

OUTLINE

PREFACE	VII
TABLE OF CASES	XXVII
TABLE OF CONSTITUTIONAL SECTIONS	LIX

PART I. BASICS

Chapter 1. Introduction	3
A. Overview	3
B. Basics	3
C. History	5
1. Forerunners.....	5
(a) Royal Decrees (Pre-1800).....	6
(b) Republic of West Florida Constitution (1810).....	7
(c) Constitution of Cádiz (1812).....	7
(d) Patriots' Constitution (1812)	8
(e) Congressional Establishment Act (1821).....	8
2. 1838 Constitution	10
3. 1861 Constitution	14
4. 1865 Constitution	16
5. 1868 Constitution	20
6. 1885 Constitution	23
7. 1968 Constitution	26
D. Preamble.....	30
E. Declaration of Rights	30
F. Interpreting the Florida Constitution	31
G. Relationship Between the U.S. Constitution and the Florida Constitution.....	34

H. The Florida Bar Exam and the Florida Constitution.....	36
I. Tribal Constitutions.....	37
J. Selected Bibliography	37
1. Articles	37
2. Casebooks.....	38
3. Monographs.....	38
4. Research Aids.....	38
5. Surveys.....	39
6. Symposia	39
7. Treatises	39
8. Web Sites.....	40
9. Miscellaneous Works	40
Chapter 2. Political Structure	41
A. Overview.....	41
B. Borders.....	41
C. Language	43
D. Symbols.....	44
1. Flag.....	44
2. Seal	45
E. Operations	46
1. Branches.....	46
2. Capital	50
3. Personnel.....	54
(a) Assumption of Office	54
(b) Dual Office-Holding	55
(c) Incidents of Office.....	57
i. Duties	57
ii. Salaries	58
(d) Ethics	58
(e) Civil Service System	64
(f) Continuity of Government.....	66

i. Individual Vacancies	66
ii. Mass Vacancies.....	67
4. Sovereign Immunity	68
F. Census.....	75
G. Military Forces	77
Chapter 3. Electoral Process	81
A. Overview.....	81
B. Elections	82
1. Timing	82
2. Regulations.....	83
3. Results	85
C. Voters.....	86
1. Qualifications	86
2. Disqualifications	87
3. Oath	90
D. Public Campaign Financing.....	91
Chapter 4. Environment	95
A. Overview.....	95
B. General Provisions.....	95
C. Land Resources	96
1. Everglades.....	96
2. Sovereignty Lands	98
3. Conservation Lands.....	101
4. Land Acquisition Trust Fund.....	102
D. Living Resources	103
1. Florida Fish and Wildlife Conservation Commission	103
2. Gill Net Fishing	105
3. Pregnant Pigs.....	107
E. Ocean Resources	108

PART II. INDIVIDUAL RIGHTS

Chapter 5. Access to Information	113
A. Overview	113
B. Personal Privacy	113
C. Public Meetings and Records	117
Chapter 6. Court Proceedings	127
A. Overview	127
B. Equal Protection	127
C. Access to Courts	130
D. Jury Trials	134
Chapter 7. Criminal Prosecutions	137
A. Overview	137
B. Codification.....	137
1. Common Law Crimes	137
2. Repeal of Criminal Statutes.....	138
C. Definitions	140
1. Felonies, Misdemeanors, and Violations....	140
2. Bills of Attainder	142
3. Ex Post Facto Laws	142
4. Treason	142
D. Pre-Trial Rights	143
1. Searches and Seizures	143
2. Indictments	145
3. Bail.....	147
4. Habeas Corpus.....	153
E. Trial Rights	155
1. Adults	155
2. Children.....	157
F. Post-Trial Rights.....	159
1. Excessive Punishments	159

2. Imprisonment for Debt.....	162
3. Costs	164
4. Clemency	165
G. Victims' Rights	167
Chapter 8. Guns.....	171
A. Overview.....	171
B. Right to Bear Arms.....	171
C. Waiting Periods.....	174
Chapter 9. Health and Medicine	177
A. Overview.....	177
B. Abortions for Minors.....	177
C. Medical Marijuana.....	180
D. Smoking.....	182
1. Workplaces	182
2. Anti-Smoking Program.....	184
E. Medical Malpractice.....	186
1. Attorney Fee Caps	186
2. Adverse Medical Incidents	188
3. Repeated Medical Malpractice.....	190
Chapter 10. Labor and Employment.....	193
A. Overview.....	193
B. Minimum Wage.....	194
C. Union Membership	197
1. Right to Work.....	198
2. Right to Bargain Collectively.....	201
3. Public Employee Strikes	203
Chapter 11. Personal Expression.....	205
A. Overview.....	205
B. Politics	205
1. Assembly	205

2. Instruction.....	207
3. Petition.....	207
C. Religion.....	209
1. Establishment.....	210
2. Free Exercise.....	213
3. Public Aid.....	215
D. Speech.....	216
1. Defamation.....	217
2. Censorship.....	219
3. Freedom of the Press.....	222
Chapter 12. Property.....	225
A. Overview.....	225
B. Right to Own Property.....	226
C. Homesteads.....	229
1. Basics.....	229
2. Creditor Claims.....	232
3. Alienation.....	237
D. Spousal Property.....	240
1. Married Women.....	240
2. Dower and Curtesy.....	241
E. Takings.....	242
1. Eminent Domain: General Principles.....	243
2. Eminent Domain and Private Developers.....	248
3. Eminent Domain and the Government's Other Powers.....	250
(a) Police Powers.....	250
(b) Taxing Powers.....	252
4. Inverse Condemnation.....	252
5. Drainage Easements.....	255

PART III. STATE GOVERNMENT

Chapter 13. Legislature.....	259
A. Overview.....	259
B. Basics.....	259
1. Powers.....	260
2. Structure.....	262
C. Members.....	263
1. Qualifications.....	263
2. Disqualifications.....	265
3. Seating Disputes.....	266
4. Assumption of Office.....	267
5. Length of Terms.....	267
6. Salaries.....	269
7. Punishments and Expulsions.....	270
8. Vacancies.....	270
D. Officers.....	271
E. Sessions.....	272
1. Location.....	272
2. Types.....	273
(a) Organizational Sessions.....	273
(b) Regular Sessions.....	274
(c) Special Sessions.....	276
i. Called by the Governor.....	276
ii. Called by the Legislature.....	277
iii. Frequency.....	278
3. Length.....	279
4. Adjournments.....	280
(a) By the Legislature.....	280
(b) By the Governor.....	282
5. Procedures.....	282
(a) Quorum.....	282
(b) Rules.....	284

(c) Journals	285
(d) Transparency.....	286
F. Lawmaking Duties.....	287
1. Reception Statute	287
2. Limitations	287
(a) Prohibited Laws	288
i. Bills of Attainder	288
ii. Ex Post Facto Laws	290
iii. Impairment of Contracts.....	291
(b) Other Limitations.....	294
i. Religious Aid.....	294
ii. Special Laws	294
iii. Term of Office	294
iv. Florida Fish and Wildlife Conservation Commission	296
v. Gambling.....	296
[a] Pari-Mutuel Taxes	296
[b] Lotteries.....	298
[c] State Lottery	298
[d] Slot Machines.....	299
[e] Casinos	300
[f] Dog Racing.....	301
vi. Unfunded Mandates.....	302
vii. New or Increased State Fees and Taxes	305
viii. Medical Marijuana	305
3. Bills.....	305
(a) Terminology.....	305
(b) Legislator's Privileges	310
(c) Investigations	311
(d) Requirements	313
i. Single Subject	313
ii. Brief Title.....	316

iii.	Amendments and Revisions.....	317
iv.	Enacting Clause.....	318
(e)	Procedure.....	319
i.	Origination.....	320
ii.	Readings.....	320
iii.	Passage.....	321
iv.	Signing by Officers	321
(f)	Gubernatorial Review	322
i.	Deadlines	322
ii.	Options	325
iii.	Return and Reenactment of Vetoed Bills.....	327
iv.	Line Item Vetoes.....	329
(g)	Effective Date	331
4.	Types of Laws.....	333
(a)	General Laws.....	333
(b)	Special and Local Laws.....	335
i.	Defined	336
ii.	Procedure	337
iii.	Prohibited Subjects	339
(c)	General Laws of Local Application	342
(d)	Appropriation Laws	345
5.	Presumption of Statutory Validity	348
G.	Non-Lawmaking Duties.....	348
1.	Impeachments.....	349
2.	Reapportionment	351
(a)	Basics	351
(b)	Process	352
(c)	“Gerrymandering”	354
3.	Court Rules	358
4.	Claims Bills.....	359
5.	Amendments to the Florida Constitution	361

6. Amendments to the U.S. Constitution	361
Chapter 14. Executive.....	365
A. Overview.....	365
B. History	365
C. “Executive Power”	366
D. Governor	368
1. Duties	368
(a) Military Affairs.....	368
(b) Officers	368
i. Supervision	368
ii. Vacancies	369
iii. Suspensions	371
(c) State Budget.....	374
(d) “State of the State” Address	375
(e) Other Responsibilities.....	375
2. Advisory Opinions.....	377
E. Lieutenant Governor	378
F. Cabinet.....	379
1. Composition.....	379
(a) Attorney General.....	381
(b) Chief Financial Officer.....	382
(c) Commissioner of Agriculture.....	383
2. Meetings	384
3. Duties	384
(a) Agency Oversight	384
(b) Clemency.....	385
G. Mechanics	385
1. Governor.....	385
(a) Qualifications	385
(b) Disqualifications.....	386
(c) Elections.....	387
(d) Terms	388

(e) Salary	390
(f) Office Location.....	390
(g) Vacancies	391
(h) Removals.....	392
2. Lieutenant Governor	393
3. Cabinet	394
H. Executive Departments	395

Chapter 15. Judiciary 399

A. Overview.....	399
B. History	399
1. Pre-Statehood.....	399
2. Statehood to 1972	400
3. Changes Since 1972.....	402
C. Structure.....	404
D. Funding.....	405
E. Supreme Court	407
1. Basics.....	407
2. Personnel.....	408
(a) Justices	408
(b) Clerk and Marshal	411
3. Jurisdiction	411
(a) Mandatory Appeals	412
(b) Discretionary Appeals.....	414
(c) Certified Cases	416
(d) Writs.....	419
(e) Advisory Opinions	424
4. Other Duties.....	424
(a) Gubernatorial Incapacity.....	425
(b) Impeachments	425
(c) Legislative Reapportionment	425
(d) Number of Judges	426
(e) Practice and Procedure Rules.....	428

(f) Revenue Shortfalls	430
(g) Supervision of the Bar	430
(h) Supervision of the Bench	433
(i) Constitution Revision Commission	433
F. District Courts of Appeal.....	433
1. Basics.....	434
2. Personnel.....	436
(a) Judges	436
(b) Clerks and Marshals	437
3. Jurisdiction	437
(a) Appeals from Circuit Courts: Final Judgments and Orders	437
(b) Appeals from Circuit Courts: Interlocutory Orders	438
(c) Appeals from County Courts	440
(d) Appeals from Administrative Agencies	440
(e) Writs.....	441
4. En Banc Proceedings	442
5. Per Curiam Affirmed Opinions	443
6. Precedential Value of Decisions.....	446
G. Circuit Courts.....	446
1. Basics.....	446
2. Personnel.....	451
(a) Judges	451
(b) Clerks	452
3. Jurisdiction	453
(a) Original.....	454
(b) Appellate.....	455
i. Appeals from County Courts	456
ii. Appeals from Administrative Agencies	457

iii. Appeals from Civil Traffic Infraction Hearing Officers.....	459
(c) Writs.....	459
H. County Courts	459
1. Basics.....	459
2. Personnel.....	460
(a) Judges	460
(b) Clerks	460
3. Jurisdiction	461
I. Other Courts.....	464
1. Military.....	464
2. Religious	464
3. Tribal	465
J. Administrative Tribunals.....	465
K. Justices and Judges	470
1. Eligibility.....	470
2. Vacancies; Terms; Retention; Elections	472
3. Discipline.....	476
4. Prohibited Activities	481
5. Conservators of the Peace	482
L. State Attorneys	483
M. Public Defenders	487

PART IV. LOCAL GOVERNMENTS

Chapter 16. Counties.....	495
A. Overview.....	495
B. Basics	495
C. Existence	498
1. Creation.....	498
2. Abolition	500
3. Change.....	500
D. Seat	501
E. Home Rule Powers.....	502

F. Consolidation.....	505
G. Commissioners	506
H. Officers.....	508
I. Inter-Local Agreements.....	510
J. Local Option	511
Chapter 17. Municipalities	513
A. Overview.....	513
B. Basics	514
C. Creation and Dissolution.....	515
D. Powers.....	518
E. Officers.....	520
F. Borders.....	521
1. Annexations	522
2. Mergers.....	523
3. Extra-Territorial Powers.....	523
Chapter 18. Schools.....	525
A. Overview.....	525
B. History	525
C. Public Education	527
1. Funding	527
(a) Appropriations.....	527
(b) Vouchers	531
(c) Charter Schools	533
2. Uniformity.....	536
3. Class Size	538
4. Voluntary Pre-Kindergarten.....	539
5. Operations.....	540
6. Revenue	543
D. Higher Education.....	544
1. State Universities	544
2. State Colleges.....	547

E. Appointive Education Bodies 549

Chapter 19. Special Districts 551

A. Overview 551
 B. Definitions 551
 C. Purpose 553
 D. Operations 553
 E. Constitutional References 556
 F. Water Management Districts 558

PART V. GOVERNMENT FINANCES

Chapter 20. Budgeting..... 563

A. Overview 563
 B. Budget Process 564
 C. Revenue Shortfalls..... 567
 D. Other Matters..... 569
 1. “Rainy Day” Fund 569
 2. Trust Funds..... 570
 3. Long-Range Plan..... 572
 4. Government Efficiency Task Force..... 572
 5. Revenue Sharing..... 573
 6. Public Employee Pensions..... 573

Chapter 21. Taxes 575

A. Overview 575
 B. History 575
 C. Types..... 578
 1. Documentary Stamp Taxes 578
 2. Estate Taxes..... 579
 3. Income Taxes..... 581
 (a) Personal Income Taxes 581
 (b) Corporate Income Taxes 583
 4. Inheritance Taxes 584

5. License Taxes	584
6. Motor Fuel Taxes	584
7. Pari-Mutuel Taxes	586
8. Personal Property Taxes	587
(a) Intangible Property Taxes	587
(b) Tangible Property Taxes	588
9. Real Property Taxes	590
10. Sales Taxes	592
D. Mechanics	594
1. Ad Valorem and Non-Ad Valorem Taxes ...	594
2. Tax Rates	595
3. Valuations	598
4. Exemptions	599
5. Immunity	601
6. Classification	602
7. Homesteads	603
8. Collections	614
(a) Generally	614
(b) Tax Sales	615
E. Fees	616
Chapter 22. Bonds	621
A. Overview	621
B. Basics	622
C. History	626
D. State Bonds	631
1. General Obligation Bonds	632
2. Revenue Bonds	635
3. Special Obligation Bonds	637
E. Local Bonds	637
1. General Obligation Bonds	639
2. Revenue Bonds	641
F. Other Limitations	646

G. Validation Proceedings 651

**PART VI. CHANGING THE
CONSTITUTION**

Chapter 23. Amendments..... 657

A. Overview 657

B. Terminology..... 658

C. Statistics 658

D. Ballot Pathways 660

 1. Legislature 661

 2. Constitution Revision Commission..... 662

 3. Citizens’ Initiative 664

 4. Constitutional Convention 674

 5. Taxation and Budget Reform
 Commission 676

E. Adoption..... 678

 1. Ballot Titles and Summaries 679

 2. Filing Deadlines..... 679

 3. Publication 681

 4. Margin of Approval..... 682

 5. Effective Date; Severance; Conflicts..... 683

F. Inoperative Provisions 685

 1. Rejected Provisions..... 685

 2. Judicially-Invalidated Provisions 685

 3. Repealed Provisions..... 686

Chapter 24. Schedules 689

A. Overview..... 689

B. Main Schedule..... 689

C. Other Schedules 690

D. “Effective Date” Language..... 690

E. Silent Provisions 694

F. Deletion..... 694
INDEX..... 697