

By Senator Posey

24-1342-06

See HCR 7005

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Senate Concurrent Resolution

A concurrent resolution proposing the adoption of Joint Rule 10, Joint Rules of the Florida Legislature, relating to the Joint Legislative Claims Committee.

WHEREAS, section 13, Article X of the State Constitution gives the Legislature the exclusive authority to make provision "by general law for bringing suit against the state as to all liabilities now existing or hereafter originating," and

WHEREAS, the Legislature provided for bringing suit against the state and its agencies and subdivisions by the enactment of section 768.28, Florida Statutes, and

WHEREAS, section 768.28, Florida Statutes, is a limited waiver of sovereign immunity and provides caps on the amount of a claim that may be paid thereunder, and

WHEREAS, judgments or settlements against uninsured state agencies or subdivisions that exceed the statutory caps may only be paid by further act of the Legislature, and

WHEREAS, Joint Rule 10 establishes an internal process of the Legislature and does not create any new rights or remedy, and

WHEREAS, Joint Rule 10 is not intended and shall not be construed to create any right to legislative hearing or consideration of a claim bill, and

WHEREAS, Joint Rule 10 shall not be construed to waive any defense of sovereign immunity or to increase the limits of liability on behalf of the state or any person or entity subject to the provisions of section 768.28, Florida Statutes, NOW, THEREFORE,

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

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4 That Joint Rule 10, Joint Rules of the Florida
5 Legislature, is created to read:

6 Joint Rule Ten

7 Joint Legislative Claims Committee

8 10.1-Filing Claim Bills

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

12 (2) Claim bills shall be filed with the Secretary of
13 the Senate and the Clerk of the House of Representatives, as
14 required by the rules of each chamber.

15 (3) Local claim bills must be filed by a member of the
16 legislative delegation where any claimant resides or where any
17 claimant resided when the cause of action occurred. If the
18 claimant resides outside of the state, a local claim bill may
19 be filed by any member. General claim bills may be filed by
20 any member.

21 (4) Upon filing, each claim bill shall be immediately
22 referred to the Joint Legislative Claims Committee. The bill
23 may also be referred to one appropriations committee in each
24 chamber, at the discretion of the presiding officer of each
25 chamber. No additional referrals shall be made.

26 (5) After a claim bill has been voted favorably by the
27 Joint Legislative Claims Committee, the bill shall be reported
28 to the chamber in which it originated for referral to an
29 appropriations committee or to be placed directly on the
30 calendar of each chamber in accordance with the rules of that
31 chamber.

1 (6) The joint committee is authorized to request that
2 claim bills be placed on a consent calendar in both chambers.

3 (7) Notwithstanding any other rule of the House of
4 Representatives or rule of the Senate to the contrary, a
5 member shall not be restricted in the number of claim bills
6 that he or she may file for a regular session.

7 10.2-Appointment of Members of the Joint Legislative
8 Claims Committee; Powers and Duties

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 appointed by the
12 Speaker of the House of Representatives and five members of
13 the Senate appointed by the President of the Senate.

14 (2) The Joint Legislative Claims Committee shall meet
15 at times and places necessary to perform the functions
16 assigned to it.

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

20 (4) The Speaker of the House of Representatives shall
21 appoint the chair in odd years and the vice chair in even
22 years, and the President of the Senate shall appoint the chair
23 in even years and the vice chair in odd years, from among the
24 committee membership.

25 (5) The salaries and expenses of the staff of the
26 Joint Legislative Claims Committee shall be paid from the
27 Legislature's approved operating budget.

28 (6) The chair of the joint committee shall have the
29 authority to set the committee's agenda and set priorities for
30 special master consideration.

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1 (7) The joint committee is authorized to publish
2 biannually a manual detailing the policies and procedures of
3 the joint committee, subject to the approval by the presiding
4 officers.

5 10.3-Hearings

6 (1) A special master shall have the authority to
7 control all proceedings before the special master, including
8 the authority to:

9 (a) Conduct hearings, prehearing conferences, and
10 management conferences pursuant to reasonable notice;

11 (b) Allow discovery if deemed beneficial to the
12 consideration of the claim bill;

13 (c) Administer oaths to witnesses;

14 (d) Admit or reject evidence;

15 (e) Make arrangements for preparing a record of the
16 proceedings;

17 (f) Accept tangible and documentary evidence;

18 (g) Issue subpoenas as provided by law; and

19 (h) Take such other steps as are reasonably necessary
20 to conduct a thorough and orderly investigation of the basis
21 for the claim bill.

22 (2) In all proceedings before the special master, the
23 provisions of the Florida Rules of Civil Procedure and the
24 Florida Evidence Code shall be instructive; however, at the
25 discretion of the special master, the proceedings may be as
26 informal as necessary to achieve an equitable disposition of
27 the claim bill.

28 (3) Upon completion of the hearing and other
29 proceedings incidental thereto, the special master shall
30 prepare and submit a report to the Joint Legislative Claims
31 Committee, which report shall contain findings of fact,

1 conclusions of law, collateral sources of recovery, and
2 recommendations regarding the disposition of the claim bill.

3 (4) Stipulations as to the amount of awards entered
4 into by the parties are not binding upon the special master or
5 upon the House of Representatives, the Senate, or any member
6 of any committee thereof.

7 (5) The hearing and consideration of a claim bill
8 shall be held in abeyance until all available administrative
9 and judicial remedies have been exhausted, except that the
10 hearing and consideration of a claim that is still within the
11 judicial or administrative system may proceed when the parties
12 have executed a written settlement agreement.

13 (6) The special master and the joint committee are
14 authorized to examine lobbying fees regarding any filed claim
15 bill. Lobbying fees shall be presumed excessive if they are
16 more than:

17 (a) Three percent of the total amount awarded in the
18 bill for a claim that is settled when filed; or

19 (b) Five percent of the total amount awarded in the
20 bill for a claim that is not settled when filed.

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