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House Concurrent Resolution

A concurrent resolution proposing the adoption of Joint Rule 8, Joint Rules of the Florida Legislature, relating to the Joint Legislative Claims Committee.

Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

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 bill. The statement of need shall contain the following:

(a) A listing of all funds the claimant has received or is entitled to receive from any other sources, including all forms of federal, state and local government assistance;

(b) A statement detailing the maximum amount available from any collateral sources of recovery, the action taken by the claimant to vigorously pursue these sources of recovery,

1 and the status of any litigation to recover from a collateral  
2 source;

3 (c) A statement regarding whether the claimant has  
4 agreed to a settlement and whether the settlement has been  
5 paid; and

6 (d) A statement substantiating that the amount of the  
7 judgment is reasonable when measured against judgments entered  
8 in cases of a similar nature involving similar circumstances;

9 (3) Claim bills may be filed or prefiled at any time,  
10 during regular or special sessions of the Legislature or  
11 during the interim.

12 (4) Upon filing, each claim bill shall be immediately  
13 referred to the Joint Legislative Claims Committee in  
14 accordance with the rules of the house in which the bill is  
15 filed.

16 (5) Prior to the filing of a claim bill, the sponsor  
17 may provide a draft of the claim to the chair of the Joint  
18 Legislative Claims Committee for determination by the  
19 committee as to whether the appointment of a special master is  
20 required, as provided in Joint Rule 8.3. If the committee  
21 determines that the appointment of a special master is  
22 required, the special master may conduct the proceeding based  
23 on the draft legislation. However, the committee shall not  
24 act further upon the claim until the claim bill is filed and  
25 referred to the committee.

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

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

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

7           8.2--Appointment of Members of the Joint Legislative  
8 Claims Committee

9           (1) There shall be a Joint Legislative Claims  
10 Committee, the membership of which shall consist of five  
11 members of the House of Representatives, at least two of which  
12 shall be a member of the minority party, appointed by the  
13 Speaker of the House of Representatives and five members of  
14 the Senate, at least two of which shall be a member of the  
15 minority party, appointed by the President of the Senate.

16           (2) Of the five members from the House of  
17 Representatives, at least three shall also serve on the  
18 committee of the House of Representatives having jurisdiction  
19 over civil tort law and at least two shall also serve on a  
20 fiscal committee of the House of Representatives.

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

25           (4) The Joint Legislative Claims Committee shall meet  
26 at times and places necessary to perform the functions  
27 assigned to it.

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

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1           (6) The President of the Senate shall appoint the  
2 chair in the odd years and the vice chair in even years, and  
3 the Speaker of the House of Representatives shall appoint the  
4 chair in even years and the vice chair in odd years, from  
5 among the committee membership.

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

13           8.3--Hearings

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

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

23           (3) In the case of an excess judgment claim, if there  
24 is an underlying judgment, an appellate order, or a final  
25 administrative order with respect to the claim, the special  
26 master or, if the claim bill is not referred to a special  
27 master, the Joint Legislative Claims Committee shall presume  
28 that the damages awarded in the judgment or order are the  
29 damages which the claimant incurred, but shall not presume  
30 that the amount of the judgment is the amount which is  
31 appropriated to achieve an equitable disposition of the claim

1 bill. The special master or Joint Claims Committee may reject  
2 or modify the judgment only if the opposing party can show  
3 cause, which may include newly discovered evidence, as to why  
4 the judgment or order should be rejected or modified.

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

11 (5) A special master shall have the authority to  
12 control all proceedings before the special master, including  
13 the authority to:

14 (a) conduct prehearing conferences and management  
15 conferences;

16 (b) allow discovery if deemed beneficial to the  
17 consideration of the claim bill;

18 (c) administer oaths to witnesses;

19 (d) admit or reject evidence;

20 (e) make arrangements for preparing a record of the  
21 proceedings, which shall either include a transcript of the  
22 proceedings, a video recording of the proceedings, or an audio  
23 tape recording of the proceedings;

24 (f) accept tangible and documentary evidence;

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

26 (h) take such other steps as as are reasonably  
27 necessary to conduct a thorough and orderly investigation of  
28 the basis for the claim bill.

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30 In all proceedings before the special master, the provisions  
31 of the Florida Rules of Civil Procedure and the Florida

1 Evidence Code shall be instructive; however, the proceedings  
2 shall be as informal as necessary to achieve an equitable  
3 disposition of the claim bill. The special master shall  
4 provide to all parties with an interest in the claim and to  
5 the sponsor of the claim bill a minimum of 15 days' notice of  
6 any hearing to be conducted pursuant to this joint rule.

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

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

23 (8) All final reports shall be submitted by the  
24 special master to the Joint Legislative Claims Committee  
25 within 15 days after the conclusion of the proceedings before  
26 the special master. A copy of the report shall be served upon  
27 the interested parties by certified mail, return receipt,  
28 contemporaneously with the filing of the report with the  
29 committee and the report shall contain the certificate of the  
30 special master as to service. The special master shall be

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1 reasonably available to explain the report to the committee  
2 and staff as well as the interested parties.

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

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

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

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