

HB 835

2014

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;
4 providing for the membership, meetings, and staff
5 support for the commission; providing for
6 reimbursement of commission members for per diem and
7 travel expenses; providing duties of the commission to
8 evaluate federal laws for adherence to the United
9 States Constitution and the principle of federalism;
10 providing criteria and procedures for conducting the
11 evaluations; authorizing the commission to recommend
12 the calling of a special session in certain
13 circumstances; requiring the commission to maintain
14 certain information on its website; authorizing the
15 commission to issue determinations regarding the
16 constitutional authority for the evaluated laws;
17 requiring the commission to monitor and communicate
18 with other states on certain actions taken pursuant to
19 Article V of the United States Constitution; requiring
20 the commission to submit an annual report to the
21 Governor and Legislature; providing an effective date.

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

24
25 Section 1. Section 11.9006, Florida Statutes, is created
26 to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 11.9006 Commission on Federalism.—

28 (1) CREATION.—There is created the Commission on
 29 Federalism. The commission shall convene beginning in January
 30 2015 and shall meet four times each calendar year unless
 31 additional meetings are approved by the President of the Senate
 32 and the Speaker of the House of Representatives. The President
 33 of the Senate and the Speaker of the House of Representatives
 34 shall assign staff to assist the commission.

35 (2) MEMBERSHIP.—

36 (a) The commission is comprised of seven members as
 37 follows:

38 1. The President of the Senate or his or her designee, who
 39 shall serve as co-chair of the commission.

40 2. A member of the Senate appointed by the President of
 41 the Senate.

42 3. The Speaker of the House of Representatives or his or
 43 her designee, who shall serve as co-chair of the commission.

44 4. Two members of the House of Representatives appointed
 45 by the Speaker of the House of Representatives.

46 5. The Minority Leader of the Senate or his or her
 47 designee.

48 6. The Minority Leader of the House of Representatives or
 49 his or her designee.

50
 51 For purposes of this section, a designee must be an elected
 52 member of the same legislative body as the designator.

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

55 (c) Members of the commission are entitled to
56 reimbursement for per diem and travel expenses pursuant to s.
57 112.061.

58 (3) DUTIES.—

59 (a) The commission may evaluate a federal law when agreed
60 to by a majority of the commission.

61 (b) The commission may request information regarding a
62 federal law under evaluation from one of more members of the
63 Florida Congressional Delegation.

64 (c) If a majority of the commission finds that a federal
65 law, agency, policy, mandate, or executive order is not
66 authorized by the powers delegated to the Federal Government or
67 any of its agencies under the United States Constitution or
68 violates the principles of federalism as described in subsection
69 (4), a co-chair of the commission may:

70 1. Request from one or more members of the Florida
71 Congressional Delegation information about the federal law or
72 assistance in communicating with a federal government entity
73 regarding the federal law.

74 2. Give written notice of an evaluation of the federal law
75 to the federal government entity responsible for adopting or
76 administering the evaluated law and request that the federal
77 government entity respond to the evaluation by a specific date.

78 3. Request a meeting, conducted in person or by electronic

79 means, with the federal government entity or any member of
 80 Congress to discuss the evaluated law and any possible remedy.

81 4. Correspond with the presiding officers of the
 82 legislative branch of another state or with an entity of another
 83 state that has powers and duties that are similar to those of
 84 the commission to discuss and coordinate the evaluation of and
 85 response to the federal law.

86 (d) If agreed upon by a majority of the commission, the
 87 commission may recommend to the Governor that he or she call a
 88 special session of the Legislature to give the Legislature an
 89 opportunity to respond to the evaluated law.

90 (e) The commission shall keep a current list on the
 91 website of the Florida Legislature of the following:

- 92 1. Each federal law that the commission evaluates.
- 93 2. Any action taken by a co-chair of the commission under
 94 paragraph (c).
- 95 3. Any response to an evaluation received from a federal
 96 government entity.

97 (4) EVALUATION.—

98 (a) The commission shall determine whether a federal law
 99 evaluated by the commission is authorized by any of the express
 100 enumerated powers contained in the United States Constitution
 101 and duly ratified amendments.

102 (b) The commission shall evaluate whether a federal law
 103 violates the principle of federalism by:

- 104 1. Affecting the distribution of power and responsibility

105 between the state and the Federal Government.

106 2. Limiting the policymaking discretion of the state.

107 3. Affecting a power or a right reserved to the state or
 108 its residents by the Ninth Amendment or the Tenth Amendment to
 109 the United States Constitution.

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

114 (5) (a) SOURCES.—In evaluating a federal law, the
 115 commission shall rely on:

116 1. The text of the United States Constitution and duly
 117 ratified amendments.

118 2. The meaning of the text of the United States
 119 Constitution and duly ratified amendments at the time of
 120 drafting and ratification.

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

127 (b) The commission may rely on other relevant sources,
 128 including federal court decisions. However, the commission's
 129 evaluation of a federal law is not bound by a holding by a
 130 federal court.

131 (6) ARTICLE V ACTIONS BY STATES.—

132 (a) In addition to the other duties conferred by this
133 section, the commission shall have the duty to act as the
134 Legislature's liaison with the legislatures of the other states,
135 including monitoring the actions taken by, and communicating
136 with, the legislatures of the other states on the subject of
137 actions taken, or proposed to be taken, under Article V of the
138 United States Constitution. Included within this category are
139 resolutions, memorials, or other calls by the legislatures of
140 the other states on the United States Congress to either:

141 1. Call an Article V Convention of the States for the
142 purpose of proposing amendments to the United States
143 Constitution; or

144 2. Pass proposed amendments to the United States
145 Constitution for the states to consider ratifying.

146 (b) In furtherance of this duty, the commission shall:

147 1. Ensure that each state legislature is kept informed of
148 the official positions taken by the Florida Legislature pursuant
149 to Article V of the United States Constitution.

150 2. Ensure that all official actions taken or proposed to
151 be taken by other state legislatures or designated
152 representatives thereof in furtherance of an Article V
153 Convention of the States are timely reported to the Legislature
154 so that decisions about responses to, and participation in, such
155 activities can be timely made.

156 (7) REPORT REQUIREMENT.—By November 1 of each year, the

157 commission shall submit a report by e-mail to the Governor and
158 the Legislature, and post it on the website of the Legislature,
159 which includes the following:

160 (a) Action taken by the commission in accordance with this
161 section.

162 (b) Action taken by, or communications received from, any
163 of the following in response to a request or inquiry made by the
164 commission or any other action taken by the commission:

- 165 1. A member of the Florida Congressional Delegation;
166 2. A member of Congress from another state; or
167 3. A federal government entity, official, or employee.

168 (c) The status of all actions taken by the states under
169 Article V of the United States Constitution for the United
170 States Congress to either:

171 1. Call an Article V Convention of the States for the
172 purpose of proposing amendments to the United States
173 Constitution; or

174 2. Pass proposed amendments to the United States
175 Constitution for the states to consider ratifying.

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177 The report shall include each state's action; the date and the
178 subject matter thereof; how many other states have taken the
179 same or similar action; whether any action has been taken to
180 rescind, revoke, or amend a prior action; and any other
181 pertinent information concerning the status and progress of the
182 states' efforts at seeking amendments to the United States

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183 Constitution. The report required by this section should be
184 amended or supplemented and resubmitted within a reasonable
185 period of time after new information material to the subjects
186 contained in the report is received.

187 Section 2. This act shall take effect July 1, 2014.