

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

House 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

28 | to the provisions of section 768.28, Florida Statutes, NOW,  
 29 | THEREFORE,

30 |  
 31 | Be It Resolved by the House of Representatives of the State of  
 32 | Florida, the Senate Concurring:

33 |  
 34 | That Joint Rule 10, Joint Rules of the Florida Legislature,  
 35 | is hereby created to read:

36 | Joint Rule Ten

37 | Joint Legislative Claims Committee

38 | 10.1-Filing Claim Bills

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

41 | (2) Claim bills shall be filed with the Secretary of the  
 42 | Senate and the Clerk of the House of Representatives, as  
 43 | required by the rules of each chamber.

44 | (3) Local claim bills must be filed by a member of the  
 45 | legislative delegation where any claimant resides or where any  
 46 | claimant resided when the cause of action occurred. If the  
 47 | claimant resides outside of the state, a local claim bill may be  
 48 | filed by any member. General claim bills may be filed by any  
 49 | member.

50 | (4) Upon filing, each claim bill shall be immediately  
 51 | referred to the Joint Legislative Claims Committee. The bill may  
 52 | also be referred to one appropriations committee in each  
 53 | chamber, at the discretion of the presiding officer of each  
 54 | chamber. No additional referrals shall be made.

55       (5) After a claim bill has been voted favorably by the  
 56 Joint Legislative Claims Committee, the bill shall be reported  
 57 to the chamber in which it originated for referral to an  
 58 appropriations committee or to be placed directly on the  
 59 calendar of each chamber in accordance with the rules of that  
 60 chamber.

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

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

67       10.2—Appointment of Members of the Joint Legislative Claims  
 68 Committee; Powers and Duties

69       (1) There shall be a Joint Legislative Claims Committee,  
 70 the membership of which shall consist of five members of the  
 71 House of Representatives appointed by the Speaker of the House  
 72 of Representatives and five members of the Senate appointed by  
 73 the President of the Senate.

74       (2) The Joint Legislative Claims Committee shall meet at  
 75 times and places necessary to perform the functions assigned to  
 76 it.

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

80       (4) The Speaker of the House of Representatives shall  
 81 appoint the chair in odd years and the vice chair in even years,  
 82 and the President of the Senate shall appoint the chair in even

83 years and the vice chair in odd years, from among the committee  
 84 membership.

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

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

91 (7) The joint committee is authorized to publish  
 92 biannually a manual detailing the policies and procedures of the  
 93 joint committee, subject to the approval by the presiding  
 94 officers.

95 10.3-Hearings

96 (1) A special master shall have the authority to control  
 97 all proceedings before the special master, including the  
 98 authority to:

99 (a) Conduct hearings, prehearing conferences, and  
 100 management conferences pursuant to reasonable notice;

101 (b) Allow discovery if deemed beneficial to the  
 102 consideration of the claim bill;

103 (c) Administer oaths to witnesses;

104 (d) Admit or reject evidence;

105 (e) Make arrangements for preparing a record of the  
 106 proceedings;

107 (f) Accept tangible and documentary evidence;

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

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

112        (2) In all proceedings before the special master, the  
113 provisions of the Florida Rules of Civil Procedure and the  
114 Florida Evidence Code shall be instructive; however, at the  
115 discretion of the special master, the proceedings may be as  
116 informal as necessary to achieve an equitable disposition of the  
117 claim bill.

118        (3) Upon completion of the hearing and other proceedings  
119 incidental thereto, the special master shall prepare and submit  
120 a report to the Joint Legislative Claims Committee, which report  
121 shall contain findings of fact, conclusions of law, collateral  
122 sources of recovery, and recommendations regarding the  
123 disposition of the claim bill.

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

128        (5) The hearing and consideration of a claim bill shall be  
129 held in abeyance until all available administrative and judicial  
130 remedies have been exhausted, except that the hearing and  
131 consideration of a claim that is still within the judicial or  
132 administrative system may proceed when the parties have executed  
133 a written settlement agreement.

134        (6) The special master and the joint committee are  
135 authorized to examine lobbying fees regarding any filed claim

HCR 7005

2006

136 bill. Lobbying fees shall be presumed excessive if they are more  
137 than:

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

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