

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1752

SPONSOR: Senator McKay

SUBJECT: Florida Statutes

DATE: March 13, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill repeals certain statutes that are considered to be outdated, obsolete, unnecessary, or impliedly superseded.

The bill repeals the following sections of the Florida Statutes:

- 16.58(2)(g), relating to a court reporter pilot program.
- 25.074, relating to the assignment of judges to geographical areas.
- 25.081, relating to the Supreme Court seal.
- 34.01(1)(c)1.-3. and a portion of paragraph 4., relating to the jurisdictional amounts for county court actions.
- 35.09, relating to the district courts of appeal seal.
- 46.015(4), relating to covenants not to sue.
- 46.051(6)(b), relating to the joinder of parties in products liability cases.
- 57.111(6)(b), relating to civil actions initiated by state agencies.
- 60.02, relating to injunctions.
- 92.55(1), relating to victims and witnesses.
- 112.3217(4), relating to lobbying.
- 120.574(2)(g), relating to a register of formal hearings.

The bill shall take effect on becoming law.

II. Present Situation:

During the 1999-2000 legislative interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original

sections of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority;
2. A provision rendered obsolete due to passage of time;
3. A requirement which was nonrecurring due to the completion of the activity;
4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application;
5. A cross-reference to another section which was otherwise repealed;
6. The use of boilerplate language, such as a severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation;
7. The creation of a short title, or popular name, unrelated to the purpose of the statute;
8. The use of archaic language or descriptions; and
9. A redundancy in text or reference no longer needed.

Section 16.58(2)(g), F.S., directs the Florida Legal Resource Center, a unit of the Department of Legal Affairs, to develop a pilot project to provide court reporting services to state agencies. The recommendations from that project were due to the Governor, the Speaker of the House and the President of the Senate by January 1, 1994. This section is therefore obsolete.

Section 25.074, F.S., allows the Supreme Court of Florida to require, by rule, a circuit or county court judge to regularly perform his or her services in a certain county or geographical area within the territorial jurisdiction of his or her court. The law also states that until the Supreme Court adopts a relevant rule, the statutory residence requirements in existence on April 26, 1972 shall control. Section 26.021, F.S., provides for certain residence requirements for judges in the Fifth, Seventh, and Sixteenth Judicial Circuits. Article V, Section 7 of the Florida Constitution allows a circuit or county court to hold trials and hearings in "any place within the territorial jurisdiction of the court as designated by the chief judge of the circuit." Moreover, Article V, Section 2 of the Florida Constitution places with the Supreme Court the authority to adopt rules for practice and procedure in all courts. Therefore, the Court should have constitutional authority to promulgate a rule governing the assignment of judges. Such assignment is contemplated in s. 25.074, F.S. As such, s. 25.074, F.S., is unnecessary.

Section 25.081, F.S., states that the official seal of the Supreme Court shall be provided by rules of the court. Article V, Section 1 of the Florida Constitution provides that the "judicial power shall be vested in a supreme court..." In addition, Article V, Section 2 authorizes the Supreme Court to adopt rules of practice and procedure in all state courts. These two provisions constitute sufficient constitutional authority for the Supreme Court to adopt a rule creating an official seal. The Florida Constitution cloaks the court with sufficient power to make a seal for its official use.

Section 34.01, F.S., sets the jurisdictional dollar amounts for county courts. Subsection (1)(c) contains jurisdictional amounts for cases filed from July 1, 1980 through July 1, 1990. Effective on July 1, 1992, the jurisdictional amount changed. Consequently, subsections (c)1.-3. and a short portion of subsection (c)4. relating to an effectiveness date are obsolete.

Section 35.09, F.S., creates authority for the Supreme Court to prescribe an official seal for the district courts of appeal. *See* discussion of s. 25.081, *supra*.

Section 46.015, F.S. relates to covenants not to sue. Subsection (4) of that section provides that the law will apply only to written releases or covenants not to sue executed after June 23, 1980. This subsection is likely unnecessary, since there are probably no remaining covenants executed prior to June 23, 1980, that currently would be applicable. The exact number cannot be determined however.

Section 46.051, F.S., governs the joinder of products liability insurers. Subsection (6)(b) of that section provides that the law is applicable only to causes of action accruing on or after October 1, 1978. The likelihood that there are causes of action for products liability which accrued prior to October 1, 1978 is extremely low. Therefore, this subsection is unnecessary.

Section 57.111, F.S., governs civil actions and administrative proceedings initiated by state agencies and is commonly known as the Florida Equal Access to Justice Act. The Act allows a prevailing small business entity to receive attorney's fees arising out of a civil or administrative action initiated by a state agency. Subsection (6)(b) provides that the Act will only apply to actions initiated by state agencies after July 1, 1984. Since it is unlikely that there are any existing civil or administrative actions dating from before July 1, 1984, this subsection is unnecessary.

Section 60.02, F.S., provides jurisdiction for "chancery courts" to enjoin persons from cutting trees, removing logs, or boxing or scraping trees for the purpose of making turpentine. This law was enacted in 1889, and the last reported case on s. 60.02 (formerly s. 64.08, F.S.) is Baker v. McKinney, 54 Fla. 495, 44 So. 944 (Fla. 1917). It is a tenet of the law of equity that a court has jurisdiction to enter an injunction if the moving party shows a likelihood of irreparable harm; the lack of an adequate remedy at law; a substantial likelihood of success on the merits of the underlying claim; and consideration of the public interest. Spradley v. Old Harmony Baptist Church, 721 So.2d 735 (Fla. 1st DCA 1998). As such, this law is unnecessary.

Section 92.55(1), F.S., requests the Supreme Court to enact rules relating to the protection of child and mentally retarded witnesses in criminal, civil, and juvenile proceedings. The Office of State Courts Administrator reports that such rulemaking has been accomplished by the Court and that this section is therefore unnecessary.

Section 112.3217, F.S., relates to contingent fees for lobbying the executive branch. Subsection (4) of that section provides that the section will not apply to any contract providing for compensation by contingency fee which was in existence on the date the act became law and which did not provide for compensation by contingency fee for lobbying after December 31, 1993. Since the law clearly contemplated that no contingency fee contracts could be in use after December 31, 1993, it is doubtful whether any lobbyist is engaged by such contract at this time. Therefore, repeal of subsection (4) is in order as it is unnecessary.

Section 120.574, F.S., relates to summary administrative hearings. Subsection (2)(g) of that section requires the Division of Administrative Hearings to maintain a register of the total number of formal proceedings filed with the Division pursuant to s. 120.57(1), F.S., for the two year period following October 1, 1996. That period has expired. Therefore, the subsection is obsolete.

III. Effect of Proposed Changes:

The bill will repeal the following sections of the Florida Statutes:

- 16.58(2)(g), relating to a court reporter pilot program.
- 25.074, relating to the assignment of judges to geographical areas.
- 25.081, relating to the Supreme Court seal.
- 34.01(1)(c)1.-3. and a portion of paragraph 4., relating to the jurisdictional amounts for county court actions.
- 35.09, relating to the district courts of appeal seal.
- 46.015(4), relating to covenants not to sue. The repeal of this effective date provision does not imply the repeal of the entire section as the intent is only to delete a provision that has no effect as any cause of action arising before the effective date (June 23, 1980) is probably barred by the applicable statute of limitation.
- 46.051(6)(b), relating to the joinder of parties in products liability cases. The repeal of this effective date provision does not imply the repeal of the entire section as the intent is only to delete a provision that has no effect as any cause of action arising before the effective date (October 1, 1978) is probably barred by the applicable statute of limitation.
- 57.111(6)(b), relating to civil actions initiated by state agencies. The repeal of this effective date provision does not imply the repeal of the entire Florida Equal Access to Justice Act as the intent is only to delete a provision that has no effect as any cause of action arising before the effective date (July 1, 1984) is probably barred by the applicable statute of limitation.
- 60.02, relating to injunctions.
- 92.55(1), relating to victims and witnesses.
- 112.3217(4), relating to lobbying. The repeal of this effective date provision does not imply the repeal of the entire section as the intent is only to delete a provision that has no effect as it is unlikely there are any current contracts in existence that were originally entered into before the effective date of December 1, 1993.
- 120.574(2)(g), relating to a register of formal hearings.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
