

By Senator Bankhead

41-1784-98

See HCR

1 Senate Concurrent Resolution No. \_\_\_\_

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

6  
7 Be It Resolved by the Senate of the State of Florida, the  
8 House of Representatives Concurring:

9  
10 That Joint Rule 8, Joint Rules of the Florida  
11 Legislature, is hereby created to read:

12  
13 Joint Rule Eight

14 Joint Legislative Claims Committee

15  
16 8.1--Filing Claim Bills

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

20 (2) Claim bills shall require only one sponsor from  
21 the house of the Legislature of which the sponsor is a member  
22 and shall require no companion in the other house of the  
23 Legislature.

24 (3) Claim bills shall be filed with the Secretary of  
25 the Senate or the Clerk of the House of Representatives, as  
26 the case may be.

27 (4) Claim bills may be filed or prefiled at any time,  
28 during regular or special sessions of the Legislature or  
29 during the interim.

30 (5) Upon filing, each claim bill shall be immediately  
31 referred to the Joint Legislative Claims Committee in

1 accordance with the rules of the house in which the bill is  
2 filed.

3 (6) Prior to the filing of a claim bill, the sponsor  
4 may provide a draft of the claim to the chair of the Joint  
5 Legislative Claims Committee for determination by the  
6 committee as to whether the appointment of a special master is  
7 required, as provided in Joint Rule 8.3. If the committee  
8 determines that the appointment of a special master is  
9 required, the special master may conduct the proceeding based  
10 on the draft legislation. However, the committee shall not  
11 act further upon the claim until the claim bill is filed and  
12 referred to the committee.

13 (7) After a claim bill has been voted favorably by the  
14 Joint Legislative Claims Committee, the bill shall be reported  
15 to the house in which it originated for referral or  
16 consideration in accordance with the rules of that house.

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

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

23 8.2--Appointment of Members of the Joint Legislative  
24 Claims Committee

25 (1) There shall be a Joint Legislative Claims  
26 Committee, the membership of which shall consist of five  
27 members of the House of Representatives, at least two of which  
28 shall be a member of the minority party, appointed by the  
29 Speaker of the House of Representatives and five members of  
30 the Senate, at least two of which shall be a member of the  
31 minority party, appointed by the President of the Senate.

1           (2) Of the five members from the House of  
2 Representatives, at least three shall also serve on the  
3 committee of the House of Representatives having jurisdiction  
4 over civil tort law and at least two shall also serve on a  
5 fiscal committee of the House of Representatives.

6           (3) Of the five members from the Senate, at least  
7 three shall also serve on the Senate committee having  
8 jurisdiction over civil tort law and at least two shall also  
9 serve on a Senate fiscal committee.

10           (4) The Joint Legislative Claims Committee shall meet  
11 at times and places necessary to perform the functions  
12 assigned to it.

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

16           (6) The President of the Senate shall appoint the  
17 chair in the odd years and the vice chair in even years, and  
18 the Speaker of the House of Representatives shall appoint the  
19 chair in even years and the vice chair in odd years, from  
20 among the committee membership.

21           (7) Within the limitation of the approved operating  
22 budget, the salaries and expenses of the staff of the Joint  
23 Legislative Claims Committee shall be paid from the  
24 appropriation for legislative expenses or any other moneys  
25 appropriated by the Legislature for that purpose. In the  
26 alternative, the Joint Legislative Claims Committee may  
27 utilize the services of the staffs of the two houses.

28           8.3--Hearings

29           (1) Based upon a review of a claim bill and any  
30 additional information supplied by the sponsor or any party  
31 interested in the claim bill, the Joint Legislative Claims

1 Committee shall determine whether the nature or complexity of  
2 a claim bill necessitates the appointment of a special master  
3 to conduct evidentiary hearings on the claim bill.

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

7 (3) In the case of an excess judgment claim, if there  
8 is an underlying judgment, an appellate order, or a final  
9 administrative order with respect to the claim, the special  
10 master or, if the claim bill is not referred to a special  
11 master, the Joint Legislative Claims Committee shall accept  
12 the judgment or order unless the opposing party can show  
13 cause, which may include newly discovered evidence, as to why  
14 the judgment or order should be rejected or modified.

15 (4) The Joint Legislative Claims Committee may  
16 determine that the parties involved shall bear the cost of the  
17 special master and other costs incidental to such an  
18 evidentiary hearing and may require that financial  
19 responsibility for the costs to be incurred be made in advance  
20 of the appointment of a special master.

21 (5) A special master shall have the authority to  
22 control all proceedings before the special master, including  
23 the authority to:

24 (a) conduct prehearing conferences and management  
25 conferences;

26 (b) allow discovery if deemed beneficial to the  
27 consideration of the claim bill;

28 (c) administer oaths to witnesses;

29 (d) admit or reject evidence;

30 (e) make arrangements for preparing a record of the  
31 proceedings, which shall either include a transcript of the

1 proceedings, a video recording of the proceedings, or an audio  
2 tape recording of the proceedings;

3 (f) accept tangible and documentary evidence;

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

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

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

17 (6) Upon completion of the hearing and other  
18 proceedings incidental thereto, the special master shall  
19 prepare and submit a report to the Joint Legislative Claims  
20 Committee, which report shall contain findings of fact,  
21 conclusions of law, collateral sources of recovery and  
22 subrogation rights of any party or entity, exhaustion of all  
23 judicial and administrative remedies, including appeals, and  
24 recommendations regarding the disposition of the claim bill,  
25 including attorney's fees and costs, if appropriate.

26 (7) The claimant, if represented by counsel, shall  
27 furnish the Joint Legislative Claims Committee or the special  
28 master with a verified statement of the attorney's fee  
29 arrangements including the actual costs of perfecting the  
30 claim. Pursuant to section 768.28(8), Florida Statutes, no  
31 attorney may charge, demand, receive, or collect, for services

1 rendered, fees in excess of 25 percent of any judgment or  
2 settlement.

3 (8) All final reports shall be submitted by the  
4 special master to the Joint Legislative Claims Committee  
5 within 15 days after the conclusion of the proceedings before  
6 the special master. A copy of the report shall be served upon  
7 the interested parties by certified mail, return receipt,  
8 contemporaneously with the filing of the report with the  
9 committee and the report shall contain the certificate of the  
10 special master as to service. The special master shall be  
11 reasonably available to explain the report to the committee  
12 and staff as well as the interested parties.

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

18 (10) A special master shall not initiate or consider  
19 any ex parte communication relative to the merits of a claim  
20 by any party to the claim or any person who, directly or  
21 indirectly, would have a substantial interest in the decision  
22 of the special master, or their authorized representatives or  
23 counsel.

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

28 (12) Stipulations as to the amount of awards entered  
29 into by the parties are not binding upon special masters or  
30 upon the House of Representatives, the Senate, or any member  
31 or committee thereof.