



Journal of the 1997-1998 Constitution Revision Commission

Number 27

Thursday, February 26, 1998

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CALL TO ORDER

The Commission was called to order by the Chairman at 9:10 a.m. A quorum was present—27:

Mr. Chairman	Connor	Henderson	Riley
Alfonso	Corr	Jennings	Rundle
Barkdull	Crenshaw	Kogan	Smith
Barnett	Evans	Lowndes	Sundberg
Barton	Evans-Jones	Mills	Thompson
Brochin	Ford-Coates	Morsani	Zack
Butterworth	Freidin	Nabors	

Excused: Commissioners Anthony, Marshall, Scott and West

PRAYER

The following prayer was offered by Rev. Gilbert Crosby of St. Francis of Assissi Episcopal Church, Tallahassee:

Most Gracious God, Creator of all things, you formed the human race and blessed us with memory, reason, and skill, setting us as stewards over all of creation and enjoining us to love, care for, and protect one another. Guide those who have been raised to positions of leadership as members of this Constitutional Revision Commission as they consider the issues before them this day. Grant them grace and wisdom in the exercise of their duties, fill them with the love of truth and righteousness, keep them ever mindful of their calling to be servants of the people. Finally, we pray, teach our people to rely on your strength and to accept and exercise their responsibilities as citizens that together we may serve you and honor your name, for yours is the kingdom, O Lord, and you are exalted as head over all. Amen.

PLEDGE

Students from Crestview Independent School, Tallahassee, led the Commission in the pledge of allegiance to the flag of the United States of America.

REPORTS OF COMMITTEES

REPORT OF THE RULES AND ADMINISTRATION COMMITTEE

February 26, 1998

The Rules and Administration Committee submits the following report:

The Rules and Administration Committee met for the purpose of establishing a process for the upcoming public hearings in Ft. Lauderdale and St. Petersburg. In addition, the committee discussed the upcoming televised public hearing in Tallahassee. The following is the committee report on those matters:

Fort Lauderdale/St. Petersburg Hearing

Process for conducting public hearings in Fort Lauderdale and St. Petersburg:

- Proposals available for comment.** All proposals reported from the Committee on Style and Drafting and receiving a simple majority vote by the Commission (during the week of February 23-27) are available for public comment. Matters that failed to receive the requisite vote are defeated and are not available for public comments.
- Order of Speakers.** Speakers will be called in the order for which they have signed up. All speakers will be taken on a first-come, first-serve basis. Neither topics nor speakers will be grouped.
- Time Limit.** All speakers are limited to three (3) minutes.
- Spokespersons.** Groups are encouraged to designate spokespersons to speak on their behalf.
- Speaker Form.** Staff will modify the "speaker form" to include a list of all proposals and a place to designate support (or lack thereof). The public is encouraged to use the speaker form and to register their comments in writing rather than orally.

Tallahassee Hearing

For the purpose of the televised Tallahassee hearing:

Because the television studio will only accommodate 8 members of the Commission, the Rules and Administration Committee has suggested that in addition to Chairman Dexter Douglass and Style and Drafting Committee Chairman Jon Mills, the other six places be offered to the various committee chairs. In the event that those members are not available, invitations will be extended to the committee vice-chairs.

Respectfully submitted,
Thomas H. Barkdull, Jr.
Chairman

On motion by Commissioner Barkdull, the report of the Rules and Administration Committee was adopted.

MOTIONS

On motion by Commissioner Barkdull, the rules were waived and **Proposal 59** was withdrawn from the Style and Drafting Committee and placed on the calendar.

COMMISSIONER BARKDULL PRESIDING

MOTIONS TO RECONSIDER

Commissioner Douglass moved that the rules be waived and the Commission reconsider the vote by which **Proposal 58** failed February 25. The motion was adopted and further consideration of **Proposal 58** was deferred.

Commissioner Riley moved that the Commission reconsider the vote by which **Committee Substitute for Proposal 6** as amended failed February 25. The motion was adopted. The vote was:

Yeas—18

Mr. Chairman	Brochin	Ford-Coates	Kogan
Alfonso	Butterworth	Freidin	Lowndes
Barton	Evans-Jones	Henderson	Mills

Nabors	Rundle	Sundberg	Zack
Riley	Smith		
Nays—5			
Corr	Evans	Jennings	Morsani
Crenshaw			

Nays—10			
Alfonso	Henderson	Riley	Sundberg
Evans	Kogan	Smith	Zack
Freidin	Nabors		

Commissioner Riley moved that the rules be waived and **Committee Substitute for Proposal 6** be placed on the calendar for this day. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—17

Mr. Chairman	Ford-Coates	Mills	Sundberg
Barton	Freidin	Nabors	Zack
Brochin	Henderson	Riley	
Butterworth	Kogan	Rundle	
Evans-Jones	Lowndes	Smith	

Nays—7

Alfonso	Corr	Evans	Morsani
Connor	Crenshaw	Jennings	

The Commission resumed consideration of—

Proposal 58—A proposal to revise ARTICLE I, s. 21, Fla. Const.; providing that the right to recover in an action for personal injury or death may not be denied because of age.

—was read.

On motion by Commissioner Douglass, **Proposal 58** was adopted and recommitted to the Style and Drafting Committee. The vote was:

Yeas—19

Mr. Chairman	Corr	Jennings	Riley
Alfonso	Evans	Kogan	Smith
Barton	Evans-Jones	Mills	Sundberg
Butterworth	Freidin	Morsani	Zack
Connor	Henderson	Nabors	

Nays—4

Brochin	Crenshaw	Ford-Coates	Lowndes
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CHAIRMAN DOUGLASS PRESIDING

REPORTS OF COMMITTEES

MOTION

On motion by Commissioner Mills, by two-thirds vote debate on proposals reported by the Style and Drafting Committee was limited to five minutes per side and two minutes for closing, for a total of 12 minutes.

Proposal 40—A proposal to revise ARTICLE IX, s. 4, Fla. Const.; authorizing certain counties to be divided into more than one school district.

—was read.

On motion by Commissioner Jennings, on behalf of Commissioner Marshall, **Proposal 40** was adopted and recommitted to the Style and Drafting Committee. The vote was:

Yeas—17

Mr. Chairman	Butterworth	Ford-Coates	Rundle
Barkdull	Connor	Jennings	Thompson
Barnett	Corr	Lowndes	
Barton	Crenshaw	Mills	
Brochin	Evans-Jones	Morsani	

Committee Substitute for Proposal 157—A proposal to revise ARTICLE IX, s. 1, Fla. Const.; defining the term “adequate provision” as applicable to the system of public education.

—was read.

On motion by Commissioner Mills, **Committee Substitute for Proposal 157** was adopted and recommitted to the Style and Drafting Committee. The vote was:

Yeas—26

Mr. Chairman	Connor	Jennings	Rundle
Alfonso	Corr	Kogan	Smith
Barkdull	Crenshaw	Lowndes	Sundberg
Barnett	Evans-Jones	Mills	Thompson
Barton	Ford-Coates	Morsani	Zack
Brochin	Freidin	Nabors	
Butterworth	Henderson	Riley	

Nays—1

Evans

MOTIONS

Commissioner Barkdull moved that debate on each proposal remaining on the calendar be limited to ten minutes for presentation and five minutes for closing, for a total of 15 minutes. The motion failed. The vote was:

Yeas—12

Mr. Chairman	Butterworth	Henderson	Morsani
Alfonso	Crenshaw	Lowndes	Nabors
Barkdull	Evans-Jones	Mills	Zack

Nays—14

Barnett	Corr	Jennings	Smith
Barton	Evans	Kogan	Sundberg
Brochin	Ford-Coates	Riley	
Connor	Freidin	Rundle	

Commissioner Kogan moved that debate on each proposal remaining on the calendar be limited to a total of ten minutes. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—13

Alfonso	Crenshaw	Kogan	Nabors
Barkdull	Evans-Jones	Lowndes	Sundberg
Barton	Henderson	Morsani	Zack
Butterworth			

Nays—11

Barnett	Evans	Jennings	Smith
Connor	Ford-Coates	Riley	Thompson
Corr	Freidin	Rundle	

Proposal 181—A proposal to revise ARTICLE IX, s. 1, Fla. Const.; providing public rights to, and state duties to provide, complete and adequate public education.

—was read.

Commissioner Brochin moved the following amendment to the proposal as engrossed:

Amendment 1—On page 1, lines 13-17, delete “Each child in this state has a fundamental right to a public education during the primary and secondary years of study, and it is the paramount duty of the state to ensure that such education is complete and adequate.” and insert: The education of its children is a fundamental value of the people of the State of Florida. It is, therefore, the paramount duty of the State to make adequate provision for the proper education of all children residing within its borders.

On motion by Commissioner Barkdull, further consideration of Proposal 181 with pending Amendment 1 was deferred.

Committee Substitute for Proposal 166—A proposal to revise ARTICLE IX, s. 2, Fla. Const.; providing for the appointment of the State Board of Education by the Governor and the appointment of the Commissioner of Education by the State Board of Education.

—was read.

The Style and Drafting Committee recommended the following amendment which was moved by Commissioner Ford-Coates and adopted:

Amendment 1—On page 1, line 17, delete “have such supervision of” and insert: shall supervise and on page 1, line 18, delete “is”

On motion by Commissioner Riley, Committee Substitute for Proposal 166 as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—22

Table with 4 columns: Names (Alfonso, Barkdull, Barnett, Brochin, Connor, Corr) and Names (Crenshaw, Ford-Coates, Freidin, Henderson, Jennings, Kogan; Lowndes, Mills, Morsani, Nabors, Riley, Rundle; Smith, Sundberg, Thompson, Zack)

Nays—3

Table with 3 columns: Names (Barton, Evans, Evans-Jones)

The Commission resumed consideration of—

Proposal 181—A proposal to revise ARTICLE IX, s. 1, Fla. Const.; providing public rights to, and state duties to provide, complete and adequate public education.

—with pending Amendment 1 by Commissioner Brochin.

Commissioner Corr moved the following substitute amendment to the proposal as engrossed which was adopted:

Amendment 2—On page 1, lines 13-17, delete those lines and insert:

SECTION 1. System of Public education.—The education of its children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to provide for the adequate education of all children residing within its borders. Adequate provision shall be made by

The vote was:

Yeas—19

Table with 4 columns: Names (Alfonso, Barnett, Brochin, Corr, Evans-Jones) and Names (Ford-Coates, Freidin, Henderson, Jennings, Kogan; Lowndes, Mills, Morsani, Nabors, Riley; Rundle, Smith, Sundberg, Zack)

Nays—5

Table with 4 columns: Names (Mr. Chairman, Barkdull, Connor, Evans, Thompson)

On motion by Commissioner Brochin, Proposal 181 as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—19

Table with 4 columns: Names (Alfonso, Barnett, Brochin, Corr, Evans-Jones) and Names (Ford-Coates, Freidin, Henderson, Jennings, Kogan; Lowndes, Mills, Morsani, Nabors, Riley; Rundle, Smith, Sundberg, Zack)

Nays—5

Table with 4 columns: Names (Mr. Chairman, Barkdull, Connor, Evans, Thompson)

MOTION

Commissioner Lowndes moved to take up Proposal 59 out of order. The motion was adopted. The vote was:

Yeas—15

Table with 4 columns: Names (Alfonso, Barkdull, Connor, Corr) and Names (Evans, Evans-Jones, Freidin, Kogan; Lowndes, Morsani, Nabors, Rundle; Smith, Sundberg, Zack)

Nays—4

Table with 4 columns: Names (Ford-Coates, Henderson, Riley, Thompson)

Proposal 59—A proposal to revise ARTICLE X, s. 13, Fla. Const.; providing limitations upon the amount of damages payable by the state when a court finds the state liable; providing for a bad-faith surcharge; placing a limit on attorney’s fees.

—was read.

On motion by Commissioner Lowndes, Proposal 59 was adopted and recommitted to the Style and Drafting Committee. The vote was:

Yeas—17

Table with 4 columns: Names (Mr. Chairman, Alfonso, Brochin, Connor, Corr) and Names (Evans, Freidin, Henderson, Jennings, Kogan; Lowndes, Morsani, Nabors, Riley, Smith; Sundberg, Zack)

Nays—4

Table with 4 columns: Names (Barnett, Evans-Jones, Ford-Coates, Thompson)

Committee Substitute for Proposals 36 and 38—A proposal to revise ARTICLE II, s. 7, Fla. Const.; providing that it is the policy of the state to conserve natural resources and scenic beauty for the health and welfare of its citizens and future generations; providing for provision to be made by law to protect future generations.

—was read.

The Style and Drafting Committee recommended the following amendment to the proposal as engrossed which was moved by Commissioner Alfonso and adopted:

Amendment 1—On page 1, lines 20-21, delete the underlined language and insert: and for the conservation and protection of natural resources for future generations.

On motion by Commissioner Alfonso, Committee Substitute for Proposals 36 and 38 as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—17

Table with 4 columns: Names (Mr. Chairman, Alfonso, Barnett, Brochin) and Names (Ford-Coates, Henderson, Jennings, Kogan)

Lowndes	Riley	Smith	Thompson
Mills	Rundle	Sundberg	Zack
Nabors			
Nays—5			
Barkdull	Corr	Evans	Morsani
Connor			

Proposal 39—A proposal to revise ARTICLE VII, s. 11, Fla. Const.; providing for state bonds pledging all or part of a dedicated state tax revenue or the full faith and credit of the state for certain uses as provided by general law.

—was read.

On motion by Commissioner Henderson, by unanimous consent **Proposal 39** was withdrawn from further consideration.

Committee Substitute for Committee Substitute for Proposal 45—A proposal to revise ARTICLE IV, s. 9, Fla. Const.; creating the Fish and Wildlife Conservation Commission to be composed initially of the existing members of the Game and Fresh Water Fish Commission and the Marine Fisheries Commission and providing for the powers and duties of the commission.

—was read.

The Style and Drafting Committee recommended the following amendment to the proposal as engrossed which was moved by Commissioner Alfonso and adopted:

Amendment 1—On page 1, line 16, to page 3, line 16, delete underlined language and insert:

SECTION 9. ~~Fish and wildlife conservation Game and Fresh water fish~~ ~~commission.~~—There shall be a ~~fish and wildlife conservation game and fresh water fish~~ ~~commission~~, composed of ~~seven~~ ~~five~~ members appointed by the governor subject to confirmation by the senate for staggered terms of five years. The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life, ~~and~~ fresh water aquatic life, ~~and~~ marine life, except that all license fees for taking wild animal life, ~~and~~ fresh water aquatic life, ~~and~~ marine life and penalties for violating regulations of the commission shall be prescribed by ~~general law~~ ~~specific statute~~. The commission shall establish procedures to ensure adequate due process in the exercises of its regulatory and executive functions. The legislature may enact laws in aid of the commission, not inconsistent with this section, ~~except that there shall be no special law or general law of local application pertaining to hunting or fishing~~. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by law. Revenue derived from such license fees shall be appropriated to the commission by the legislature for the purpose of management, protection, and conservation of wild animal life, ~~and~~ fresh water aquatic life, ~~and~~ marine life. ~~The commission shall not be a unit of any other state agency and shall have its own staff, which includes management, research, and enforcement. Unless provided by general law, the commission shall have no authority to regulate matters relating to air and water pollution.~~

Section 2. Section 22 is added to Article XII of the Florida Constitution to read:

ARTICLE XII
SCHEDULE

SECTION 22. *Fish and wildlife conservation commission.*—

(a) *The initial members of the commission shall be the members of the game and fresh water fish commission and the marine fisheries commission who are serving on either of those commissions on the effective date of this amendment, who may serve the remainder of their respective terms. New appointments to the commission shall not be made until the retirement, resignation, removal, or expiration of the terms of the initial members results in fewer than seven members remaining.*

(b) *The jurisdiction of the marine fisheries commission as set forth in statutes in effect on March 1, 1998, shall be transferred to the fish and wildlife conservation commission. The jurisdiction of the marine fisheries commission transferred to the commission shall not be expanded except as provided by general law. All rules of the marine fisheries commission and game and fresh water fish commission in effect on the effective date of this amendment shall become rules of the fish and wildlife conservation commission until superseded or amended by the commission.*

(c) *On the effective date of this amendment, the marine fisheries commission and game and freshwater fish commission shall be abolished.*

(d) *This amendment shall take effect July 1, 1999.*

On motion by Commissioner Henderson, **Committee Substitute for Committee Substitute for Proposal 45** as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—23

Mr. Chairman	Corr	Kogan	Rundle
Alfonso	Evans	Lowndes	Smith
Barkdull	Evans-Jones	Mills	Sundberg
Brochin	Ford-Coates	Morsani	Thompson
Butterworth	Henderson	Nabors	Zack
Connor	Jennings	Riley	

Nays—None

Vote after roll call:

Yea—Barnett

Committee Substitute for Proposal 64—A proposal to revise ARTICLE VII, s. 11, Fla. Const.; providing for state bonds pledging all or part of a dedicated state tax revenue or the full faith and credit of the state for certain uses as provided by general law.

—was read.

The Style and Drafting Committee recommended the following amendment to the proposal as engrossed which was moved by Commissioner Alfonso and adopted:

Amendment 1—On page 2, lines 10-16, delete underlined language and insert:

(e) *Bonds pledging all or part of a dedicated state tax revenue may be issued by the state in the manner provided by general law to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.*

On motion by Commissioner Henderson, **Committee Substitute for Proposal 64** as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—24

Mr. Chairman	Connor	Jennings	Riley
Alfonso	Corr	Kogan	Rundle
Barkdull	Evans-Jones	Lowndes	Smith
Barnett	Ford-Coates	Mills	Sundberg
Brochin	Freidin	Morsani	Thompson
Butterworth	Henderson	Nabors	Zack

Nays—1

Evans

Committee Substitute for Proposal 102—A proposal to revise ARTICLE X, Fla. Const.; adding s. 18 to provide restrictions on the disposition of conservation and recreation lands.

—was read.

The Style and Drafting Committee recommended the following amendment which was moved by Commissioner Alfonso and adopted:

Amendment 1—On page 1, lines 13-22, delete underlined language and insert:

SECTION 18. DISPOSITION OF CONSERVATION LANDS.—No interest in real property acquired or held by the state for natural resources conservation purposes may be disposed of except by a vote of two-thirds of the members of the governing board of the entity holding title after a determination that the interest is not required for such purposes.

On motion by Commissioner Henderson, **Committee Substitute for Proposal 102** as amended was adopted, ordered engrossed and then recommitted to the Style and Drafting Committee. The vote was:

Yeas—18

Mr. Chairman	Evans-Jones	Kogan	Rundle
Alfonso	Ford-Coates	Mills	Smith
Barkdull	Freidin	Morsani	Thompson
Brochin	Henderson	Nabors	
Butterworth	Jennings	Riley	

Nays—4

Barnett	Connor	Corr	Evans
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Proposal 135—A proposal to revise ARTICLE VII, s. 3, Fla. Const.; allowing a local option tax exemption for owners of land used for conservation purposes; providing for authorization by general law.

—was read.

On motion by Commissioner Henderson, **Proposal 135** was adopted and recommitted to the Style and Drafting Committee. The vote was:

Yeas—23

Mr. Chairman	Connor	Henderson	Nabors
Alfonso	Corr	Jennings	Riley
Barkdull	Evans	Kogan	Rundle
Barnett	Evans-Jones	Lowndes	Sundberg
Brochin	Ford-Coates	Mills	Thompson
Butterworth	Freidin	Morsani	

Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of February 25 was corrected and approved.

RECESS

On motion by Commissioner Barkdull, the Commission recessed at 11:41 a.m. for the purpose of holding committee meetings and conducting other Commission business to reconvene at 9:00 a.m., Tuesday, March 17, 1998.

PAGES

February 26

Under the direction of their advisor, Virginia Tuyn, the following students from Crestview Independent School in Tallahassee served as pages: Danny Hamilton, James Hamilton, Brittney Jarvis, Whitney Kaufman, Carrie Ann Ness and Shannon O'Donnell.

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