

175-137X-27
Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Warner offered the following:

Amendment (with title amendment)

Remove from the resolution: Everything after the resolving clause

and insert in lieu thereof:

Joint Rule 8, Joint Rules of the Florida Legislature, is hereby created to read:

Joint Rule Eight

Joint Legislative Claims Committee

8.1--Filing Claim Bills

(1) All claim bills filed in the Florida Legislature shall be considered through the procedure set out in this joint rule.

(2) Claim bills shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, and shall include a statement which supports the need for the bill signed by each primary sponsor of the

1 bill. The statement of need shall contain the following:
2 (a) A listing of all funds the claimant has received
3 or is entitled to receive from any other sources, including
4 all forms of federal, state and local government assistance;
5 (b) A statement detailing the maximum amount available
6 from any collateral sources of recovery, the action taken by
7 the claimant to vigorously pursue these sources of recovery,
8 and the status of any litigation to recover from a collateral
9 source;
10 (c) A statement regarding whether the claimant has
11 agreed to a settlement and whether the settlement has been
12 paid; and
13 (d) A statement substantiating that the amount of the
14 judgment is reasonable when measured against judgments entered
15 in cases of a similar nature involving similar circumstances;
16 (3) Claim bills may be filed or prefiled at any time,
17 during regular or special sessions of the Legislature or
18 during the interim.
19 (4) Upon filing, each claim bill shall be immediately
20 referred to the Joint Legislative Claims Committee in
21 accordance with the rules of the house in which the bill is
22 filed.
23 (5) Prior to the filing of a claim bill, the sponsor
24 may provide a draft of the claim to the chair of the Joint
25 Legislative Claims Committee for determination by the
26 committee as to whether the appointment of a special master is
27 required, as provided in Joint Rule 8.3. If the committee
28 determines that the appointment of a special master is
29 required, the special master may conduct the proceeding based
30 on the draft legislation. However, the committee shall not
31 act further upon the claim until the claim bill is filed and

1 referred to the committee.

2 (6) After a claim bill has been voted favorably by the
3 Joint Legislative Claims Committee, the bill shall be reported
4 to the house in which it originated for referral or
5 consideration in accordance with the rules of that house.

6 (7) Claim bills reported unfavorably shall be treated
7 as provided in the rules of the house in which the claim bill
8 was filed.

9 (8) Except as inconsistent with this joint rule, the
10 rules of the house in which the claim bill is filed shall
11 govern all proceedings involving the claim bills.

12 8.2--Appointment of Members of the Joint Legislative
13 Claims Committee

14 (1) There shall be a Joint Legislative Claims
15 Committee, the membership of which shall consist of five
16 members of the House of Representatives, at least two of which
17 shall be a member of the minority party, appointed by the
18 Speaker of the House of Representatives and five members of
19 the Senate, at least two of which shall be a member of the
20 minority party, appointed by the President of the Senate.

21 (2) Of the five members from the House of
22 Representatives, at least three shall also serve on the
23 committee of the House of Representatives having jurisdiction
24 over civil tort law and at least two shall also serve on a
25 fiscal committee of the House of Representatives.

26 (3) Of the five members from the Senate, at least
27 three shall also serve on the Senate committee having
28 jurisdiction over civil tort law and at least two shall also
29 serve on a Senate fiscal committee.

30 (4) The Joint Legislative Claims Committee shall meet
31 at times and places necessary to perform the functions

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1 assigned to it.

2 (5) Action by a majority vote of the membership of the
3 joint committee shall control and be conclusive on any matter
4 considered by the Joint Legislative Claims Committee.

5 (6) The President of the Senate shall appoint the
6 chair in the odd years and the vice chair in even years, and
7 the Speaker of the House of Representatives shall appoint the
8 chair in even years and the vice chair in odd years, from
9 among the committee membership.

10 (7) Within the limitation of the approved operating
11 budget, the salaries and expenses of the staff of the Joint
12 Legislative Claims Committee shall be paid from the
13 appropriation for legislative expenses or any other moneys
14 appropriated by the Legislature for that purpose. In the
15 alternative, the Joint Legislative Claims Committee may
16 utilize the services of the staffs of the two houses.

17 8.3--Hearings

18 (1) Based upon a review of a claim bill and any
19 additional information supplied by the sponsor or any party
20 interested in the claim bill, the Joint Legislative Claims
21 Committee shall determine whether the nature or complexity of
22 a claim bill necessitates the appointment of a special master
23 to conduct evidentiary hearings on the claim bill.

24 (2) Negotiated or stipulated claims bills in which the
25 amount of compensation is agreed upon by the parties involved
26 shall not be reviewed by a special master.

27 (3) In the case of an excess judgment claim, if there
28 is an underlying judgment, an appellate order, or a final
29 administrative order with respect to the claim, the special
30 master or, if the claim bill is not referred to a special
31 master, the Joint Legislative Claims Committee shall presume

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1 that the damages awarded in the judgment or order are the
2 damages which the claimant incurred, but shall not presume
3 that the amount of the judgment is the amount which is
4 appropriated to achieve an equitable disposition of the claim
5 bill. The special master or Joint Claims Committee may reject
6 or modify the judgment only if the opposing party can show
7 cause, which may include newly discovered evidence, as to why
8 the judgment or order should be rejected or modified.

9 (4) The Joint Legislative Claims Committee may
10 determine that the parties involved shall bear the cost of the
11 special master and other costs incidental to such an
12 evidentiary hearing and may require that financial
13 responsibility for the costs to be incurred be made in advance
14 of the appointment of a special master.

15 (5) A special master shall have the authority to
16 control all proceedings before the special master, including
17 the authority to:

18 (a) conduct prehearing conferences and management
19 conferences;

20 (b) allow discovery if deemed beneficial to the
21 consideration of the claim bill;

22 (c) administer oaths to witnesses;

23 (d) admit or reject evidence;

24 (e) make arrangements for preparing a record of the
25 proceedings, which shall either include a transcript of the
26 proceedings, a video recording of the proceedings, or an audio
27 tape recording of the proceedings;

28 (f) accept tangible and documentary evidence;

29 (g) issue subpoenas as provided by law; and

30 (h) take such other steps as are reasonably
31 necessary to conduct a thorough and orderly investigation of

1 the basis for the claim bill.

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3 In all proceedings before the special master, the provisions
4 of the Florida Rules of Civil Procedure and the Florida
5 Evidence Code shall be instructive; however, the proceedings
6 shall be as informal as necessary to achieve an equitable
7 disposition of the claim bill. The special master shall
8 provide to all parties with an interest in the claim and to
9 the sponsor of the claim bill a minimum of 15 days' notice of
10 any hearing to be conducted pursuant to this joint rule.

11 (6) Upon completion of the hearing and other
12 proceedings incidental thereto, the special master shall
13 prepare and submit a report to the Joint Legislative Claims
14 Committee, which report shall contain findings of fact,
15 conclusions of law, collateral sources of recovery and
16 subrogation rights of any party or entity, exhaustion of all
17 judicial and administrative remedies, including appeals, and
18 recommendations regarding the disposition of the claim bill.

19 (7) The claimant, if represented by counsel, shall
20 furnish the Joint Legislative Claims Committee or the special
21 master with a verified statement of the attorney's fee
22 arrangements including the actual costs of perfecting the
23 claim. Pursuant to section 768.28(8), Florida Statutes, no
24 attorney may charge, demand, receive, or collect, for services
25 rendered, fees in excess of 25 percent of any judgment or
26 settlement.

27 (8) All final reports shall be submitted by the
28 special master to the Joint Legislative Claims Committee
29 within 15 days after the conclusion of the proceedings before
30 the special master. A copy of the report shall be served upon
31 the interested parties by certified mail, return receipt,

1 contemporaneously with the filing of the report with the
2 committee and the report shall contain the certificate of the
3 special master as to service. The special master shall be
4 reasonably available to explain the report to the committee
5 and staff as well as the interested parties.

6 (9) All interested parties shall file written
7 objections to the special master's report with the committee
8 within 10 days after service, failing in which the interested
9 parties shall have waived any objections to the correctness of
10 the findings contained in the report.

11 (10) A special master shall not initiate or consider
12 any ex parte communication relative to the merits of a claim
13 by any party to the claim or any person who, directly or
14 indirectly, would have a substantial interest in the decision
15 of the special master, or their authorized representatives or
16 counsel.

17 (11) The interested parties may appear before the
18 Joint Legislative Claims Committee to present arguments;
19 however, no additional testimony or evidence shall be
20 introduced, unless permitted by the committee.

21 (12) Stipulations as to the amount of awards entered
22 into by the parties are not binding upon special masters or
23 upon the House of Representatives, the Senate, or any member
24 or committee thereof.

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