IN THE SUPREME COURT OF FLORIDA

Case No. SC01-765

THE FLORIDA SENATE, ET AL.

Petitioners

vs.

FLORIDA PUBLIC EMPLOYEES
COUNCIL, 79, AFSCME

Respondent

BRIEF OF AMICI, FORMER SPEAKERS OF THE FLORIDA HOUSE OF REPRESENTATIVES, IN SUPPORT OF PETITIONERS

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STATEMENT OF INTEREST OF AMICI

The identity and interest of Amici, set out in their Motion filed herewith, is hereby incorporated by reference. Although their constitutional obligations to protect the integrity and independence of the Florida Legislature no longer exist, they fully support the position of the Florida Legislature in the above captioned matter. Amici constitute a bi-partisan representation of former House Speakers. Amici have differed on numerous policy, legal and constitutional issues during their public lives, but fully support legislative independence asserted in this matter and offer this brief in support.[1]

STATEMENT OF THE CASE

Amici adopt the statement of the case of the Petitioners in this matter.

SUMMARY OF ARGUMENT

The judiciary has no jurisdiction or power to intrude upon legislative procedure. The judicial power may not control legislative process and may not inquire into legislative process. The Legislature, and each of its houses is the sole authority over its procedure. One Legislature may not bind a future Legislature by statute, especially with respect to discretionary legislative functions.

The Legislature enjoys inviolable common law immunity from civil process affecting its legislative activity. The members of the Legislature are immune from legal process related to any inquiry into legislative functions. This immunity goes back at least 500 years and is relied upon today wherever English common law applies.

The judiciary has an obligation to restrain its own excesses. Mere issuance of judicial process and the conduct of judicial proceedings purporting to inquire into or regulate legislative process during the legislative session constitutes an intolerable hindrance to the Legislature's performance of its constitutional functions. Florida courts should *sua sponte* inquire into their own jurisdiction to avoid burdening other branches with the necessity of proceedings such as this.

Legislative independence is fundamental to a republican form of

government. Popular sovereignty is the basic component of the republican form in this nation and the Legislature is the branch representative of and most accountable to the people. Legislative independence from non-representative powers, therefore, is guaranteed by Article IV, section 4 of the United States Constitution.

ARGUMENT

I. The judiciary has no jurisdiction or power to intrude upon legislative procedure

A. The judicial power may not control legislative process

> The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

Fla. Const., art. II, sec. 3. A legal complaint asking a court to direct legislative action seeks unconstitutional judicial interference with the independent exercise of a legislative power. A judicial order purporting to direct when legislative meetings may be held is void. See Moffitt v. Willis, 459 So.2d 1018 (Fla. 1984). It is the final product of the Legislature that is subject to review by the courts, not the internal procedures. This is reiterated in Moffitt:

> As we stated in General Motors Acceptance Corp. v. State, 152

> Fla. 297, 303, 11 So.2d 482, 485 (1943), the legislature has the power to enact measures, while the judiciary is **restricted** to the construction or interpretation thereof.

Moffitt, 459 So.2d at 1021 (emphasis added).

The judiciary, therefore, has no jurisdiction or power to regulate legislative procedure. This Court made this unmistakably clear in Crawford v. Gilchrist, 59 So. 963 (Fla. 1912):

> The provision that each house "shall determine the rules of its proceedings" does not restrict the power given to the mere formulation of standing rules, or to the proceedings of the body in ordinary legislative matters; but in the absence of constitutional restraints, and when exercised by a majority of a constitutional quorum, **such authority extends to the determination of the propriety and effect of any action as it is taken by the body as it proceeds in the exercise of any power, in the transaction of any business, or in the performance of any duty conferred upon it by the constitution**.

59 So. at 968 (quoting forerunner to Article III, section 4(a), Florida Constitution) (emphasis added). In the present case, a committee meeting was noticed to meet pursuant to the rules of the House and Senate. Only the House and Senate may determine the propriety of that meeting.

The Legislature is first named among the coordinate branches.[2] Its legislative jurisdiction is co-extensive with sovereignty excepting only those limitations or prohibitions contained in the Constitutions of Florida and the United States or those matters exclusively assigned by the Florida

Constitution to another branch. Fla. Const. art. II, sec. 3. See, e.g., Adams v. Miami Beach Hotel Ass'n, 77 So.2d 465 (Fla. 1955). The court in Adams noted fields of legislation:

> in which the legislative power is supreme unless some specific provision of organic law is transgressed. Absent such transgression it is for the legislature and not the courts to determine what is 'unnecessary, unreasonable, arbitrary and capricious.'

Adams at 468.

The complaint against the Legislature in the circuit court sought judicial control of legislative proceedings. The *ex parte* TRO purported to regulate legislative proceedings. The Order to Show Cause issued by the circuit court questioned procedural decisions by the Speaker of the House, the President of the Senate and the chairs of the select committee that met in a manner that conflicted with the putative mandate of the TRO. The circuit court's mere expectation of a response and/or compliance with the court's wishes from the members of the Legislature constitutes an intrusion upon the exclusive jurisdiction of the Legislature, just as much as if the House sought to compel a Justice of this Court to explain a decision to hold an oral argument.

B. The judicial power may not inquire into legislative process

Not only is there no judicial power to regulate or direct legislative procedures, there is no judicial power to even inquire into legislative decisional processes. In numerous cases in Florida, the judiciary has refused to allow the judicial power to be used for inquiries into the sources of information available to the Legislature, the quality and quantity of evidence before the Legislature when acting, or the intent or motivation of legislators when performing legislative functions.[3 1] Accord, Florida Legislature v. Sauls, 614 So.2d 502 (Fla. 1993) (writ of prohibition issued against circuit judge, blocking subpoena of legislative employee). Legislators and legislative staff enjoy a common law immunity and privilege with respect to legislative activities. See, City of Safety Harbor v. Birchfield, 529 F.2d 1251 (5th Cir. 1976) (opining that the common law privileges and immunities of Florida legislators are not limited by the omission of an express provision in the state constitution).[2] See infra, Section II.

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[1] Although legislative intent is an important element considered when judicially interpreting statutes, no citation to authority is needed to note that legislators are not involuntarily summoned to court to testify to what was in their minds or why they voted to pass legislation. The legitimate search for legislative intent must therefore be confined to the recorded expressions of that intent, not the internal perceptions or thought processes of legislators. This decisional immunity or privilege is applicable to all three branches of government as well. See, Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena, 40 F.R.D. 318, 325 (D.D.C. 1966) (holding that the judiciary ?is not authorized to probe the mental processes of an executive or administrative officer?).

[2] The seminal case on legislative immunity is Tenney v. Brandhove, 341 U.S. 367, 71 S. Ct. 783, 95 L. Ed. 1019 (1951). This case explains that the scope of legislative powers, and the concomitant immunity and privilege, are very

C. The judicial power may not apply a statute to intrude upon a constitutional prerogative of the Legislature

In improvidently accepting jurisdiction of the Complaint filed by AFSCME, in entering a temporary restraining order, and in entertaining the idea of holding legislators in contempt for failing to comply with a void action, the trial court has completely ignored the provisions of Article III, Section 4 of the Florida Constitution. No court of this state has power to direct or prohibit any action of the Legislature that the Legislature has determined to be valid under its rules of procedure.

Article III, section 4 of the Florida Constitution provides in pertinent part:

> SECTION 4. Quorum and procedure.--
> (a)…Each house shall determine its rules of procedure.
> (e)…Each house shall be the **sole judge** for the interpretation, implementation and enforcement of this **section**.

(Emphasis added.) Paragraph (a) was provided in the original version of the 1968 state constitution. Paragraph (e), on the other hand, was added to the section by amendment adopted by the public in 1990. The amendment was proposed by the Legislature following an attempt by a circuit court to prohibit the Legislature from conducting meetings in secret, which attempt this Court invalidated. Moffitt v. Willis, 459 So.2d 1018 (Fla. 1984). While the circuit

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broad, and those powers include investigative processes in the legislative branch.

court may reasonably have been in doubt as to its jurisdiction in 1984, the explicit removal by the people through an amendment to the state constitution of jurisdiction in the courts over legislative procedural matters left no room for doubt in 2001. The court had neither the right to accept jurisdiction, to enter any orders other than an order of dismissal and the imposition of sanctions for filing a frivolous action, nor to attempt to enforce any of the invalid orders it may have inadvertently entered. No person is required to comply with an order that is void, and no person may be punished for having refused to comply with such an order. State ex. rel. Everette v. Petteway, 131 Fla. 516, 527, 179 So. 666, 671 (1938). Amici assert that not one of them would consider the circuit court's order to have any authority were they in the position of Speaker Feeney or President McKay at the time the TRO was entered.

Although Amici do not take a position on the proper interpretation of the collective bargaining statute relied upon by the complainant public employees' union in circuit court, Amici would remind this Court that one Legislature may not bind a future Legislature. "A legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law." Neu v. Miami Herald Pub. Co., 462 So.2d 821 (Fla. 1985). Accord, Sovereign Camp, W.O.W. v. Lake Worth Inlet Dist. of Palm Beach County, 161 So. 717, 720 (Fla. 1935) ("no one Legislature can contract away the

sovereign powers of subsequent Legislatures…") (relating to authorization of debt).

Indeed, not even substantive constitutional concerns can intrude upon legislative investigations. In the case of Gibson v. Florida Legislative Investigation Committee, 108 So.2d 729 (Fla. 1958), this Court stated:

> It has long been recognized that a legislative body has the power to conduct investigations in order to obtain information on subjects of legislation. Implicit in the power to legislate is the authority to seek out and acquire needed information in the rightful exercise of that power. This may be done through duly constituted committees. Compulsory process is a procedural incident to obtaining the information. [citation omitted] Once a valid legislative objective is established then the power of inquiry with effective process to obtain it is an essential concomitant of the legislative authority to act.

Gibson at 737. Compulsory process to aid the Legislature's inherent investigative powers, is specifically provided to the Florida Legislature in Article III, Section 5 of the Constitution of the State of Florida. In Gibson, despite the fact that the actions of the Florida Legislature -- reviewing allegations of sedition within the membership of the Miami branch of the NAACP -- implicated fundamental rights of the persons being investigated, the constitutional legislative power to conduct the investigation and to obtain information was not limited.

In this case, far less than fundamental political rights are implicated. Rather, the Legislature was merely undertaking its annual inquiry into the

facts surrounding potential impasses in labor disputes between state agencies and the unions representing affected bargaining units. Such disputes clearly affect the one mandatory annual responsibility of the Legislature, adopting a state budget. Further, the Legislature can be ultimately put in position to resolve such disputes. The Legislature took no action to curtail or otherwise prohibit any discussions between the parties. In inviting the union representatives, without compulsion, to present evidence, the Legislature sought to protect the right of the union members under Article I, Section 5 of the Florida Constitution, to assemble, instruct their representatives, and to petition for redress of grievances. Instead, the circuit court, purporting to prohibit such exchanges between the union and the Legislature, may have inadvertently trampled on the rights of the union membership. If the potential interference with First Amendment rights does not provide a basis for invading the legislative sphere, Gibson, supra, clearly a bargaining statute cannot limit the constitutional prerogative of the Legislature to hold meetings any time it pleases and to discuss any thing it pleases.

II. The Legislature enjoys inviolable common law immunity from any civil process affecting its Legislative activity

All individual liberty in the Anglo-American tradition is arguably rooted in the liberty of legislative bodies to operate free from external control. The Declaration of Independence indicted King George III, in part for "suspending our legislatures." The founding fathers, living closer to the times when Parliament secured this independence, by law, sword, and mace, were especially frustrated by the Crown's treating American legislatures with such low regard.[3]

In 1513, in Strode's Case, Parliament enacted a special bill to release one of its own members, Richard Strode, who had been jailed for introducing a bill that was alleged to obstruct tin mining. In the special bill, Parliament declared

> [t]hat suits, accusements, condemnations, executions, fines amerciaments, punishments, corrections, grievances, charges, and impositions, put or had, **or hereafter to be put or had,** unto or upon the said Richard, and to **every other of the person or persons** afore specified that now be of this present Parliament, **or that of any Parliament hereafter shall be, for any bill,**

[3] Some information is taken from a Memorandum from Peter Doherty, Ph.D. Senior Policy Analyst, The James Madison Institute, to Tom Feeney, Speaker of the Florida House, April 4, 2001. See also, The Founders Constitution Article I, Section 6, Clause 1, http://press-pubs.uchicago.edu/founders/tocs/a1_6_1.html (University of Chicago Press) (containing links to numerous sources, including Blackstone who takes the privilege back 1000 years).

> **speaking, reasoning, or declaring of any matter or matters concerning the Parliament to be communed and treated of, be utterly void and of none effect.**

See U.S. v. Johnson, 383 U.S. 169, 183, 86 S. Ct. 749, 760, 15 L. Ed. 2d 681, 757, fn 13 (1966) (citing, *inter alia*, 3 How. St. Tr. 294, 309 (1629))(emphasis added).

In 1543, in Ferrers' Case, the House of Commons, vindicated its members' privilege of freedom from arrest for the first time, relying on the mace as its symbol of authority to demand and obtain the release of an arrested Member. The House of Commons refused an offer of assistance by writ of the House of Lords, by stating that:

> …being of a clear opinion, that all commandments and other acts of the either House, were to be done and executed by their Serjeant (sic) without writ, only by shew of his mace, which was his warrant.

In that case, the Serjeant presented the mace and the order to George Ferrers' jailers and Ferrers was freed. See The House of Representatives Practice, 3d ed., "The Mace and the Speaker" (Parliament of Australia, House of Representatives), http://www.aph.gov.au/house/pubs/horpract/chap.ba.htm. Later, in 1571, in Strickland's Case, Strickland was detained by order of the Queen, but was released following Commons' protests about a breach of Parliamentary privilege under the precedents established by Strode and Ferrers. A Brief Chronology of the House of Commons, p. 2,

http://www.parliament.uk/commons/lib/fs39.pdf

In the Protestation of 1621, Commons debated a wider range of issues than the war revenue that King James I desired to be addressed, asserting the "ancient and undoubted birthright" of Englishmen to debate any subject in parliament without fear of arrest or punishment. (James I tore the protestation from the journal, threw it away and dissolved parliament.) A Brief Chronology of the House of Commons, p.2-3.

During the prosecution of Sir John Eliot in 1629, it was argued that Strode's Act applied to all legislators, but the court held that it was a private act. In 1667, both Houses of Parliament declared by formal resolution that Strode's Act was a general law,

> And that it extends to indemnify all and every (sic) the Members of both Houses of Parliament, in all Parliaments, for and touching all Bills, speaking, reasoning, or declaring of any Matter or Matters in and concerning the Parliament, to be communed and treated of, and is only a declaratory law of the antient (sic) and necessary Rights and Privileges of Parliament.

U.S. v. Johnson, 383 U.S. at 183, fn 13.

The Grand Remonstrance, introduced by John Pym and John Hampden, detailing the wrongs of Charles I and insisting on the rights of Parliament, passed narrowly on November 22, 1641. After giving assent, then withdrawing it, King Charles attempted to imprison Pym and other leaders, and force dissolution of Parliament. Pym and the others escaped by

jumping in the Thames and swimming to safety. Speaker of the House of Commons, Lenthall, was ordered to adjourn the House and summoned to tell the King the whereabouts of the fugitives. He refused the order to adjourn and his answer to the King embodies the historic relationship of the Speaker to the House and to the King and his courts:

> May it please Your Majesty, I have neither eyes to see, nor tongue to Speak in this place, but as the House is pleased to direct me, whose servant I am here, and I humbly beg Your Majesty's pardon that I cannot give any other answer than this to what Your Majesty is pleased to demand of me.

The leaders returned to their important role and Commons continued to expand its independence.[4] A Brief Chronology of the House of Commons, p. 3.

After the English Civil War, the principle of legislative independence and immunity were re-stated in the Declaration of Rights, February 13, 1689 (The English Bill of Rights). In that document, Parliament listed charges against the deposed, James II, including: "By prosecutions in the Court of King's Bench for matters and causes **cognizable only in parliament."** The Glorious Revolution, Appendix, HC Factsheets - General Series No. 4, p. 6, http://www.parliament.uk/commons/lib/fs08.pdf (emphasis added). The Declaration went on to hold:

That the freedom of speech and debates or proceedings in parliament

[4] Of course, the English Civil war began shortly thereafter.

> ought not to be impeached or questioned **in any court or place out of parliament**.

The Glorious Revolution, p. 7 (emphasis added). The similarity between the complaints of Parliament in the two centuries preceding American independence, and the terms of the American Declaration itself are obvious to any reader of these sources. The impact on properly interpreting America's law of liberty is unmistakable.

These precedents are not merely ancient history, but constitute an underpinning of present day democracy. In a 1992 letter, Speaker of the House of Commons, Betty Boothroyd, declared:

> When I was elected Speaker of the House of Commons in April of this year, one of my first and most important duties was to lay claim on behalf of the Commons to its undoubted rights and privileges, particularly to freedom of speech in debate, freedom from arrest, freedom of access to Her Majesty whenever occasion shall require and that the most important favourable construction should be placed upon all our proceedings. That I should do so with the assurance of receiving a favourable reply from the Monarch is due in no small measure to the activities of John Hampden and others of his generation.
> …
> [When Parliament met] in 1640, John Hampden was one of the most famous men in England. Throughout the short Parliament he reminded Members that the freedom of speech in debate was the most important issue before them. The principle he asserted - that Members of Parliament should not be held to account in the courts for their activities in the House - is one which is now universally accepted, enshrined as it is in the Bill of Rights, and which is integral to the effective functioning of Parliament to this day. Nor is this essential democratic rule confined to the United Kingdom: **the freedom of speech of Parliamentarians in the conduct of their duties is now accepted as one of the most**

> **significant benchmarks for assessing the democratic credentials of parliaments and international assemblies throughout the world**.

Letter to the John Hampden Society, dated 20 October 1992, http://www.westberks.demon.co.uk/jhs/letter.htm (emphasis added). See also, Parliamentary Privilege, http://www.parliament.uk/parliament/guide/sppriv.htm.[5]

Based upon this indisputable authority of history, Speaker Feeney, President McKay, Representative Brummer, Senator Garcia and all those "in active concert or participation with them"[6] are beyond the reach of the circuit court's orders, or any court's orders in any civil matter affecting their

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[5] A British tradition continuing to this day also confirms the immunity of the people?s house and relates to the matter before this Court:

> The State Opening of Parliament marks the start of the parliamentary session. It occurs when Parliament reassembles after a general election, and each subsequent year it is normally in November.
> It is the main ceremonial event of the parliamentary year, attracting large crowds, both in person and watching on television. The Queen drives in state from Buckingham Palace to Westminster.
> The Queen's Speech is delivered by the Queen from the Throne in the House of Lords. The speech is given in the presence of members of both Houses, the Commons being summoned to hear the speech by an official known as 'Black Rod'. In a symbol of the Commons' independence, **the door to their chamber is slammed in his face and not opened until he has knocked on the door** with his staff of office.

State Opening, http://www.parliament.uk/parliament/guide/maopen.htm (emphasis added). A polite knock from the circuit court, or Request for Response, as is utilized in this Court, would have been more in keeping with the common law immunity of the House of Representatives than the Orders issued in the circuit court.

[6] Emergency Petition for Writ of Prohibition, The Florida Legislature, p. 3. (quoting the TRO.)

legislative actions. Moreover, the subject of the union's complaint in circuit court--when the Legislature may consider a labor dispute--is outside the reach of the judicial power.

Florida legislators have at a minimum, the liberty enjoyed by Richard Strode in 1513.[7] This longstanding legal privilege extends beyond speech and debate and specifically immunizes the proceedings and reasoning of legislators. Thus, a court may neither judge the reason a meeting is called nor the reason a vote is cast. It is the position of Amici that this English tradition is a firm part of Florida's common law, see, ? 2.01, Florida Statutes,[8] and this common law makes void the circuit court's orders directed at participation, proposals, speaking, reasoning or declarations of the members of the Florida Legislature engaged in conducting a legislative meeting. See, City of Safety Harbor v. Birchfield, 529 F. 2d 1251, 1256 (5th Cir. 1976) (opining that the common law legislative privileges and immunities are probably fully operative in Florida). These privileges and immunities are inviolable, fully protected by the 14th Amendment to the United States Constitution:

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[7] The Legislature has implemented the legislative privilege of its members from entanglement in civil litigation during its sessions in Fla. Stat. ?11.111.

[8] Section 2.01, Florida Statutes adopts by reference all British law in effect on July 4, 1776, unless subsequently abrogated by the people of the United States or of Florida. A significant authority on legislative immunity, Hatsell's Precedents in the House of Commons 1:206--7 (1776), was published in April, 1776. Hatsell?s timeliness for the purposes of applying Section 2.01, might make the volume a worthy addition to the law libraries of the State of Florida. See, Letter from Thomas Jefferson, 1814, p. 4, http://www.law.upenn.edu/bll/specoll/jefflett.htm.

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

III. The judiciary has a responsibility to avoid overstepping its bounds

Amici do not view the decision of the Legislature to ignore the circuit court's TRO as an insult to the judiciary. As established in Everette, supra, no person has an obligation to obey a void order. Moreover, constitutional officers engaged in their duties arguably have a sworn obligation to ignore and resist unlawful attempts to obstruct them. In any event, significant injury has been inflicted upon the legislative powers by the mere issuance of the TRO. The Speaker and President were duty bound to examine the papers served upon them. They were required to utilize limited taxpayers' resources to determine the void nature of the circuit court's process, to explain themselves to the public, and have now been forced to seek the intervention of this Court's superintending powers over the judicial system.

This case could have been avoided by a proper exercise of judicial restraint and a demonstration of proper judicial temperament. A court is duty bound to *sua sponte* inquire into its own jurisdiction and avoid injury to the public. "[T]he limits of a court's jurisdiction are of 'primary concern,' requiring the court to address the issue '*sua sponte* when any doubt exists.'" Polk County v. Sofka, 702 So.2d 1243, 1245, (Fla. 1997) (quoting Mapoles v. Wilson, 122 So.2d 249, 251 (Fla. 1st DCA 1960)) Each of your Amici

doubted the jurisdiction of the circuit court to enter the TRO from the first moment they heard of it. It is incomprehensible that the circuit court has had no doubt. Yet no explanation of how it resolved that doubt is found in any of the Orders issued by the circuit court.

In a case such as this, where the functioning of another entire branch of government is interrupted, the circuit court had an especially high burden that should not have been shifted to the Legislature, petitioning in this matter, to the Executive branch, petitioning and appearing as amicus in a companion case, and to this Court, supervening in the matter. Comity demands scrupulous effort to avoid imposing upon other branches of government the burden of seeking redress from unconstitutional and void acts. Amici comprehend in the circuit court's actions, however, no diligence in examining its own jurisdiction. It appears to rely upon the mere pleading by the complainants below for its jurisdiction. That does not comport with this Court's opinion in Polk County, and the Amici respectfully suggest that the Court might take the opportunity, now that the responsibility has been foisted upon it, to direct the lower courts, in the future, to assiduously avoid intruding upon the separation of powers, the prerogatives of other constitutional officers, and the privileges and immunities of the citizens of the state of Florida.

IV. Legislative independence is fundamental to a republican form of government

Petitioners assert that this case implicates the Federal Constitutional guarantee of a republican form of government. Amici agree. The essence of the republican form is not primarily the separation of powers. It is the sovereign authority of **the people** over their government that is fundamental to a republican form. Duncan v. McCall, 139 U.S. 449 (1891). In Duncan, the nation's high court said:

> …the people are the source of all political power, but that, as the exercise of governmental powers immediately by the people themselves is impracticable, they must be exercised by representatives of the people.

Duncan at 461. (citing Luther v. Borden, 48 U.S. 1, 7 How. 1, 12 L. Ed. 581 (1849) (arguments of Daniel Webster). If a judge not representing the entire body politic, is permitted, upon motion of one special interest group, to direct the proceedings of the Florida Legislature, representing all the people of Florida, the representative spirit previously directing the Legislature will be suppressed.

The Legislature is the branch of government most closely identified with the people. The House of Representatives in particular, representing smaller districts and more frequently standing for reappointment by their constituents, constitutes the people's House. As described above, the House of Commons was the focus of the development of the legislative privileges

now asserted by the Legislature in this matter. The ability of the House to reflect all the passions and perspectives of the people, in its assembling, associations and right to speak freely can not be permitted to come under the control of any power other than the people of Florida. Article I, sec. 1, Florida Constitution. The role of the Senate is no less significant, and traditions add stability to the Legislature's character that Amici seek to help preserve in this matter.

The current legislative Session represents the first occupied by legislators, a majority in the House, elected to seats vacated by the force of the term limits amendment. By this Court's prompt prohibition of the circuit court's extra-jurisdictional intrusions into this historic session, it can also be a year of restored responsiveness to the sovereignty of the people.

CONCLUSION

Amici are confident that this Court understands the principles and concerns raised above, and Amici join the Petitioners in soliciting a prompt, constitutional end to this controversy.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Brief of Amici have been furnished by Fax to:

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And by hand to:
HON. GEORGE S. REYNOLDS, III, CHIEF JUDGE, Leon County Courthouse,

HON. L. RALPH SMITH, JUDGE, Leon County Courthouse,
HON. BOB INZER, CLERK, Leon County Courthouse,
HON. WILLIAM N. MEGGS, Leon County Courthouse
CHARLES T. CANADY, Room 209, The Capitol

This brief complies with the requirement of Florida Rule of appellate Procedure 9.100 in that all portions of this brief are generated in Times New Roman 14-point font.

By_____
Johnnie B. Byrd

[1] While fully supporting the right of the Legislature to conduct meetings, Amici have no dispute with the public employees union named in the caption. The union is the nominal respondent in this matter by virtue of a rule of this Court that may not adequately put the public on notice of the true nature of this matter: a circuit court?s failure to *sua sponte* recognize the limits of its jurisdiction, which failure constitutes a constitutional encroachment that necessitates this Court?s immediate attention. It is unfortunate that a private party should be summoned to this Court, merely for making a good faith allegation of jurisdiction in the circuit court. It is the circuit court, in this case issuing an *ex parte* order purporting to regulate the constitutional prerogatives of the Florida Legislature, that is the true object of the petition herein and the related petition of the Attorney General filed on behalf of the people of Florida in Case Number SC01-766.

[2] As the representative branch, the Legislature is the branch most closely identified with and reflective of the people of Florida. The constitution of people claims ALL political power in this state to be inherent in them. Fla. Const., art. I, sec. 1.

[3] Leon County Research and Development Authority v. State of Florida, Case no. 88-3273 (Cir. Ct. Leon County, Feb. 20, 1989); Delta Airlines v. State of Florida, Case No. 83-761 (Cir. Ct. Leon County, Apr. 26, 1983); State v. Billie, Case No. 83-202 (Cir. Ct. Hendry County, October 29, 1984); Lanville Mengedoht v. Betty Pitt Burch and Frank Pitt, Case No. 85-5671 CA-T (Cir. Ct. Brevard County, Sept. 12, 1986).