

By Senator Siplin

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1 A bill to be entitled
2 An act relating to the judicial system; amending s.
3 2.01, F.S.; clarifying which common and statute laws
4 of England in effect on July 4, 1776, are not
5 inconsistent with the Constitution and laws of the
6 United States and acts of the Legislature; amending s.
7 25.382, F.S.; clarifying the definition of the term
8 "state courts system"; requiring that an annual report
9 concerning the recruitment and retention of minorities
10 and women within the judicial system be submitted to
11 the Governor, the Cabinet, and the Legislature;
12 requiring the Supreme Court to implement a plan for
13 promoting civics education among all residents of the
14 state; requiring the Supreme Court to prepare an
15 annual report concerning the plan and to submit the
16 report to specified persons and the Legislature;
17 requiring the Supreme Court to submit all final
18 reports prepared from 2000 and thereafter to certain
19 designated persons; requiring the Auditor General and
20 the Office of Program Policy Analysis and Government
21 Accountability to conduct a full audit review and
22 examination every 2 years of the state judicial
23 system, the counties, and the state correctional
24 system; amending s. 43.20, F.S.; requiring that
25 certain expenses and administrative costs for the
26 Judicial Qualifications Commission be appropriated
27 from the state courts system; requiring the commission
28 to employ separate staff for each commission hearing
29 panel; requiring use of a designated staff committee

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30 of five common citizen electors to assist and engage
31 in the deliberations of each commission panel;
32 requiring the designated staff committee to prepare a
33 report of suggestions or comments; requiring that a
34 copy of the report be forwarded to the hearing panel
35 and the Supreme Court; providing that the reports of
36 the designated staff committee are public records;
37 requiring the commission to adopt rules; requiring the
38 Auditor General and the Office of Program Policy
39 Analysis and Government Accountability to conduct a
40 full audit review and examination of the commission
41 every 2 years; providing for application; providing an
42 effective date.

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44 Be It Enacted by the Legislature of the State of Florida:

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46 Section 1. Section 2.01, Florida Statutes, is amended to
47 read:

48 2.01 Common law and certain statutes declared in force.—

49 (1) The common and statute laws of England which are of a
50 general and not a local nature, with the exception hereinafter
51 mentioned, down to the 4th day of July, 1776, are declared to be
52 of force in this state; provided, the said statutes and common
53 law be not inconsistent with the Constitution and laws of the
54 United States and the acts of the Legislature of this state.

55 (2) As used in this section, the term "statutes and common
56 law be not inconsistent with the Constitution and laws of the
57 United States and the acts of the Legislature of this state"
58 means, but is not limited to:

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59 (a) Where clearly expressed or obviously and reasonably
60 implied without clear expression in the language and wording of
61 the acts of the Legislature.

62 (b) The statutory enactments that provide for rights and
63 claims in tort liability for acts committed directly or
64 indirectly involving judicial and administrative proceedings. In
65 such cases, litigation privilege or judicial, qualified, or
66 absolute immunity and the like are not to and will not be
67 considered as viable or valid defenses.

68 (c) Claims for or defenses of abuse of process, malicious
69 prosecution, and fraud upon the court, also known as extrinsic
70 fraud, must be strictly enforced. In such cases, litigation
71 privilege or judicial, qualified, or absolute immunity and the
72 like are not to and will not be considered as viable or valid
73 defenses.

74 (d) Criminal offenses under 18 U.S.C. ss. 241 and 242 and
75 claims under 42 U.S.C. ss. 1983, 1985, 1986, and 1988, as
76 prescribed by federal statutory and decisional law.

77 Section 2. Section 25.382, Florida Statutes, is amended to
78 read:

79 25.382 State courts system.—

80 (1) As used in this section, "state courts system" means
81 all officers, employees, and divisions of the Supreme Court,
82 district courts of appeal, circuit courts, and county courts,
83 also known as the judicial branch of state government.

84 (2) It is declared and determined that the officers,
85 employees, committees, and divisions of the state courts system
86 of the judicial branch are and shall continue to be officers,
87 employees, committees, and divisions of the state courts system

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88 to perform such services as may be provided by the State
89 Constitution, by law, by rules of practice and procedure adopted
90 by the Supreme Court, or by administrative order of the Chief
91 Justice, whichever is applicable.

92 (3) The manner of selection of employees, the determination
93 of qualifications and compensation, and the establishment of
94 policies relating to the work of such employees, including hours
95 of work, leave, and other matters, shall be determined by rule
96 of the Supreme Court as provided in s. 2(a), Art. V of the State
97 Constitution.

98 (4) The Supreme Court shall ensure that clearly written
99 policies, procedures, and goals for the recruitment, selection,
100 promotion, and retention of minorities, including minority
101 women, are established throughout all levels of the judicial
102 system. An annual report ~~shall be submitted to the Chief Justice~~
103 outlining progress, problems, and corrective actions relating to
104 the implementation of this plan shall be submitted to the Chief
105 Justice, the Governor, the Cabinet, the Speaker of the House of
106 Representatives, and the President of the Senate, and three
107 copies shall be submitted to each legislative substantive and
108 appropriations committee having jurisdiction over state courts
109 or judicial matters. The report shall be used for legislative
110 interim projects.

111 (5) The Supreme Court shall ensure that clearly written
112 policies, procedures, and goals are developed into a plan for
113 promoting civics for residents of this state, along with
114 education concerning the judicial branch in order to develop
115 trust and confidence therein. An annual report outlining
116 progress, problems, and corrective actions relating to the

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117 implementation of this plan shall be submitted to the Chief
118 Justice, the Governor, the Cabinet, the Speaker of the House of
119 Representatives, and the President of the Senate, and three
120 copies shall be submitted to each legislative substantive and
121 appropriations committee having jurisdiction over state courts
122 or judicial matters. The report shall be used for legislative
123 interim projects.

124 (6) The Supreme Court shall submit all final reports
125 completed by assigned court committees, whether by rule or
126 order, dating from 2000 and thereafter, as follows: one copy to
127 the Governor, the Cabinet, the Speaker of the House of
128 Representatives, and the President of the Senate, and three
129 copies to each legislative substantive and appropriations
130 committee having jurisdiction over state courts or judicial
131 matters. The reports may be used for legislative interim
132 projects.

133 (7) Pursuant to ss. 11.45(2)(a), 11.51(1), and 11.513(5),
134 the Auditor General and the Office of Program Policy Analysis
135 and Government Accountability shall conduct a full audit review
136 and examination of the state courts system, any agency or unit
137 under Article V of the State Constitution, each county, and the
138 state correctional system. This audit must be conducted every 2
139 years beginning July 1, 2010, in accordance with the full
140 authority and responsibilities conferred upon the Auditor
141 General and the office by general law. The report and
142 recommendations must be submitted within 1 year to the
143 chairperson and vice chairperson of the Legislative Budget
144 Commission, the Legislative Auditing Committee, the Governor,
145 and the Chief Justice of the Supreme Court.

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146 Section 3. Subsection (5) of section 43.20, Florida
147 Statutes, is amended, and subsections (6) and (7) are added to
148 that section, to read:

149 43.20 Judicial Qualifications Commission.—

150 (5) EXPENSES.—The compensation of members, their staff, and
151 referees shall be the travel expense or transportation and per
152 diem allowance provided by s. 112.061. Other administrative
153 costs and expenses shall be appropriated under the state courts
154 system.

155 (6) COMMISSION STAFF.—The commission shall hire separate
156 staff for each commission panel, which may be compensated or be
157 volunteer services.

158 (a) Staff for each commission panel must consist of at
159 least one designated staff committee of five common citizen
160 electors to assist and engage in the deliberations for each
161 panel of members of the commission in carrying out its powers
162 and duties. The designated staff committee shall prepare a
163 report of suggestions or comments. Such designated staff
164 committee must consist of persons who are not considered to be
165 officers of the court.

166 (b) A report of the suggestions or comments of the
167 designated staff committee shall be forwarded to the hearing
168 panel upon submission of formal charges by the commission's
169 investigative panel so to assist the hearing panel in its
170 pending proceedings and final recommendations.

171 (c) A report of the suggestions or comments of the
172 designated staff committee shall be forwarded to the Supreme
173 Court, along with the recommendations of the commission's
174 hearing panel, so to assist the Supreme Court in its final

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175 determination.

176 (d) The reports of the suggestions or comments of the
177 designated staff committee shall be public records and available
178 upon the final determination of any case rendered by any
179 commission panel.

180 (e) The commission shall adopt rules to implement this
181 subsection.

182 (7) COMMISSION ACCOUNTABILITY AND EFFICIENCY.—Pursuant to
183 ss. 11.45(2) (a), 11.51(1), and 11.513(5), the Auditor General
184 and the Office of Program Policy Analysis and Government
185 Accountability shall conduct a full audit review and examination
186 of the commission every 2 years commencing July 1, 2010, in
187 accordance with the full authority and responsibilities
188 conferred under general law to the Auditor General and the
189 office. The report and recommendations shall be submitted within
190 1 year to the chairperson and vice chairperson of the
191 Legislative Budget Commission, the Legislative Auditing
192 Committee, the Governor, and the Chief Justice of the Supreme
193 Court.

194 Section 4. Section 1 of this act shall be given retroactive
195 effect and prospective application in law.

196 Section 5. This act shall take effect July 1, 2009.