

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2820

SPONSOR: Governmental Oversight & Productivity Committee, Natural Resources Committee and Senator Argenziano

SUBJECT: Fish and Wildlife Conservation Commission

DATE: April 14, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/CS</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for the reorganization of the Fish and Wildlife Conservation Commission (FWC) in an effort to align and integrate similar functions within the agency, flatten the agency's organizational structure, and improve agency efficiency. The FWC is authorized to publish the Florida Wildlife Magazine, and the Florida Wildlife Magazine Advisory Council is created to provide recommendations to the FWC regarding the development, publication and sale of the magazine.

This bill provides 4.5 full time equivalent positions and \$390,000 in recurring appropriations from the State Game Trust Fund to the FWC to fund and operate the magazine.

This bill substantially amends sections 20.331, 20.2551, 370.0603, 370.06091, 370.0692, 370.06093, 372.0215, 372.0222, 372.0225, 372.5701, 372.5702, and 403.0882, Florida Statutes. This bill repeals subsection (11) of s. 370.021, subsections (2) and (5) of section 370.16, subsection (4) of s. 370.172, and sections 370.083, 370.162, 372.051, 372.9906, Florida Statutes.

II. Present Situation:

Fish and Wildlife Conservation Commission (FWC)

The FWC was created by the Legislature during the 1999 Regular Session as a result of the passage of Revision #5 to the State Constitution during the November 1998 General Election. Chapter 99-245, Laws of Florida, was enacted to transfer the responsibilities of the former Game & Fresh Water Fish Commission (GFC) and the former Marine Fisheries Commission (MFC) to the FWC in accordance with the provisions of the constitutional amendment which required that one entity regulate wild animal life, freshwater aquatic life, and marine life.

Effective July 1, 1999, the MFC and the GFC were merged into the FWC. Portions of the Division of Marine Resources and the Division of Law Enforcement at the Department of Environmental Protection (DEP) also were transferred to the FWC. Bureaus and offices of the GFC which were in existence on February 1, 1999, were re-created in the FWC, and the Bureau of Protected Species Management at the DEP was transferred as a bureau to the Office of Environmental Services within the FWC.

At the time of the merger, the FWC had just over 1700 full-time employees (FTEs) and a budget of approximately \$150 million. The FWC is primarily funded from revenues generated by the sale of hunting and fishing licenses, fees for specialty permits to hunt and fish, the sale of commercial licenses and permits, revenue generated by the sale of specialty license plates such as the "Save the Manatee" license plate, vessel registration fees, federal funds including grant funds, and general revenue which primarily funds the Division of Law Enforcement.

Current Administrative Structure

The primary organizational units of the FWC are established in s. 20.331, F.S., which requires the FWC to assign duties, responsibilities, and functions to the administrative units within the agency as follows:

- ❖ *Division of Freshwater Fisheries* (155 FTEs) - Ensures compliance with the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's freshwater aquatic life.
- ❖ *Division of Marine Fisheries* (43 FTEs) - Ensures compliance with the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's marine life resources.
- ❖ *Division of Wildlife* (302.5 FTEs) - Ensures compliance with the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's wildlife resources.¹
- ❖ *Division of Law Enforcement* (900.5 FTEs) - Ensures enforcement of the laws and rules governing the management, protection, conservation, improvement, and expansion of Florida's wildlife, freshwater aquatic life, and marine life resources. In the performance of their duties as sworn law enforcement officers for the State of Florida, the division's officers are required to assist in the enforcement of all general environmental laws remaining under the responsibility of the DEP.²
- ❖ *Division of Administrative Services* (85 FTEs) - No specific duties or responsibilities are statutorily assigned to the Division of Administrative Services.
- ❖ *Florida Marine Research Institute* (248.5 FTEs) - Serves as the primary source of research and technical information and expertise on the status of Florida's saltwater resources; monitors the status and health of saltwater habitat, marine life, and wildlife; develops and

¹ During the 2003 Regular Session, the Legislature enacted ch. 2003-143, L.O.F., to repeal the assignment of the Bureau of Protected Species Management to the Office of Environmental Services. The FWC's request to the Department of Management Services and the Executive Office of the Governor to transfer the Bureau to the Division of Wildlife was approved pursuant to the requirements of s. 20.04(7)(b), F.S.

² Since the 1999 creation of the FWC, the DEP has transferred funding for these services from the Coastal Protection Trust Fund to the Marine Resources Conservation Trust Fund. However, while the FWC is still required to assist DEP in its law enforcement efforts, budget proposals for fiscal year 2004-2005 eliminate \$2.5 million in funding due to a deficit in the Coastal Protection Trust Fund.

implements restoration techniques for marine habitat and enhancement of saltwater plant and animal populations; responds and provides critical technical support for marine catastrophes including oil spills, ship groundings, major marine species die-offs, hazardous spills, and natural disasters; identifies and monitors marine toxic red tides and their impacts and provides technical support for state and local public health concerns, and provides state and local governments with estuarine, marine, coastal technical information and research results.

- ❖ *Office of Boating and Waterways*³ (17 FTEs) - Manages and promotes the use of state waterways for safe and enjoyable boating with duties and responsibilities including oversight and coordination of waterway markers on state waters, providing boating education and boating safety programs, improving boating access, coordinating the removal of derelict vessels from state waters, economic development initiatives to promote boating in the state, and coordinating the submission of state comments on marine events.

Organizational structure of state agencies - Chapter 20, F.S.

Historically, the FWC has complied with requirements applicable to most state agencies regarding internal organizational structure and the use of standard terminology. Within the FWC, the existing structure follows the requirements of s. 20.04, F.S., providing for the structure of the executive branch. The principal unit within the FWC is a "division" headed by a "director". The principal unit of the division is a "bureau" headed by a "chief". The principal unit of the bureau is the "section" headed by an "administrator". Sections can be divided into "subsections" headed by a "supervisor". District and area offices can be established to combine division, bureau, section and subsection functions. However, the FWC does have existing offices within the organizational structure which are not attached to any of the statutorily created divisions. These include Office of Environmental Services, the Office of Informational Services, and the Office of Information Technology.

State law provides that the head of a department may not reallocate duties and functions specifically assigned in statute. Further, new bureaus, sections and subsections of departments can be initiated by the department but must be established as recommended by the Department of Management Services (DMS) and approved by the Executive Office of the Governor (EOG), or established by specific statutory enactment.

All reorganization requests submitted by agencies must be assessed by the DMS and the EOG using specific criteria. The EOG must maintain a current organizational chart of each agency of the executive branch that identifies all divisions, bureaus, units and subunits of the agency.

DMS Broadbanding Classification and Compensation System⁴

In 2001, the Legislature enacted ch. 2001-43, L.O.F., known as the Service First Initiative, which established parameters for restructuring the state's job classification and pay system. Service First limits the number of occupational groups in the personnel system and provides for a maximum number classification levels for each occupation within an occupation group, thereby

³During the 2003 Regular Session, the Legislature enacted ch. 2003-156, L.O.F., to specifically fund the Office of Boating and Waterways from taxes collected on the sale of motor and diesel fuel at marinas. For fiscal year 2004-2005, \$5 million is to be transferred from the Fuel Tax Collection Trust fund to the Marine Resources Conservation Trust Fund. However, budget proposals for fiscal year 2004-2005 use \$1.7 million of these funds to replace the loss of revenue from the Coastal Protection Trust Fund at DEP.

⁴ *Service First-Broadbanding Report*, December 2001

establishing a limit on job classification levels for the State Personnel System. As part of Service First, DMS developed and is implementing the Broadbanding Classification and Compensation System.

In 2002, the Legislature adopted ch. 2002-402, L.O.F. to authorize DMS to establish and maintain a classification and compensation program addressing Career Service, Selected Exempt Service, and Senior Management Service positions and requiring board-based salary ranges. Using the Federal Standard Occupational Classification System as a foundation, approximately 3,300 classes of employees were consolidated into 38 occupational groups with 3-6 levels in each resulting in 144 broadband classification levels (occupations in the same occupational group with the same level of difficulty or responsibility and having the same pay band)⁵. For purposes of reporting state employees to DMS for classification and compensation under Service First, state agencies must identify employees using the broadband classification levels.

The FWC is proposing to restructure the agency using division directors, section leaders, subsection administrators and directors, classifications which do not all meet the standard organizational provisions of s. 20.04, F.S. For purposes of meeting DMS requirements under Service First, employees will have to be classified within the Broadband Classification and Compensation System the rest of the state is using.

FWC Restructure Plan

Over the past two years, the FWC developed a restructure plan, with the participation of interested stakeholders, which proposes to restructure the agency in an effort to combine like functions, especially biological and administrative functions, flatten the organization to reduce bureaucracy, and shift decision-making to the local level where staff in the regional offices are more familiar with local issues. The goals of the agency's restructure proposal are to improve customer service, improve communication between the agency and the general public, increase partnership opportunities with communities, other agencies, and private entities, and increase efficiency thereby allowing the agency to improve performance.

Under the Fish and Wildlife Conservation Commission Restructure Proposal, February 3, 2004, the proposed changes to existing divisions and offices are:

- ❖ *Division of Wildlife* - Move hunting and game management to a higher level in the agency by creating a new Hunting and Game Management Division, and move the habitat and nongame components into a new Habitat and Species Conservation Division. All three functional areas of hunting and game management, habitat conservation, and species conservation will have a seat at the senior leadership table.
- ❖ *Division of Freshwater Fisheries* - Move fisheries management activities to a higher level and move the habitat restoration and management efforts into the new Habitat and Species Conservation Division.
- ❖ *Florida Marine Research Institute* - Move research and monitoring components from the Divisions of Wildlife, Freshwater Fisheries, and Law Enforcement. Change the name of the Institute to the Fish and Wildlife Research Institute.

⁵ FL Government EXPO 2002 Broadbanding Presentation, <http://www.state.fl.us/dms/hrm/BROADBAND/index.html>

- ❖ *Division of Marine Fisheries* - Move commercial licensing to the new Licensing and Permitting Office.
- ❖ *Division of Administrative Services* - Develop a regional service center concept and move the recreational licensing bureau into the new Licensing and Permitting Office.
- ❖ *Office of Environmental Services* - Move basic services back into the Divisions and establish coordinating functions for many of their services in the new Policy and Stakeholder Coordination Office.
- ❖ *Office of Information Services* - Move basic services back into the Divisions and regions, and establish coordination functions for many of their services in the Community Relations Office.
- ❖ *Division of Law Enforcement* - No moving of organizational units but three bureau chiefs are eliminated as part of the overall flattening of the organization to make decisions at the local level.

III. Effect of Proposed Changes:

Section 1. Amends s. 20.331, F.S., to provide that within the FWC, the principal unit for program services is a "division" headed by a "director." The principal subunit of the division is a "section" headed by a "leader." The principal subunit of a section is a "subsection" headed by an "administrator." The principal unit for research services within the FWC is the Fish and Wildlife Research Institute, which must be headed by a "director."

Renames administrative units within the FWC and requires that the FWC and the Legislature assign duties, responsibilities, and functions to those units as follows:

- ❖ *Fish and Wildlife Research Institute* (266 FTEs) - Serves as the primary source of research and technical information and expertise on the status of Florida's saltwater, freshwater, and wild animal life resources; monitors the status and health of saltwater, freshwater, and wild animal life species and their habitat, develops restoration and management techniques for habitat and enhancement of plant and animal populations; responds and provides critical technical support for catastrophes including oil spills, ship groundings, major species die-offs, hazardous spills, and natural disasters; identifies and monitors harmful algal blooms including red tides to evaluate their impact and provide technical support for state and local public health concerns, and provides state and local governments with fish and wildlife technical information and research results.
- ❖ *Division of Freshwater Fisheries Management* (69.5 FTEs) - Facilitates the responsible and sustained use of freshwater aquatic life resources; provides expertise on freshwater fish populations or other aspects of freshwater fisheries needed for recreational and commercial use management decisions; and assesses impacts of decisions made by others to ensure quality fishers and fishing in selected Florida lakes, fish management areas, rivers, and streams.
- ❖ *Division of Habitat and Species Conservation* (285.5 FTEs) - protects and conserves Florida's diverse and unique fish and wildlife; utilizes scientific data to develop resource management plans to maintain stable or increasing populations of fish and wildlife species; focuses duties and responsibilities at the ecosystem or landscape level to provide for the greatest benefits to the widest possible array of fish and wildlife species including public lands habitat restoration and management; develops and implements plans for nongame

species management and imperiled species recovery; provides scientific support and assistance to private and public sector landowners on habitat-related issues; performs aquatic habitat restoration and provides habitat management assistance; acquires land; and coordinates exotic species control measures and prevention of introductions.

- ❖ *Division of Hunting and Game Management* (46 FTEs) - Facilitates the responsible and sustained use of wildlife resources; develops science-based recommendations to support effective regulation of public use and sound management of game wildlife resources; coordinates the development and management of public hunting opportunities; and delivers hunter safety training and certification.
- ❖ *Division of Law Enforcement* (889.5 FTEs) - Ensures enforcement of the laws and rules governing the management, protection, conservation, improvement, and expansion of wildlife resources, freshwater aquatic life resources, and marine life resources. Enforce all laws relating to boating, provide public safety services for citizens on lands and waters of the state, provide search and rescue and disaster response assistance; provide assistance in enforcing all general laws of the state, and coordinates with local, state, and federal entities on law enforcement issues. The responsibilities of the Boating and Waterways Section within the Division remain the same as the existing Office of Boating and Waterways.
- ❖ *Division of Marine Fisheries* (24 FTEs) - Facilitates the responsible and sustained use of marine life resources; develops recommendations for managing and enhancing commercial and recreational saltwater fisheries resources; implements marine fisheries management programs; and assists in the development and monitoring of artificial reefs in Florida.
- ❖ *Office of Executive Direction and Administrative Support Services* (274 FTEs) - Functions as the principal unit for administrative and support services and is headed by the Executive Director of the FWC. Each additional office within this principal unit must be headed by a "director". The following offices are created within the Office of Executive Direction and Administrative Support Services:
 - Finance & Budget,
 - Human Resources,
 - Information Technology,
 - Inspector General,
 - Legal, and
 - Regional Operations. Within the Regional Operations Office, the executive director is authorized to establish regional offices for each of the administrative regions established by the commission. Each regional office shall be headed by a "director."

Provides that section leader positions are classified at a level equal to bureau chiefs, and that subsection administrators are classified at a level equal to section administrators as established in s. 20.04, F.S. Authorizes the Executive Director of the FWC to classify office director positions at a level equal to a division director, bureau chief, or section administrator as provided in s. 20.04, F.S.

Provides that the commission can establish additional sections, subsections, and offices at the recommendation of the DMS and with the approval of the EOG. Provides that additional divisions within the FWC may only be established by general law.

Section 2. Amends s. 20.2551, F.S., to clarify that citizen support organizations within the DEP do not receive grant funding from the Florida Marine Research Institute.⁶

Section 3. Amends s. 370.0603, F.S., to conform the name change for the Boating and Waterways Section.

Section 4. Amends s. 370.06091, F.S., to conform the name change for the Fish and Wildlife Research Institute.

Section 5. Amends s. 370.06092, F.S., to repeal obsolete provisions relating to the Harmful-Algal-Bloom Task Force at the FWC, and conform the name change for the Fish and Wildlife Research Institute.

Section 6. Amends s. 370.06093, F.S., to conform the name change for the Fish and Wildlife Research Institute.

Section 7. Amends s. 372.0215, F.S., to conform the name change for the Fish and Wildlife Research Institute.

Section 8. Amends s. 372.0222, F.S., to authorize the publication of the Florida Wildlife Magazine beginning January 1, 2005. The magazine must be published at least quarterly and must focus on the promotion of hunting and fishing. Authorizes the FWC to sell advertising and provides for an annual subscription fee of up to \$25, a 2-year subscription fee of up to \$45, and a 3-year subscription fee of up to \$60. Provides for a retail sales fee of up to \$7. The commission is authorized to approve all advertising placed in the magazine, including the form and content. The magazine also must contain a clause that advertisement in the magazine does not constitute an endorsement by the state.

Creates the Florida Wildlife Magazine Advisory Council to advise and make recommendations to the FWC on the development, publication and sale of the magazine. Seven council members must be appointed by the FWC no later August 1, 2004. Terms are staggered and the Council must meet quarterly. The FWC must provide the Council will staff assistance. Council members are not compensation but are eligible to receive per diem and reimbursement of travel expenses.

Section 9. Amends s. 372.0225, F.S., to conform provisions relating to the promotion, marketing and quality control of freshwater organisms produced in Florida to the new structure of the FWC.

Section 10. Amends s. 372.5701, F.S., to provide that federal fishing funds will be divided between freshwater fisheries research and management and saltwater fisheries research and management based on the number of freshwater and saltwater fishing licenses sold.

Section 11. Amends s. 372.5702, F.S., to conform the name change for the Fish and Wildlife Research Institute.

⁶ At the time this provision was implemented, the FMRI was assigned to the Division of Marine Resources at the DEP. When the FWC was created in 1999, the FMRI was transferred from DEP to the FWC.

Section 12. Amends s. 403.0882, F.S., to conform the name change for the Fish and Wildlife Research Institute.

Section 13. Repeals s. 370.021 (11), F.S., relating to employee bond requirements; s. 370.16 (2) and (5), F.S., relating to noncultured shellfish harvesting; s. 370.172 (4), F.S., relating to spearfishing; s. 370.083, F.S., relating to special acts; s. 370.162, F.S., relating to the purchase of sponges; s. 372.051, F.S., relating to the seal of the commission; and s. 372.9906, F.S., relating to the Wildlife Enforcement Program.

Section 14. Repeals subsection (3) of section 5 of ch. 99-245, L.O.F., relating to the Florida Marine Research Institute.

Section 15. Appropriates \$390,000 from the State Game Trust Fund to the FWC and provides 4.5 full time equivalent positions for funding and operating costs associated with the Florida Wildlife Magazine, including travel and per diem costs for the Florida Wildlife Magazine Advisory Council.

Section 16. Provides that the act shall take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has a recurring appropriation of \$390,000 from the State Game Trust Fund to the FWC for purposes of funding 4.5 full time equivalent positions and to fund and operate the Florida Wildlife Magazine.

Overall, the FWC expects no fiscal impact on the agency under this reorganization proposal.

FWC Fiscal Year 2003-2004 Budget

	GR	TF
Operating	\$ 45,435,834	\$ 140,994,224
Fixed Capital Outlay	\$ 0	\$ 12,020,506
Total by fund	\$ 45,435,834	\$ 153,014,730

Agency Total: \$ 198,450,564
FTEs: 1,854.50

FWC Fiscal Year 2004-2005 Legislative Budget Request

	GR	TF
Operating	\$ 54,166,783	\$ 168,894,921
Fixed Capital Outlay	\$ 300,000	\$ 13,298,663
Total by Fund	\$ 54,466,783	\$ 182,193,584

Agency total: \$ 236,660,367
FTEs: 1,879.50

VI. Technical Deficiencies:

None.

VII. Related Issues:

Although the FWC restructure plan has the purpose of flattening the agency's organizational structure, the proposal still provides for a Division of Marine Fisheries Management with only 24 FTEs.

The Office of Boating and Waterways is assigned to the Division of Law Enforcement in the reorganization. While the Division will have its own Training Section, Operations Section, and Investigations Sections, information provided by the FWC indicates that the Office of Boating and Waterways now has 5 sworn law enforcement positions that conduct “boating under the influence” patrols in the field, train officers on boating accident investigations, and work with the staff of the Bureau of Protected Species Management on manatee zone enforcement. None of these responsibilities are statutorily assigned to the Office of Boating and Waterways under current law or under the restructure proposal.

Also, while some existing offices are being integrated into the proposed structure, the agency restructure proposal provides for 14 offices, all within the Office of Executive Direction and Administrative Support Services, some of which appear to duplicate services. The FWC proposes both an Information Technology Office and a Data Portal Office. The Customer Care

and Licensing/Permitting Office, the Community Relations Office, the Recreation Services Office and the External Relations Office are four separate entities, each with a Director and staff.

The bill provides that in the FWC, the principal unit for program services is a "division" headed by a "director;" the principal subunit of the division is a "section" headed by a "leader;" and the principal subunit of a section is a "subsection" headed by an "administrator". The principal unit for research services within the FWC is the Fish and Wildlife Research Institute, which must be headed by a "director." The bill permits the Commission to use the same structural terminology that is currently provided in ch. 20, F.S., but to use those terms to mean something other than how they are defined in ch. 20, F.S.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
