

# How Laws Become Statutes in Florida

Copyright 14 September 2016 by Bob Hurt. All rights reserved.

A correspondent recently wrote me asking for help to get the court to declare Florida statute unconstitutional because it does not contain the “Be it enacted” clause. I answer with a clarification regarding a statute dear to my heart – the one requiring public employees to swear an oath to support the constitutions of the US and Florida.

The law constitutes a vehicle for creating, changing, and destroying statutes. Let us look at how the current Florida Constitution Article III grants the Legislature authority.

**SECTION 6. Laws.**—Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection. The enacting clause of every law shall read: “**Be It Enacted by the Legislature of the State of Florida:**”.

Accordingly, the Legislature enacts laws using the proper language “be it enacted” and records them in one of the chapters of laws, identified by year and chapter number. The enactment authorizes creation, addition, deletion, or repeal of corresponding text in statutes. Statutes exist in an arrangement of chapters relating to various topics. The laws changing the statutes specify the statutes upon which they operate and provide the exact wording for deletion (by lining through deleted text) or addition (by underlining added text) to those statutes. The statutes then contain a history note identifying the source laws, including the section number, and the Law year and chapter number.

With respect to the loyalty oaths and related statutes about the flouting of which I raised such a stink in my 2006 article [Loyalty Oaths in Florida](#), the Supreme Court justices asked the Legislature to modify the law to make better sense. The legislature responded in Laws 2007-30 and 2011-40 which modified 876.05-876.10, the main loyalty oath statute and most if not all of the statutes that reference it. In particular, they moved to the candidate statute the oath statute provision requiring candidates to swear the oath.

Notice the history note of the two post-article changes, one in 2007 and one in 2011:

**876.05 Public employees; oath.**—

(1) All persons who now or hereafter are employed by or who now or hereafter are on the payroll of the state, or any of its departments and agencies, subdivisions, counties, cities, school boards and districts of the free public school system of the state or counties, or institutions of higher learning, except candidates for federal office, are required to take an oath before any person duly authorized to take acknowledgments of instruments for public record in the state in the following form:

I, , a citizen of the State of Florida and of the United States of America, and being employed by or an officer of and a recipient of public funds as such employee or officer, do hereby

solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

(2) Said oath shall be filed with the records of the governing official or employing governmental agency prior to the approval of any voucher for the payment of salary, expenses, or other compensation.

**History.**—s. 1, ch. 25046, 1949; s. 22, ch. 83-214; s. 55, ch. 2007-30; s. 77, ch. 2011-40.

The most recent of those changes came from this Laws of Florida document posted on the web at <http://laws.flrules.org/2011/40>, from which I provide the following excerpt. It shows the beginning of the law which contains a summary of all the statutes and text it changed, added, deleted, or repealed, followed by the enactment language, followed by 80 sections showing the specific changes including the references to 876.05 and 876.07, followed by the end of the law. The document comprises 88 pages.

CHAPTER 2011-40  
Committee Substitute for  
Committee Substitute for House Bill No. 1355

**An act relating to elections;** amending s. 97.012, F.S.; expanding the list of responsibilities of the Secretary of State when acting in his or her capacity as chief election officer; amending s. 97.021, F.S.;

...

**amending s. 876.05, F.S.;** deleting a requirement for all candidates for public office to record an oath to support the Constitution of the United States and of the State of Florida; **repealing s. 876.07, F.S.,** relating to a requirement that a person make an oath to support the Constitution of the United States and of the State of Florida in order to be qualified as a candidate for office; providing for severability of the act; providing effective dates.

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

Section 1. Subsection (16) is added to section 97.012, Florida Statutes, to read:

...

**Section 77.** Subsection (1) of section 876.05, Florida Statutes, is amended to read:

**876.05** Public employees; oath.—

(1) All persons who now or hereafter are employed by or who now or hereafter are on the payroll of the state, or any of its departments and agencies, subdivisions, counties, cities, school boards and districts of the free public school system of the state or counties, or institutions of higher learning, ~~and all candidates for public office,~~ except candidates for federal office, are required to take an oath before any person duly authorized to take acknowledgments of instruments for public record in the state in the following form:

I, ....., a citizen of the State of Florida and of the United States of America, and being employed by or an officer of ..... and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

**Section 78.** Section **876.07**, Florida Statutes, is **repealed**.

Section 79. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given

effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 80. Except as otherwise expressly provided in this act, **this act shall take effect upon becoming a law.**

**Approved by the Governor** May 19, 2011.

Filed in Office Secretary of State May 19, 2011.

I searched for all instances of 876.05, the loyalty oath statute. The law mentions it 7 times. The following appears on page 56:

Section 51. Paragraph (b) of subsection (4) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(4) CANDIDATE'S OATH.—

(b) All candidates for judicial office shall subscribe to an oath or affirmation in writing to be filed with the appropriate qualifying officer upon qualifying. A printed copy of the oath or affirmation shall be furnished to the candidate by the qualifying officer and shall be in substantially the following form:

State of Florida

County of .....

Before me, an officer authorized to administer oaths, personally appeared ...(please print name as you wish it to appear on the ballot)..., to me well known, who, being sworn, says he or she: is a candidate for the judicial office of .....; that his or her legal residence is ..... County, Florida; that he or she is a qualified elector of the state and of the territorial jurisdiction of the court to which he or she seeks election; that he or she is qualified under the constitution and laws of Florida to hold the judicial office to which he or she desires to be elected or in which he or she desires to be retained; ~~that he or she has taken the oath required by ss. 876.05-876.10, Florida Statutes;~~ that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent to the office he or she seeks; and that he or she has resigned from any office which he or she is required to resign pursuant to s. 99.012, Florida Statutes; **and that he or she will support the Constitution of the United States and the Constitution of the State of Florida.**

Notice that while striking 876.05-876.10 from the candidate's oath, the law added separate language with the same effect as that struck. So the legislators are not idiots, are they? They agree that candidates should swear to support the constitution.

Please look this law up for yourself and share it with your inmates in a lecture. They need to know how government PROPERLY creates and changes laws and statutes and how it documents them for the public to read. Show them this letter if you wish.

Remember that the law is based on reason, logic, and common sense. Stay away from patriot myth mongers who make irrational, illogical, false, and unsupported claims about the law and legal processes. Look up the law and related court opinions for yourself, and read them carefully before accepting someone else's strange-sounding ideas about their wording or meaning. Learn the law. Become disposed to using it. No substitute exists for knowing the law.

# # #