The Legislative Process in the State of Florida

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Historically, Florida failed to retain legislative history resources because the Governor was disproportionately involved in the law-making process, the view materials were not very important, and the lack of materials limited their early use for exploration of legislative intent. Once resources became more readily available, Florida court opinions began to explore when legislative history should be introduced as evidence of intent, what materials would be admissible, and how much weight the legislative resources should be afforded. Today, although Florida still has some issues with broad accessibility of historical legislative history material, the Florida courts have acknowledged there are times when these materials need to be considered in determining the proper interpretation of Florida statutes.

KEYWORDS Florida legislative history, Florida legislative intent, Florida legislative process

The passage of laws in the state of Florida today is an extensive process with a great deal of thought and debate invested in the selection of every word in an individual Florida statute. Yet, even with all the time and energy invested in the creation of laws, an inquiry into the legislature's intent is still often necessary when looking for a greater understanding of the meaning of the law. When seeking the intent of a law, a researcher must perform the arduous task of compiling a legislative history. In Florida, the court occasionally finds itself having to address the issue of how to employ legislative histories to pinpoint and apply the true intent of the Florida legislature. This inquiry focuses on Florida's legislative process, the courts' usage of state legislative resources, and the availability of resources for compiling a legislative history in the state of Florida.
Anyone who is aware of the traditional bicameralism law-making system will understand the multiple stages a bill must go through to become a law. In Florida, the route a bill takes to become a law is fairly traditional, but it has not always been that way. In the past, there was one aspect of the law-making process quite unique to the state. The anomaly is that the Florida legislature only recently became involved with the conception stage of the law-making process. Historically, when a new governor of Florida took office, the governor would offer the legislature an agenda for the term along with prewritten bills for introduction. The presentation of these prewritten bills left very little drafting opportunities to the legislature, and the only power they held was in the act of voting for or against the particular piece of legislation. Fortunately, this practice is no longer condoned, and the current Florida legislature is often involved in the conceptual stage of the law-making process because they are now asked to participate in both the writing and introduction of bills. In fact, it is now impossible for the egregious practice of past governors to occur. The current practice allows for the introduction of a bill only after the bill has gone to the bill-drafting service and is introduced by a member of the legislature or committee. After introduction and drafting, the “first reading” of a bill occurs when it is published in the journal of the particular house where it was introduced. The bill is then referred to committee for committee hearings and after that is placed on the calendar. A second reading of the bill occurs, and further amendments to the text may occur at this time. The bill is read again, time is allotted for debate, and a vote follows. After the bill passes through one house, it is sent to the other for passage. Once there, the house can elect to concur with the bill or suggest further amendments before passage. A bill passing through both houses moves on to enrollment as an act before it is sent to the governor of Florida for approval. The governor now has three possible responses to the passed text. He can elect to approve the act with his signature, allow it to become a law but choose not to provide a signature, or reject the act by vetoing it and returning it to the legislature with an explanatory message. After the Florida governor decides to execute his right to veto, the act may still become a law if the legislature overrides it with a two-thirds vote in both houses. The effective date for a Florida law is provided in the Florida Constitution under Article III, Section 18. A law in Florida goes into effect sixty days after approval.

Courts Use State Legislative Resources

Before the 1970s, legislative materials were irregularly introduced in Florida courts. Interestingly, this was not a conscious choice made by Florida judges to not allow legislative materials to be entered but more a result of the sheer
lack of accessibility to legislative history materials. Simply put, Florida lacked a procedure for the retention or preservation of legislative materials. It only in 1969 did the state decided to retain some materials by committee on a regular basis. After the legislative materials became more readily available, the Florida judiciary began to allow them in courts when applicable.9

A court opinion addressing the legislative intent of a statute and in turn how legislative history materials were valuable in Florida stated, “Legislative intent controls construction of statutes in Florida and that intent is determined primarily from the language of the statute.”10 Florida legislative history materials may not always be recognized as having significant weight in a court proceeding, but they are recognized traditionally in cases where a key issue in the case is the meaning of a particular statute that “is susceptible to more than one interpretation.”11

Over the years, guidelines for the introduction of legislative materials in Florida courts to clarify legislative intent have been expounded in several opinions. A case from 1918, Van Pelt v. Hilliard, is one of the early opinions in Florida to explore legislative intent. In the opinion, the Justice stated, “Where a word used in a statute has a definite meaning, and the sense in which it is used is clear, the courts must give to such word its popular meaning, as the Legislature is assumed to have said what they intended by the use of such word, and there is nothing for the courts to construe. But if a word has no definite or generally accepted popular meaning, or in the connection in which it is used is ambiguous, then the court must construe such word and give to it such meaning as is reasonable and will carry out the legislative intent.”12 This principle was explored further more than 50 years later in State v. Egan, where the court determined “such rules are useful only in case of doubt and should never be used to create doubt, only to remove it. Where the legislative intent as evidenced by a statute is plain and unambiguous, then there is no necessity for any construction or interpretation of the statute, and the courts need only give effect to the plain meaning of its terms.”13 It was once again discussed and further defined in a 2006 opinion; Borden v. East-European Ins. Co., states that the language in the statute is the primary place where the court should look for intent.14 Borden also uses text from a 2005 opinion, Daniels v. Fla. Dept. of Health,15 to clarify the suggested use of legislative intent: “When the statute is clear and unambiguous, courts will not look behind the statute’s plain language for legislative intent or resort to rules of statutory construction to ascertain intent.”16 In Reeves v. State, a 2007 case, the view of legislative intent for statutory interpretation was: “T]he cardinal rule of statutory construction is that a statute should be construed so as to ascertain and give effect to the intention of the Legislature as expressed in the statute.”17 The strategies for legislative analysis as laid out in recent Florida court opinions may appear restrictive with regard to intent and consequently the inclusion of legislative materials. The aim in Florida courts has been to give effect to the language selected by the legislature.
and not amend in any way the end product of the statute. A case decided shortly before publication reiterated this view by stating in the first sentence of analysis of legislative intent, “Courts are required to first consider the actual language of the statute.” Historically, Florida courts have intermittently allowed legislative history materials be considered even after the court has determined that the language of a statute is clear. Yet, the Florida courts will primarily come back time and again to the plain meaning of the statute as the standard for statutory interpretation. But when the statutory language is unclear, it is appropriate to turn to statutory history for guidance.

An exception to the plain meaning of the statute rule will also be made when a court’s literal interpretation of a specific term in the statute results in the court being led to an absurd conclusion; the term will then be deemed as no longer disclosing the intent of the legislature. When an oddity like this occurs, the Florida court should always look to sources outside the four corners of the statute at materials made available from compiling a legislative history of the statute.

After a judge determines statutory ambiguity is present, a judicial interpretation by the court of the statute occurs, and as mentioned previously, the court will look beyond the four corners and consider various legislative materials to establish intent. When investigating which legislative material to present as part of the analysis, it is important to note not all legislative materials are afforded the same weight in court. In fact, hearing transcripts and records of debates are not deemed authoritative by Florida courts for construing the meaning of a bill. Taped committee proceedings also have scant weight in court, although they are available to persistent researchers willing to get them from the archive in Tallahassee, FL. The rationale behind their miniscule value is that recordings are intended for office use only, are not transcribed, and are often referred to as “working papers” by the legislative employees. In Smith v. Crawford, a case where legislative intent was sought by entering the comments of the legislature, the Florida Supreme Court stipulated the misreading of the act in question was due to a heavy reliance on comments made during legislative floor debates and this “shows the inherent difficulties in using such evidence to illuminate legislative intent.” In another case addressing the validity of legislative resources, the court deemed legislative audio and videotapes as not being “public records of equal or superior dignity to the legislative journals.” Thus, it is the type of evidence that could not be used to impeach the legislative journals. The journals of the house and senate are viewed as authoritative resources by the Florida courts and have been described as containing the official “records of actions” on the floor of the houses. They are also considered the only evidence superior in dignity to recorded acts themselves. In the event of a conflict between an act and the journal, the journal controls in Florida. Committee reports and staff analyses are also often cited in Florida courts because each resource is determined to provide strong fodder for legislative
intent. Committee reports have been described as containing “the most persuasive indicia of congressional intent.” Reports of special committees are also used to discover intent because of their investigative inquiry into future problems that may arise with particular legislation. The notes and comments of these and other legislative Commissions are also recognized and treated in the same light as the special committee reports in Florida Courts.

**PRIMARY RESOURCES FOR COMPILING A LEGISLATIVE HISTORY**

*Biweekly Subject Index* and *Legislative Bill Summary* are indexes of Florida statutes in their slip law format. *West’s Florida Session Law Services*, published by Thomson West, and the *Florida Law Weekly Session Law Reporter* provide indexes, tables, and full-text versions of some of the laws passed during the session. The *Laws of Florida* is the multivolume publication containing the laws enacted in a particular year for a specific legislative session. A free online resource for the *Laws of Florida* from 1997 to the most current session is available at the Division of Elections Florida Department of State (http://election.dos.state.fl.us/laws/laws_proced.shtml).

*Florida Statutes* is a multivolume set of books that compile the legislatively enacted laws of the state of Florida into an official codified version of the law. This official codified set has been published every year since 1999. Before 1999, the official codified version was released in odd years, with an additional bound supplement made available for the even years. Each set of the *Florida Statutes* contains a table of section changes, a table tracing session laws to Florida statutes, and a table of repealed and transferred sections. A free online resource for the *Florida Statutes* from 1997 to the present is available from Online Sunshine (http://www.leg.state.fl.us/Statutes). To assist people with understanding the language used in the Florida statutes, the legislature publishes a softbound resource, *Florida Statutes Definitions Index*. The *Florida Statutes Annotated* is a resource published by Thomson West. This publication is not official but does contain helpful information such as court rules, case notes, bar rules, and citations to other background material applicable to the statute. Another unofficial statutory resource is the *Florida Annotated Statutes*, published by LexisNexis. This set is softbound and contains the Florida statutes, U.S. and Florida Constitutions, case annotations, and background reference citations.

Locating historical bill information can be quite trying, especially if you are not currently residing in Tallahassee, FL. This is because bill information from 1969 to 1975 is meager and only available by physically going to the *Florida State Archive* located in Tallahassee. Bill information from 1975 to 1988 is complete, but it is again only available by going to the *Florida State Archive*. The text of current bills as they go through...
the legislation is available free online, through the Florida senate link, http://www.flsenate.gov/session/bills. Most of the house and senate Bills in their original format are available for free online from 1997 to the present at http://www.myfloridahouse.gov/Sections/Bills/bills.aspx.

Final Legislative Bill Information is a white softbound resource organized by bill number. The resource provides the researcher with both indexing and tracking data for legislation that is pending and data on actions that were proposed but never passed. It is important to note that this resource does not contain the text of the bill. Remember to search in the “S” section for research on senate bills and the “H” section for house bills.

The house and senate journals are available in print form and on CD. The journals provide the researcher with a summary of the day’s events in the house or the senate. Debate information is not included in the journals, but amendments to bills made on the floor are included. Bill amendments are also contained on the senate Web site and are listed at the end of the bill. The house and senate journals from 1998 to 2010 are available for free online at the Florida senate archive Web page (http://archive.flsenate.gov/Session/index.cfm?Mode=Journals&Submenu=3&Tab=session). The current term’s house and senate journals are available on both house’s Web sites.

Compilation of Committee Staff Analyses is a compilation of available bill versions, staff analyses, committee investigations and reports, and voting date and governmental signing statements about bills during a particular time period. For fairly current bills, a printed copy of the staff analysis is often held with the committee. Once the committee is finished with the document, they send it to the legislative library. After the library has completed processing of the staff analysis, it is sent to the Florida State Archives. Staff analyses from 1998 to the current session are available for free online by selecting the applicable session year and chamber and then the applicable bill number at http://archive.flsenate.gov/Session/index.cfm?Mode=Bills&Submenu=1&Tab=session.

Committee reports are informal short fact sheets created by the committee and are not published. The committee is not required to keep or create a committee report. Some reports can be located at the State Archive in Tallahassee, FL. Selected committee reports are available online at http://archive.flsenate.gov/Committees/index.cfm?Mode=Committee%20Publications&Submenu=2&Tab=committees&CFID=3492702&CFTOKEN=77249334

For a recently passed bill, the committee report will only be available by contacting the applicable committee directly. The address and telephone numbers of all legislative committees are available on the Web pages of the Florida senate and house.

Committee hearings in Florida are not transcribed or published. Audio-tapes are available for every day of the prior session from the State Archives.
The archive staff generates taped copies of the session for the date upon request. Occasionally a researcher can locate committee hearings from the individual committee tasked with the bill. Some video from the past session is available for free online in the archive section of the Florida senate Web page: http://www.flsenate.gov/Session/Index.cfm?Mode=Video&Submenu=8&Tab=session. When the house is in session, a live feed of the bill that is being considered is available for viewing on the house of representatives Web page (http://www.myfloridahouse.gov/Sections/SessionLive/preview.aspx).

Pending and proposed bill information and full text are available by contacting the legislative information service at (800) 342–1827 and (850) 488–4371. For house bill information, contact the clerk of the house at (850) 488–1157. For senate bill information, contact the secretary of the senate at (850) 487–5270. Free online bill tracking information is available at the senate Web page (http://www.flsenate.gov/login) as well as the house Web page (http://www.myfloridahouse.gov/Sections/MyHouse/login.aspx).

CONTACT INFORMATION

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R. A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399-0250
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Reference Fax: 850-245-6651
Lending Services Fax: 850-245-6744

Legislative Library Room
701, The Capitol
Tallahassee, FL 32399-1400
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State Archives of Florida
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500 South Bronough Street
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leg.info@leg.state.fl.us
NOTES

2. Id.
3. Id. at 111.
4. Id. at 146, 147.
5. Id. at 111.
6. Id. at 146, 147.
7. Id. at 114.
8. Id. at 146, 147.
12. Van Pelt v. Hilliard, 78 So. 693, 693 (Fla. 1918).
15. 898 So. 2d 61, 64 (Fla. 2005).
21. Id.
25. Ferguson, Murthy v. N. Sinha Corp.—Does Florida’s Construction Contracting Statute Create a Private Cause of Action, supra n. 10.
26. Roehrenbeck, supra n. 9, at 15.
27. Busharis & Rowe, supra n. 23.
31. Id.
32. Id.
33. Amos v. Gunn, 84 Fla. 285, 94 So. 615 (1922).
34. Roehrenbeck, supra n. 9, at 16.
36. Id. at 497, 498.
37. Id. at 498, and see Sheffield–Brigg Steel Products, Inc. v. Act Concrete Serv. Co., 63 So. 2d 924 (Fla. 1953).