

By the Committee on Judiciary; and Senator Evers

590-03667-15

20151528c1

1 A bill to be entitled
2 An act relating to the Commission on Federalism;
3 creating s. 11.9006, F.S.; creating the Commission on
4 Federalism; providing for the membership, meetings,
5 and staff support of the commission; authorizing
6 members to be reimbursed for per diem and travel
7 expenses; providing duties of the commission;
8 providing criteria to evaluate a federal law, agency
9 policy, mandate, or executive order; specifying which
10 sources the commission may rely on in an evaluation;
11 requiring the commission to submit biannual reports to
12 the Governor and the Legislature; providing report
13 requirements; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 11.9006, Florida Statutes, is created to
18 read:

19 11.9006 Commission on Federalism.—

20 (1) CREATION.—The Commission on Federalism is created. The
21 commission shall hold its first meeting in January 2016, and
22 shall meet six times each calendar year unless additional
23 meetings are approved by the President of the Senate and the
24 Speaker of the House of Representatives. The President of the
25 Senate and the Speaker of the House of Representatives shall
26 assign staff to assist the commission.

27 (2) MEMBERSHIP.—

28 (a) The commission is composed of seven members, as
29 follows:

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30 1. The President of the Senate or his or her designee, who
31 shall serve as co-chair;

32 2. A member of the Senate appointed by the President of the
33 Senate;

34 3. The Speaker of the House of Representatives or his or
35 her designee, who shall serve as co-chair;

36 4. Two members of the House of Representatives appointed by
37 the Speaker of the House of Representatives;

38 5. The Minority Leader of the Senate or his or her
39 designee; and

40 6. The Minority Leader of the House of Representatives or
41 his or her designee.

42 (b) A vacancy on the commission shall be filled in the same
43 manner as the original appointment.

44 (c) Members of the commission are entitled to receive
45 reimbursement for per diem and travel expenses pursuant to s.
46 112.061.

47 (3) DUTIES.—

48 (a) The commission may evaluate a federal law, agency
49 policy, mandate, or executive order when such action is agreed
50 to by a majority of the commission.

51 (b) The commission may request information regarding a
52 federal law, agency policy, mandate, or executive order from a
53 member of Florida's Congressional Delegation to facilitate this
54 evaluation.

55 (c) If a majority of the commission finds that a federal
56 law, agency policy, mandate, or executive order is not
57 authorized by the powers delegated to the Federal Government or
58 any of its agencies under the United States Constitution or

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59 violates the principle of federalism as described in subsection
60 (4), a co-chair of the commission may:

61 1. Request information about the federal law, agency
62 policy, mandate, or executive order or assistance from a member
63 of Florida's Congressional Delegation in communicating with a
64 federal government entity regarding the federal law, agency
65 policy, mandate, or executive order;

66 2. Give written notice of an evaluation of the federal law,
67 agency policy, mandate, or executive order to the federal
68 government entity responsible for adopting or administering the
69 evaluated law, agency policy, mandate, or executive order and
70 request that the federal government entity respond to the
71 commission's evaluation by a specific date;

72 3. Request a meeting, conducted in person or by electronic
73 means, with the responsible federal government entity or any
74 member of Congress to discuss the evaluated law, agency policy,
75 mandate, or executive order and any possible remedy; or

76 4. Correspond with the presiding officers of the
77 legislative branch of another state or with a government entity
78 of another state which has powers and duties that are similar to
79 those of the commission to discuss and coordinate the evaluation
80 of and response to the federal law, agency policy, mandate, or
81 executive order.

82 (d) If agreed upon by a majority vote, the commission may
83 recommend to the Governor that he or she call a special session
84 of the Legislature to respond to the evaluated law, agency
85 policy, mandate, or executive order.

86 (e) The commission shall maintain the following information
87 on the website of the Florida Legislature:

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88 1. Each federal law, agency policy, mandate, or executive
89 order evaluated by the commission;

90 2. Any action taken by a co-chair of the commission under
91 paragraph (c); and

92 3. Any response to an evaluation received from a federal
93 government entity, official, or employee.

94 (4) EVALUATION.—The commission shall determine whether a
95 federal law, agency policy, mandate, or executive order
96 evaluated by the commission:

97 (a) Is authorized by any of the express enumerated powers
98 contained in the United States Constitution and duly ratified
99 amendments.

100 (b) Violates the principle of federalism by:

101 1. Affecting the distribution of power and responsibility
102 between the state and federal governments;

103 2. Limiting the policymaking discretion of the state;

104 3. Affecting a power or a right reserved to the state or
105 its residents by the Ninth Amendment or the Tenth Amendment to
106 the United States Constitution; and

107 4. Affecting the sovereignty rights and interests of the
108 state or a political subdivision to provide for the health,
109 safety, and welfare and to promote the prosperity of the
110 residents in the state or the political subdivision.

111 (5) SOURCES.—

112 (a) In evaluating a federal law, agency policy, mandate, or
113 executive order, the commission shall rely on:

114 1. The text of the United States Constitution and duly
115 ratified amendments.

116 2. The meaning of the text of the United States

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117 Constitution and duly ratified amendments at the time of
118 drafting and ratification.

119 3. A primary source document that is directly relevant to
120 the drafting, ratification, or initial implementation of the
121 United States Constitution and duly ratified amendments or
122 created by a person directly involved in the drafting, adoption,
123 ratification, or initial implementation of the United States
124 Constitution and duly ratified amendments.

125 (b) The commission may rely on other relevant sources,
126 including federal court decisions. However, the commission's
127 evaluation of a federal law, agency policy, mandate, or
128 executive order is not bound by a holding by a federal court.

129 (6) REPORT REQUIREMENT.—On or by May 20 and October 20 of
130 each year, the commission shall electronically submit a report
131 to the Governor and the Legislature which summarizes the
132 following:

133 (a) Action taken by the commission in accordance with this
134 section.

135 (b) Action taken by, or communication received from, the
136 following in response to a request, inquiry, or any other action
137 taken by the commission:

- 138 1. A member of Florida's Congressional Delegation;
- 139 2. A member of Congress from another state; or
- 140 3. A federal government entity, official, or employee.

141 Section 2. This act shall take effect July 1, 2015.