time requirements relating to the collection of or administrative procedures regarding delinquent taxes; amending s. 120.57(1)(b), Florida Statutes, conforming provisions relating to formal proceedings to the act; creating s. 120.571, Florida Statutes, providing uniform procedures for decisions relating to the levy, assessment or refund of certain taxes, tax roll approvals, and county assessment levels; including the Comptroller as a party in matters involving refunds; providing that the hearing officer's order shall constitute final agency action; providing for judicial review; adding a new subsection (3) to s. 120.65, Florida Statutes, creating a bureau within the Division of Administrative Hearings of the Department of Administration to conduct hearings relating to such taxes, tax roll approvals, and county assessment levels; adding a new subsection (2) to s. 120.69, Florida Statutes, providing for the enforcement of final agency action on such tax matters; providing for severability; providing an effective date.

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

By Senator Gordon (by request)—

SJR 25-C—A joint resolution proposing a revision of Article VII of the State Constitution relating to finance and taxation.

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

The Senate adjourned to reconvene at 9:00 a.m.

The Senate was called to order by the President at 9:00 a.m. A quorum present—40:

Mr. President	Gordon	Maxwell	Spicola
Anderson	Gorman	McClain	Steinberg
Barron	Grizzle	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiasen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Ware
Fechtler	Johnston	Scott	Williamson
Frank	MacKay	Skinner	Winn

Prayer by Senator Trask:

Father, as we begin this day we pause to give you thanks for your great love and the great blessings that you've given us.

Father, we raise to you this morning heavy hearts because of the world situation. We ask that you will be with our fellow countrymen around this world who find themselves in tense situations and find their lives in danger. We ask you to give a special measure of wisdom to the leaders of this country as they cope with these very complex problems.

Father, we ask you to guide us now as we deal with the problems of this state. Give us wisdom to find the right answers, give us courage to do the right thing, and strength and peace as we go back among our constituents and face the everyday problems.

Father, now as we get on with this day we ask that you would become more real to each of us because we know that in you we find all the answers for all the problems of all mankind. We ask these things in the name of Christ. Amen.

REPORTS OF COMMITTEES

The Committee on Judiciary-Civil recommends the following pass: SB 20-C with 2 amendments

The bill was referred to the Committee on Rules and Calendar under the original reference.

The Committee on Judiciary-Civil recommends the following pass: SB 11-C with 3 amendments

The bill was referred to the Committee on Ways and Means under the original reference.

The Committee on Commerce recommends the following pass: SB 19-C

The Committee on Judiciary-Civil recommends the following pass: SB 21-C

The Committee on Ways and Means recommends the following pass:

SB 11-C SB 17-C with 3 amendments
SB 18-C with 6 amendments

The bills contained in the foregoing reports were placed on the calendar.

Senator Barron moved that the provision of Rule 4.17 which is in effect during a regular session, be adopted which permits the chairman of the Committee on Rules and Calendar or his designee, the minority leader or his designee, and two other members of the committee designated by the chairman to submit each day a special order calendar determining the priority for consideration of bills. The motion was adopted without objection.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Barron, by two-thirds vote SJR 20-C was withdrawn from the Committee on Rules and Calendar.

The President declared the Senate in recess at 9:08 a.m. until 9:35 a.m.

The Senate was called to order by the President at 9:35 a.m. A quorum present.

By permission the following report was received:

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, November 28, 1979:

SB 18-C SB 11-C SB 21-C
SB 19-C SJR 20-C SB 17-C

Respectfully submitted,
Dempsey J. Barron, Chairman

SPECIAL ORDER

SB 18-C—A bill to be entitled An act relating to governmental auditing; amending s. 11.45(1)-(4), (8), Florida Statutes, as amended; providing definitions; replacing references to post-audits with references to financial audits; providing for selection of accountants to audit county agencies; creating the County Government Audit Trust Fund in the Department of Banking and Finance; providing circumstances for reimbursement of county agencies for certain costs of auditing; providing an appropriation; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means offered the following amendments which were moved by Senator Johnston and adopted;

Amendment 1—On page 7, on line 22 strike "\$12,700,000" and insert: \$6,700,000; on line 24 strike "\$12,700,000" and insert: \$6,700,000; on line 27 strike "1981" and insert: 1980

Amendment 2—On page 7, line 21, strike "1982" and insert: 1981

Amendment 3—On page 7, line 19, after "any" insert: reasonable

Amendment 4—On page 4, line 1, strike the period and insert: according to the following procedure:

(i) In each non-charter county, an Auditor Selection Committee shall be established consisting of the county officers elected pursuant to Article VIII, section 1(d), Florida Constitution, and one member of the Board of County Commissioners or its designee.

(ii) The Auditor Selection Committee shall review requests for proposals for auditing services required pursuant to Chapter 79-183, Laws of Florida.

(iii) Following their review of qualifications, abilities of professional personnel, past performance, willingness to meet time and budget requirements, and recent, current and projected work loads of auditors or auditing firms desiring to perform the annual independent audit required pursuant to Chapter 79-183, Laws of Florida, the Auditor Selection Committee shall rank in order of preference, not less than three firms which they shall recommend to the Board of County Commissioners.

(iv) If fewer than three firms respond to a request for proposals for the annual independent audit, the Auditor Selection Committee may recommend a single firm to the Board of County Commissioners.

(v) The Board of County Commissioners may accept or reject the recommendation of the Auditor Selection Committee. If the Board of County Commissioners accepts the recommendation of the Auditor Selection Committee, it shall begin negotiations pursuant to Section 16 of Chapter 79-202, Laws of Florida. If the Board of County Commissioners rejects the recommendation of the Auditor Selection Committee, it shall direct the Auditor Selection Committee to review the proposals submitted and submit another recommendation. Should the Board of County Commissioners reject the recommendation of the Auditor Selection Committee, the selection process shall continue in accordance with this act until a recommendation is accepted.

Amendment 5—On page 7, between lines 21 and 22, insert a new section 3: All agencies, other than state agencies as defined herein, and all district school boards and district boards of trustees of community colleges shall have the power to have a performance audit or postaudit of their accounts and records by an independent certified public accountant retained by them and paid from their public funds.

Renumber subsequent sections.

Amendment 6—On page 1 in title, strike line 7 and insert: establishment of an auditor selection committee in noncharter counties and providing duties thereof with respect to selection of qualified auditors to audit county

On motion by Senator Johnston, by two-thirds vote SB 18-C as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gorman	Maxwell	Steinberg
Anderson	Grizzle	McKnight	Stuart
Barron	Hair	Myers	Thomas
Carlucci	Henderson	Neal	Tobiasen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Fecht	Jenne	Scarborough	Ware
Frank	Johnston	Scott	Williamson
Gordon	MacKay	Spicola	Winn

Nays—1

Skinner

Votes after roll call:

Yea—Chamberlin, Dunn, McClain

SB 19-C—A bill to be entitled An act relating to banking; amending s. 659.06, Florida Statutes; authorizing the establishment of branches by merger anywhere in the state with certain restrictions; providing for the establishment of not more than two branches per calendar year in a county in which a branch is established by merger; providing certain considerations and procedures for the granting of a branch application; requiring written notification to the Department of Banking and Finance prior to operating a bank facility; providing for the conversion of certain military facilities into branches; providing an effective date.

—was read the second time by title.

Senator Scarborough moved the following amendment:

Amendment 1—On page 6, line 1, insert new Section 3:

No bank may charge an individual more than 12% interest annually.

Renumber subsequent section.

Point of Order

Senator Barron raised a point of order that the amendment was not germane to the bill. The President ruled the point well taken and the amendment out of order.

On motion by Senator Frank, by two-thirds vote SB 19-C was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gorman	Maxwell	Stuart
Anderson	Grizzle	McKnight	Thomas
Barron	Hair	Myers	Tobiassen
Chamberlin	Henderson	Neal	Trask
Childers, D.	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Poole	Ware
Fechtel	Jenne	Scott	Williamson
Frank	Johnston	Skinner	Winn
Gordon	MacKay	Steinberg	

Nays—2

Carlucci Scarborough

Votes after roll call:

Yea—Dunn, McClain, Spicola

SB 11-C—A bill to be entitled An act relating to public defenders; amending s. 27.51(4), Florida Statutes; providing that the public defender of the tenth judicial circuit handle all appeals arising within the district comprising the Second District Court of Appeal; providing that the public defender for the seventh judicial circuit handle all appeals within the district comprising the Fifth District Court of Appeal; removing the requirement that funds for certain staff and other expenses incurred by certain public defenders be appropriated on an annual basis; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On page 1, line 29, strike "~~tenth twelfth~~" and insert: twelfth

Amendment 2—On page 2, line 11, strike "~~annually~~" and insert: annually

Amendment 3—Strike on page 1, all of lines 4 through and including line 13 and insert: the public defender for the seventh judicial circuit handle all appeals within the district comprising the Fifth District Court of Appeal;

On motion by Senator Hair, by two-thirds vote SB 11-C as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gorman	McKnight	Thomas
Anderson	Grizzle	Myers	Tobiassen
Barron	Hair	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	
Frank	MacKay	Steinberg	
Gordon	Maxwell	Stuart	

Nays—None

Votes after roll call:

Yea—Dunn, McClain, Spicola

SJR 20-C—A joint resolution proposing an amendment to Section 3, Article V of the State Constitution, relating to the organization and jurisdiction of the Supreme Court.

—was read the second time.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator Hair and failed:

Amendment 1—On page 2, line 9, after the word "*Commission*" insert: , or its successor,

Senator Hair moved the following amendment which was adopted:

Amendment 2—On page 2, strike all of line 9 and insert: *review action of statewide agencies*

Legislative Intent

At the request of Senator Myers, by direction of the President the following statements were published in the Journal:

Senator Myers: To clarify the term "statewide agency" so that we have a clear expression of legislative intent in the record on this, I want to ask Senator Hair a question so that he can give me the answer and perhaps put that in the Senate Journal.

Mr. President: Does the Senator yield?

Senator Hair: I yield.

Senator Myers: Senator Hair, to clarify the matter, is it true that the term "statewide agency" will comport with the term "state agency" in chapter 120 insofar as review of orders of the Public Service Commission are concerned to the District Court of Appeal now that you are changing it, or to the Supreme Court with respect to electric, telephone and gas cases?

Senator Hair: That's correct.

Senator Myers: So that even though you have a difference of terminology between "statewide agency" in the constitutional language and the definition designated as "state agency" in chapter 120, insofar as review of Public Service Commission orders are concerned to respective courts they are one and the same?

Senator Hair: That's correct.

Senator Myers: I would respectfully request that this be shown in the Senate Journal as a direct statement of legislative intent, so we have a clear understanding, since there is a difference in terminology between "statewide agency" as used in this Constitutional amendment, and the definition "state agency" under Chapter 120.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator Hair and adopted:

Amendment 3—On page 2, lines 11 and 12, strike "and shall review agency action of the Florida Commission on Ethics"

Senator Hair moved the following amendment which was adopted:

Amendment 4—On page 2, line 16, strike "that affects a class of constitutional or state officers," and insert: , or that expressly affects a class of constitutional or state officers,

On motion by Senator Hair, by two-thirds vote SJR 20-C as amended was read the third time in full as follows:

A joint resolution proposing an amendment to Section 3, Article V of the State Constitution, relating to the organization and jurisdiction of the Supreme Court.

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

That the following amendment to Section 3 of Article V of the State Constitution is hereby agreed to and shall be submitted to the electors of this state for approval or rejection at a special election to be held in conjunction with the presidential preference primary election in March 1980; and which, if approved, shall take effect April 1, 1980.

ARTICLE V
JUDICIARY

SECTION 3. Supreme court.—

(a) ORGANIZATION.—The supreme court shall consist of seven justices. Of the seven justices, each appellate district shall have at least one justice elected or appointed from the district to the supreme court who is a resident of the district at the time of his original appointment or election. 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 declaring invalid a state statute or a provision of the state constitution 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 and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.

(3) May review by certiorari any decision of a district court of appeal that expressly declares valid a state statute, or that expressly construes a provision of the state or federal constitution, or that expressly 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 expressly and directly conflicts that is in direct conflict with a decision of another 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 review any decision of a district court of appeal that passes upon a question certified by it to be of great public importance, or that is certified by it to be in direct conflict with a decision of another district court of appeal.

(5) May review any order or judgment of a trial court certified by the district court of appeal in which an appeal is pending to be of great public importance, or to have a great effect on the proper administration of justice throughout

the state, and certified to require immediate resolution by the supreme court.

(6) May review a question of law certified by the Supreme Court of the United States or a United States Court of Appeals which is determinative of the cause and for which there is no controlling precedent of the supreme court of Florida.

(7)(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.

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

(9)(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.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTION 3

Proposing an amendment to the State Constitution to modify the jurisdiction of the Supreme Court.

On motion by Senator Hair, SJR 20-C as amended passed by the required constitutional three-fifths vote of the membership, was ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Name, Grizzle, McKnight, Thomas. Lists names of senators who voted 'Yeas'.

Nays—2

Table with 2 columns: Name, Gordon. Lists names of senators who voted 'Nays'.

Votes after roll call:

Yea—Dunn, McClain, Myers, Spicola

SB 21-C—A bill to be entitled An act relating to a special election to be held on March 11, 1980, pursuant to Section 5 of Article XI of the State Constitution, for the approval or rejection by the electors of a joint resolution amending Section 3 of Article V of the State Constitution relating to the judiciary; providing for publication of notice and for procedures; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote SB 21-C was read the third time by title, passed by the required constitutional three-fourths vote of the membership and was certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Name, Childers, W. D., Hair, Johnston. Lists names of senators who voted 'Yeas'.

Peterson	Skinner	Tobiassen	Williamson
Poole	Steinberg	Trask	Winn
Scarborough	Stuart	Vogt	
Scott	Thomas	Ware	

rizing the Escambia County Civil Service Board to exempt from the provisions of chapter 79-453, Laws of Florida, employees employed by the Escambia County Public Health Trust; providing an effective date.

Proof of publication of the required notice was attached.

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

Nays—1

Carlucci

On motions by Senator W.D. Childers, by two-thirds vote SB 29-C was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed on the special order calendar.

Votes after roll call:

Yea—Dunn, McClain, Myers, Spicola

On motion by Senator W.D. Childers, by two-thirds vote SB 29-C 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 on passage was:

On motion by Senator Hair, consideration of SB 17-C was deferred.

INTRODUCTION

On motion by Senator Holloway, by the required constitutional two-thirds vote of the membership, SCR 27-C was admitted for introduction.

Yeas—39

By Senators Barron, Holloway, W. D. Childers, Skinner, Thomas, Henderson and Hill—

Mr. President	Gordon	Maxwell	Steinberg
Anderson	Gorman	McKnight	Stuart
Barron	Grizzle	Myers	Thomas
Carlucci	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Jenne	Scott	Williamson
Fechtcl	Johnston	Skinner	Winn
Frank	MacKay	Spicola	

SCR 27-C—A concurrent resolution commending the Masons of Florida.

—was read the first time in full. On motions by Senator Holloway, by two-thirds vote SCR 27-C was placed on the calendar and by two-thirds vote read the second time by title, adopted, and certified to the House. The vote on adoption was:

Nays—None

Vote after roll call:

Yeas—39

Mr. President	Gordon	McClain	Steinberg
Anderson	Gorman	McKnight	Stuart
Barron	Grizzle	Myers	Thomas
Carlucci	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Jenne	Scott	Williamson
Fechtcl	Johnston	Skinner	Winn
Frank	MacKay	Spicola	

Nays—None

Yea—McClain

On motion by Senator Barron, by the required constitutional two-thirds vote of the membership, SB 30-C was admitted for introduction.

On motion by Senator Vogt, by the required constitutional two-thirds vote of the membership, SB 28-C was admitted for introduction.

By Senator Barron—

SB 30-C—A reviser's bill to be entitled An act relating to the Florida Statutes; reenacting ss. 120.63(2)(a), 121.052(1)(b), (d), 215.47(1), 319.22(2), 656.17(3)-(5), and 659.18(3)-(5), Florida Statutes; restoring provisions inadvertently omitted from republication in the amendatory process.

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

On motion by Senator Gordon, by two-thirds vote SJR 13-C was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Gordon, the rules were waived and the Committee on Ways and Means was granted permission to consider the following bills today: the Governor's Tax Package (SJR 25-C, SB-24-C, SB 23-C) or take up House-passed Package, if it is available to the committee; SJR 7-C, SJR 13-C, SB 6-C, SJR 10-C, SJR 15-C, SB 16-C, SB 28-C, proposed SB 22-C by Senator Peterson relating to remodeling, renovation and maintenance of educational facilities.

CO-INTRODUCERS

Senators McClain and Spicola SJR 4-C and SB 5-C

CORRECTION AND APPROVAL OF JOURNAL

The Journal of November 27 was corrected and approved.

On motion by Senator Barron, the Senate adjourned at 10:28 a.m. to convene upon call of the President, no earlier than 10:00 a.m., Thursday, November 29.

By Senators W.D. Childers and Tobiassen—

SB 29-C—A bill to be entitled An act relating to Escambia County; amending s. 8.2, chapter 79-453, Laws of Florida; autho-