

Op-Ed: Florida Legislature hatches judicial branch take-over scheme

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If you're a Florida lawmaker whose bills keep getting thrown out of court because they're illegal, what do you do? You fabricate a judicial crisis to take over the courts, create a bill, call it a Constitutional amendment, and hope voters buy it.

Florida courts are, for the second time since 2001, facing a legislative assault on their independence as the Florida Legislature tries to conjure up more prefabricated judicial crises to [reportedly](#) push more than a half-dozen measures to usurp judicial power and give the Legislature and Governor more influence in selecting judges from the county courthouse to the Florida Supreme Court. The changes proposed by Florida's legislature would further enable special interest groups -- lobbyists -- angered by any court decision to remove judges they don't like.



Republicans in Florida's legislature are [trying to justify splitting the Florida Supreme Court](#) in two to create a second Supreme Court, allegedly to speed up the administration of justice - particularly death penalty cases. One Supreme Court would handle criminal cases and one would handle civil cases. Each court would consist of five members each. Unsurprisingly, the information used by the legislature to justify its actions conflict with reality.

As usual, power business groups are driving the sweeping changes proposed by Florida's Republican legislative leaders. The business groups, with House Speaker Dean Cannon (R-Winter Park) leading the charge, want to dismantle existing judicial nominating commissions, which they see as too close to the state's trial lawyers, and give Rick Scott, Florida's Republican Governor, more power to select judges.

Cannon, a lawyer, asked Representative Eric Eisnaugle (R-Orlando) to create a constitutional amendment to be presented to voters in 2012 for approval. A House committee already approved the measure. Cannon [reportedly](#) claims he respects the judiciary's independence, but wants to curb its power because it has exceeded its constitutional limits.

Why do Cannon and company believe Florida's judiciary has exceeded its constitutional limits? According to a [Herald Tribune report](#), examples of that overreach, Florida's Republican legislative leaders say, is the Supreme Court's rejection of three constitutional amendments drafted by lawmakers last year aimed at preserving their power to draw boundaries for the districts they represent. Earlier Supreme Court rulings on the death penalty law and procedures also upset

Florida lawmakers. And Cannon thinks the judicial branch has exceeded its constitutional limits...

Legal Groups Questioning Scope and Intent of Changes

The Florida Bar association, legal scholars, judicial members, and other groups are raising questions about the scope and intent of the changes which [would](#):

- Require a confirmation vote in the State Senate for all newly appointed Supreme Court Justices and Judges on the state's five District Courts of Appeal.
- Raise the retention vote standard for appellate judges from a majority vote in an election to 60 percent.
- Grant the governor the power to appoint all members of commissions that nominate judicial candidates, which would eliminate the role of the Florida Bar association.
- The Legislature would be allowed to write procedural rules for the courts.
- Split the seven-member Florida Supreme Court into two new Supreme Courts of five members each, one for criminal cases and one for civil cases, giving Scott the ability to appoint three new justices that better serve him and the legislature than those currently on the bench.

But, the legislation proposed by Florida Republicans gets better. In addition to requiring all Supreme Court and appellate Judges to be approved by the Senate, it also gives the Senate six months -- 180 days -- after an appointment to decide whether or not to confirm a judge. In effect, every appeals court Judge in Florida would be on probation for half a year and subject to being fired if he or she rules against the Legislature. Last year, as [noted](#) by the St. Petersburg Times, the Florida Senate booted two new members of the Public Service Commission who voted against big electric rate hikes.

Critics of the proposal are calling it a blatant power grab by the conservative legislature in which an overwhelming number of Republicans hold a majority. Proponents of the proposal [claim](#) the existing merit-retention system, which dates back to 1972, fosters an environment of autonomy without accountability. Oh the duplicitous irony...

This would bode well for Governor Scott, who lets 3 think tanks -- the Cato Institute, the Reason Foundation, and the Heritage Foundation -- [guide his decisions](#). Governor Scott rewards cronyism and has tapped members of these organizations for leadership roles in his administration. You can bet it won't bode well for Floridians.

To See Who benefits, Follow the Money

Let's start with the [Cato Institute](#). "Individual liberty, free markets, and peace" is the slogan of the Cato Institute, who admittedly tries to influence public policy. Charles Koch, who runs Koch Industries with his brother David, co-founded the Cato Institute in 1977 with Edward H. Crane.

The [Cato Institute has consistently pushed for corporate tax cuts](#), reductions in social services, and [deregulation of environmental regulations](#). The Koch brothers have quietly given more than a hundred million dollars to right-wing causes.

The [Reason Foundation](#) is a conservative organization that, in cadence with the Heritage Foundation, created reports that deemed high-speed rail a waste of taxpayer money, resulting in Scott scrapping construction of a bullet train between Tampa and Orlando. Robert Poole, transportation director for the Reason Foundation, [reportedly](#) served on Scott's economic development transition team. The Reason Foundation's projects include [NewEnvironmentalism.org](#) and [Privatization.org](#). According to the Reason Foundation website -- which claims it was founded in 1968 and 1978 -- it advances a free society by developing, applying, and promoting libertarian principles, including individual liberty, free markets, and the rule of law. The Reason foundation describes itself as a “libertarian” think tank which challenges strict environmental regulations: "A national research and education organization that explores and promotes public policy based on rationality and freedom.”

The [Heritage Foundation](#), widely considered one of the world's most influential "public policy" research institutes, is a New Right think tank founded in 1973. It has strong ties to the London Institute of Economic Affairs and the Mont Pelerin Society, and has a long history of receiving large donations from overseas, including several hundred thousand dollars from Taiwan and South Korea each year. Heritage Foundation plays a big role in influencing Washington politics. The Heritage Foundation regularly publishes articles, papers, journals, etc. expressing its strongly slanted neo-conservative opinions in several areas, and is constantly [lauded by corporate media](#). Unfortunately for the American people, since influencing Ronald Reagan's presidency back in the 1970s, many members of the Heritage Foundation have served in senior governmental roles, some for decades.

As with any highly explosive political situation, particularly those that are designed to intentionally destroy millions of lives, to get the true picture of what is happening, all you need to do is make two observations: First, Cui bono (to whose benefit)? Second, follow the money. The GOP's class war on workers, the poorer population, and Senior citizens is in full swing, and there are [many Democrats who side with Republicans](#).

It's Time for the People to Get Involved

Florida's Legislature, like the many others in the Midwest who continue trying to illegally subvert the democratic process, is controlled by incorrigible corporate whores who have profited greatly at the expense of those they're supposed to represent courtesy of the U.S. Supreme Court's 2010 decision in the [Citizens United v. the FEC](#) case when five of the nine corporately politicized Justices -- including Chief Justice Roberts, who was a lobbyist for years before being appointed by G.W. Bush -- based their decisions on corruption and greed instead of the rule of law. [Citizens United was just the first of many](#) lawsuits in the works that were dreamt up to sell out the rest of “Democracy” to corporations and lobbyists and buy elections. More often than not, the same

corporations who buy our politicians also write the legislation.

As Howard Troxler from The St. Petersburg Times [wrote](#):

"It is revolution. It is constitutional usurpation. It is practically a whole new form of government.

But I'll tell you what it ain't. It ain't "conservative."

Giving Governor Scott free reign to appoint cronies and corrupting the judicial system isn't the only priority for Florida's legislature. Florida is facing a projected budget gap of almost \$4 billion dollars for which Scott plans to attempt reducing taxes and making additional cuts in spending on social services and schools, but yesterday the Florida legislature took up another financial issue that had nothing to do with the budget: Senate Bill 1390 -- a bill that will allow them to increase the amount of lobbyist and corporate money they can stuff into their campaign coffers by raising the limit from the \$500 each legislator is able to collect to \$2,500. It's nice to see [the legislature is looking out for the people it serves](#).

Removing checks and balances, and politicizing the judicial system to push your illegal agenda and let your corporate masters run amok has resulted in the mess this country is in today. Florida's legislative body is trying to legalize what has gone on in Washington – albeit illegally -- for decades and the working class, the poorer population and Senior citizens are paying a heavy price for it. The time is now to impeach five U.S. Supreme Court "Justices," get politics out of the hands of corporations and into the hands of the people where they belong, make drastic changes to lobbying laws, impose term limits for State and Federal legislators and those they appoint, and restore the rule of law for everyone. Accountability is long over-due. It's time for the people to get involved.