

By Senator Argenziano

3-929D-04

1 A bill to be entitled
2 An act relating to the Fish and Wildlife
3 Conservation Commission; amending s. 20.331,
4 F.S.; reorganizing the commission; providing
5 responsibilities and duties of the executive
6 director; revising the administrative structure
7 of the commission; providing that the principal
8 unit for program services within the commission
9 is a division headed by a director; providing
10 that the principal subunit within a division is
11 a section headed by a leader; providing that
12 the principal subunit within a section is a
13 subsection headed by an administrator;
14 establishing divisions and sections within the
15 commission; providing that the principal unit
16 for administrative and support services is the
17 Office of Executive Direction and
18 Administrative Support Services headed by the
19 executive director; establishing additional
20 offices within the Office of Executive
21 Direction and Administrative Support Services;
22 providing that a head of an office is a
23 director; providing an exception; providing
24 position classifications within the state
25 employee system; providing that additional
26 divisions may be created only by statutory
27 enactment; providing that sections created by
28 this act may be abolished only by statutory
29 enactment; authorizing the Department of
30 Management Services and the Executive Office of
31 the Governor to establish and approve new

1 sections, subsections, and offices initiated by
2 the commission; assigning duties and
3 responsibilities to the divisions; providing
4 duties and responsibilities for the Boating and
5 Waterways Section; providing for adequate due
6 process procedures; establishing statutory
7 duties of the commission; authorizing the
8 commission to provide comments to permitting
9 agencies and to acquire lands in the name of
10 the state for certain purposes; providing for
11 employee bonds at the request of the
12 commission; amending s. 20.2551, F.S.; deleting
13 provisions authorizing grants from the Florida
14 Marine Research Institute to citizen support
15 organizations within the Department of
16 Environmental Protection; amending s.
17 370.06092, F.S.; deleting obsolete provisions
18 relating to the Harmful Algal Bloom Task Force;
19 repealing s. 370.021(11), F.S., relating to
20 employee bond requirements; repealing s.
21 370.16(2) and (5), F.S., relating to
22 noncultured shellfish harvesting; repealing s.
23 370.172(4), F.S., relating to spearfishing;
24 repealing s. 370.083, F.S., relating to special
25 acts; repealing s. 370.162, F.S., relating to
26 the purchase of sponges; repealing s. 372.051,
27 F.S., relating to the seal of the commission;
28 repealing s. 372.9906, F.S., relating to the
29 Wildlife Law Enforcement Program; repealing
30 subsection (3) of section 5 of chapter 99-245,
31 Laws of Florida, relating to the Florida Marine

1 Research Institute; providing an effective
2 date.

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

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6 Section 1. Section 20.331, Florida Statutes, is
7 amended to read:

8 (Substantial rewording of section. See
9 s. 20.331, F.S., for present text.)

10 20.331 Fish and Wildlife Conservation Commission.--

11 (1) RIGHTS AND PRIVILEGES.--The Legislature,
12 recognizing the Fish and Wildlife Conservation Commission as
13 being specifically authorized by the State Constitution under
14 s. 9, Art. IV, grants rights and privileges to the commission,
15 as contemplated by s. 6, Art. IV, of the State Constitution.
16 These rights and privileges are equal to those of departments
17 established under this chapter, while preserving the
18 commission's constitutional designation and title.

19 (2) HEAD OF THE COMMISSION.--The head of the Fish and
20 Wildlife Conservation Commission is the commission, with
21 commissioners appointed by the Governor pursuant to s. 9, Art.
22 IV, of the State Constitution.

23 (3) EXECUTIVE DIRECTOR.--

24 (a) To aid the commission in the implementation of its
25 constitutional and statutory responsibilities, the Legislature
26 authorizes the commission to appoint, fix the salary of, and,
27 at its pleasure, remove, a person who is not a member of the
28 commission to serve as the executive director. The executive
29 director shall supervise, direct, coordinate, and administer
30 all activities necessary to fulfill the commission's
31 constitutional and statutory responsibilities. The executive

1 director shall be reimbursed for per diem and travel expenses
2 incurred in the discharge of official duties as provided in s.
3 112.061. The executive director shall maintain headquarters in
4 and reside in Tallahassee.

5 (b) Each executive director must be confirmed by the
6 Senate during the regular legislative session immediately
7 following his or her appointment by the commission.

8 (4) PROGRAM SERVICES.--Within the Fish and Wildlife
9 Conservation Commission, the principal unit for program
10 services is a "Division" headed by a "Director." The principal
11 subunit of the division is a "Section" headed by a "Leader."
12 The principal subunit of the section is a "Subsection" headed
13 by an "Administrator." The following divisions and sections
14 are created within the commission:

15 (a) Fish and Wildlife Research Institute.

16 (b) Division of Freshwater Fisheries Management.

17 (c) Division of Habitat and Species Conservation.

18 (d) Division of Hunting and Game Management.

19 (e) Division of Law Enforcement. The Boating and
20 Waterways Section with duties and responsibilities as provided
21 in subsection (7), is created within this division.

22 (f) Division of Marine Fisheries Management.

23 (5) ADMINISTRATIVE AND SUPPORT SERVICES.--The
24 principal unit for administrative and support services is the
25 Office of Executive Direction and Administrative Support
26 Services, headed by the executive director. Each additional
27 office within this principal unit shall be headed by a
28 "Director," except for the Regional Operations Office, which
29 shall have five directors representing the five administrative
30 regions of the state. The following administrative and support
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1 offices within the Office of Executive Direction and
2 Administrative Support Services are created:
3 (a) Finance and Budget Office.
4 (b) Human Resources Office.
5 (c) Information Technology Office.
6 (d) Inspector General's Office.
7 (e) Legal Office.
8 (6) GENERAL PROVISIONS.--
9 (a) Section leader positions are classified at a level
10 equal to bureau chiefs, and subsection administrator positions
11 are classified at a level equal to section administrators, as
12 established in s. 20.04. At the discretion of the executive
13 director, office director positions shall be classified at a
14 level equal to division directors, bureau chiefs, or section
15 administrators, as established in s. 20.04.
16 (b) Unless specifically authorized by law, the
17 commission may not reallocate duties and functions assigned by
18 law to a specific unit of the commission. Functions assigned
19 generally to the commission without specific designation to a
20 unit of the commission may be allocated at the discretion of
21 the commission.
22 (c) Divisions and sections created by this act may be
23 abolished only by general law. Additional divisions in the
24 commission may only be established by general law. New
25 sections, subsections, and offices of the commission may be
26 initiated by the commission and established as recommended by
27 the Department of Management Services and approved by the
28 Executive Office of the Governor, or may be established by
29 general law.
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1 (7) ASSIGNMENT OF DUTIES AND RESPONSIBILITIES.--The
2 commission, and the Legislature as provided in s. 9, Art. IV,
3 of the State Constitution, shall assign to the:

4 (a) Fish and Wildlife Research Institute such powers,
5 duties, responsibilities, and functions as are necessary to
6 accomplish its mission, which is to:

7 1. Serve as the primary source of research and
8 technical information and expertise on the status of marine
9 life, freshwater aquatic life, and wild animal life resources
10 in this state;

11 2. Monitor the status and health of marine life,
12 freshwater aquatic life, and wild animal life species and
13 their habitat;

14 3. Develop restoration and management techniques for
15 habitat and enhancement of plant and animal populations;

16 4. Respond to and provide critical technical support
17 for catastrophes, including oil spills, ship groundings, major
18 species die-offs, hazardous spills, and natural disasters;

19 5. Identify and monitor harmful algal blooms,
20 including red tides, to evaluate their impacts and provide
21 technical support concerning state and local public health
22 concerns; and

23 6. Provide state and local governments with technical
24 information and research results concerning fish and wild
25 animal life.

26 (b) Division of Freshwater Fisheries Management, such
27 powers, duties, responsibilities, and functions as are
28 necessary to facilitate the responsible and sustained use of
29 the state's freshwater aquatic life resources. Functions
30 include providing expertise on freshwater fish populations,
31 angler use, or other aspects of freshwater fisheries

1 management, including ensuring quality fisheries and fishing
2 in selected lakes, fish management areas, and rivers and
3 streams; the production of a dependable supply of freshwater
4 fish to meet specific freshwater fisheries management
5 objectives; the development and promotion of freshwater
6 fishing opportunities; the delivery of aquatic stewardship to
7 anglers; and the management of special projects, including a
8 5-year freshwater fishing bonus license program. Activities
9 include the management of freshwater fish hatchery operations
10 and fish production and the management of community-based
11 freshwater fisheries.

12 (c) Division of Habitat and Species Conservation, such
13 powers, duties, responsibilities, and functions as are
14 necessary for the responsible management, protection,
15 conservation, improvement, and expansion of the state's wild
16 animal life, freshwater aquatic life, and marine life, and
17 their respective habitats. Functions include the integration
18 of scientific data with applied habitat management to maintain
19 or increase fish and wild animal life populations through
20 aquatic and terrestrial habitat conservation and restoration,
21 species conservation, habitat conservation, management of
22 imperiled species, and management of exotic species through
23 intergovernmental coordination and public outreach. Activities
24 include acquiring, managing, and restoring public lands,
25 planning and coordinating habitat and land use, managing
26 freshwater and marine habitats, lake restoration, manatee
27 protection, protection of fish and wildlife, and preventing
28 the introduction of and eliminating undesirable exotic
29 species.

30 (d) Division of Hunting and Game Management, such
31 powers, duties, responsibilities, and functions as are

1 necessary to facilitate the responsible and sustained use of
2 the state's wild animal life resources. Functions include
3 achieving sustainable hunting opportunities by providing
4 scientific expertise on game wildlife species such as
5 waterfowl, small game, deer, and turkey and by developing
6 sound alligator management recommendations based on scientific
7 informations. These functions shall be achieved through hunter
8 safety certification; administering public shooting ranges
9 statewide; hunting and game species management; and
10 coordinating, developing, disseminating, and evaluating rules,
11 regulations, and publications pertaining to wildlife
12 management areas and other public hunting areas in the state.

13 (e) Division of Law Enforcement, such powers, duties,
14 responsibilities, and functions as are necessary to ensure
15 enforcement of state laws and commission rules governing the
16 use, management, protection, conservation, improvement, and
17 expansion of the state's wild animal life, freshwater aquatic
18 life, and marine life resources. The Division of Law
19 Enforcement shall also assist in the enforcement of all
20 general environmental laws remaining under the responsibility
21 of the Department of Environmental Protection.

22 1. Functions include protecting the state's fish and
23 wild animal life resources by enforcing laws and rules;
24 boating safety enforcement and education; search and rescue
25 capabilities; disaster response capabilities; coordinating
26 with local, state, and federal entities on law enforcement
27 issues; and developing regulations. These functions shall be
28 achieved through field operations that provide state fisheries
29 and wild animal life resource protection, boating safety
30 enforcement, and general law enforcement services;
31 investigation services, with responsibility for investigating

1 and reporting boating and hunting accidents and regulation of
2 the state's captive wildlife trade; training and recruitment;
3 and managing and promoting the use of state waterways for safe
4 and enjoyable boating. Activities include the patrol of land
5 and water, patrol from air; maintaining radio communications;
6 operating vessel repair shops; removal of derelict vessels;
7 management of buildings and maintenance of boat ramps and
8 infrastructure; and management of technology and data needed
9 to maintain statistical information databases and to evaluate
10 and make recommendations on emerging law enforcement
11 technology.

12 2. The Boating and Waterways Section has such powers,
13 duties, responsibilities, and functions as are necessary to
14 manage and promote the use of state waterways for safe
15 enjoyable boating. Its duties and responsibilities include,
16 but are not limited to, oversight and coordination of water
17 markers on state waters, boating education and boating safety
18 programs, improving public boating access, coordinating the
19 removal of derelict vessels from state waters, economic
20 development initiatives to promote boating in the state, and
21 coordinating the submission of commission comments on marine
22 events.

23 (f) Division of Marine Fisheries Management, such
24 powers, duties, responsibilities, and functions as are
25 necessary to facilitate the responsible and sustained use of
26 marine life resources. Functions include the coordination and
27 management of commercial and recreational saltwater fishing
28 and the development of management strategies for the state's
29 marine resources through marine fisheries stock assessments;
30 compiling management and research data on marine fisheries;
31 preparing management alternatives; developing marine fishery

1 workplans; coordinating agency management and rulemaking with
2 federal fisheries management councils and interstate
3 commissions, federal agencies, and other states; developing
4 and publishing marine fishery regulations; coordinating
5 commercial fisheries advisory boards, conducting audits of
6 commercial wholesale dealers; issuing commercial civil
7 penalties; and conducting appeals hearings. Activities include
8 the management of artificial reef development.

9 (8) ADEQUATE DUE PROCESS PROCEDURES.--

10 (a) The commission shall implement a system of
11 adequate due process procedures to be accorded to any party,
12 as defined in s. 120.52, whose substantial interests will be
13 affected by any action of the commission in the performance of
14 its constitutional responsibilities.

15 (b) The Legislature encourages the commission to
16 incorporate into its procedures the provisions of s.
17 120.54(3)(c) when adopting rules in the performance of its
18 constitutional duties or responsibilities.

19 (c) The commission shall follow the provisions of
20 chapter 120 when adopting rules in the performance of its
21 statutory duties or responsibilities. For purposes of this
22 subsection, the commission's statutory duties or
23 responsibilities include, but are not limited to:

24 1. Research and management responsibilities for marine
25 species listed as endangered or threatened, including, but not
26 limited to, manatees and marine turtles;

27 2. Establishment and enforcement of boating safety
28 regulations;

29 3. Land acquisition;
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- 1 4. Enforcement and collection of fees for all
2 commercial and recreational hunting or fishing licenses or
3 permits;
- 4 5. Aquatic plant removal using fish as a biological
5 control agent;
- 6 6. Enforcement of penalties for violations of
7 commission rules and state laws, including, but not limited
8 to, the seizure and forfeiture of vessels and other equipment
9 used to commit those violations;
- 10 7. Establishment of free fishing days;
- 11 8. Regulation of off-road vehicles on state lands;
- 12 9. Establishment and coordination of a statewide
13 hunter safety course;
- 14 10. Establishment of programs and activities to
15 develop and distribute public education materials;
- 16 11. Police powers of sworn law enforcement officers;
- 17 12. Establishment of citizen support organizations to
18 provide assistance, funding and promotional support for
19 programs of the commission;
- 20 13. Creation of the voluntary authorized hunter
21 identification program;
- 22 14. Regulation of required clothing of persons hunting
23 deer;
- 24 15. Management of marine, freshwater, and terrestrial
25 habitat; and
- 26 16. Establishment of no-cost licenses or permits.
- 27 (9) PERMIT COMMENTING AUTHORITY.--Comments submitted
28 by the commission to a permitting agency regarding
29 applications for permits, licenses, or authorizations
30 affecting the commission's jurisdiction must be based on
31 credible, factual scientific data, and must be received by the

1 permitting agency within the time specified by applicable
2 statutes or rules, or within 30 days, whichever is sooner.
3 Comments provided by the commission are not binding on any
4 permitting agency. Comments by the commission shall be
5 considered for consistency with the Florida Coastal Management
6 Program and ss. 373.428 and 380.23. If the commission's
7 comments are used by a permitting agency as a condition of
8 denial, approval, or modification of a proposed permit,
9 license, or authorization, any party to an administrative
10 proceeding involving such proposed action may require the
11 commission to join as a party in determining the validity of
12 the condition. In any action in which the commission is joined
13 as a party, the commission shall bear only the actual cost of
14 defending the validity of the credible, factual scientific
15 data used as a basis for comments.

16 (10) LAND ACQUISITION AUTHORITY.--The commission shall
17 acquire, in the name of the state, lands and waters suitable
18 for the protection, improvement, and restoration of the
19 state's wild animal life, freshwater aquatic life, and marine
20 life resources. Lands may be acquired by purchase, lease,
21 gift, or otherwise, using state, federal, or other sources of
22 funding. Lands acquired under this section shall be managed
23 for recreational and other multiple-use activities that do not
24 impede the commission's ability to perform its constitutional
25 and statutory duties and responsibilities.

26 (11) EMPLOYEE BONDS.--The commission may require any
27 commission employee to give a bond for the faithful
28 performance of duties. The commission may determine the amount
29 of the bond and must approve the bond. In determining the
30 amount of the bond, the commission may consider the amount of
31 money or property likely to be in the custody of the officer

1 or employee at any one time. The premium for the bond must be
2 paid out of the funds of the commission, and the bond must be
3 payable to the Governor of the state and the Governor's
4 successor in office.

5 Section 2. Subsection (1) of section 20.2551, Florida
6 Statutes, is amended to read:

7 20.2551 Citizen support organizations; use of
8 property; audit; public records; partnerships.--

9 (1) DEFINITIONS.--For the purposes of this section, a
10 "citizen support organization" means an organization which is:

11 (a) A Florida corporation not for profit incorporated
12 under the provisions of chapter 617 and approved by the
13 Department of State;

14 (b) Organized and operated to conduct programs and
15 activities; raise funds; request and receive grants, gifts,
16 and bequests of money; acquire, receive, hold, invest, and
17 administer, in its own name, securities, funds, objects of
18 value, or other property, real or personal; and make
19 expenditures to or for the direct or indirect benefit of the
20 Department of Environmental Protection or individual units of
21 the department. The citizen support organization may not
22 receive funds from the department ~~or the Florida Marine~~
23 ~~Research Institute~~ by grant, gift, or contract unless
24 specifically authorized by the Legislature;

25 (c) Determined by the appropriate division of the
26 Department of Environmental Protection to be consistent with
27 the goals of the department and in the best interests of the
28 state; and

29 (d) Approved in writing by the department to operate
30 for the direct or indirect benefit of the individual units of
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1 the department. Such approval shall be given in a letter of
2 agreement from the department.

3 Section 3. Section 370.06092, Florida Statutes, is
4 amended to read:

5 370.06092 Harmful-Algal-Bloom Task Force.--

6 (1) There is established a Harmful-Algal-Bloom Task
7 Force for the purpose of determining research, monitoring,
8 control, and mitigation strategies for red tide and other
9 harmful algal blooms in Florida waters. The Florida Fish and
10 Wildlife ~~Marine~~ Research Institute shall appoint to the task
11 force scientists, engineers, economists, members of citizen
12 groups, and members of government. The task force shall
13 determine research and monitoring priorities and control and
14 mitigation strategies and make recommendations to the Florida
15 Fish and Wildlife ~~Marine~~ Research Institute ~~by October 1,~~
16 ~~1999,~~for using funds as provided in this act.

17 (2) The Harmful-Algal-Bloom Task Force shall:

18 (a) Review the status and adequacy of information for
19 monitoring physical, chemical, biological, economic, and
20 public health factors affecting harmful algal blooms in
21 Florida;

22 (b) Develop research and monitoring priorities for
23 harmful algal blooms in Florida, including detection,
24 prediction, mitigation, and control;

25 (c) Develop recommendations that can be implemented by
26 state and local governments to develop a response plan and to
27 predict, mitigate, and control the effects of harmful algal
28 blooms; and

29 (d) Make recommendations to the Florida Fish and
30 Wildlife ~~Marine~~ Research Institute ~~by October 1, 1999,~~for
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1 research, detection, monitoring, prediction, mitigation, and
2 control of harmful algal blooms in Florida.

3 ~~(3) After the completion of the tasks specified in~~
4 ~~subsection (2), the Harmful-Algal-Bloom Task Force may be~~
5 ~~continued at the pleasure of the Florida Marine Research~~
6 ~~Institute.~~

7 Section 4. Subsection (11) of section 370.021;
8 subsections (2) and (5) of section 370.16; subsection (4) of
9 section 370.172; and sections 370.083, 370.162, 372.051, and
10 372.9906, Florida Statutes, are repealed.

11 Section 5. Subsection (3) of section 5 of chapter
12 99-245, Laws of Florida, is repealed.

13 Section 6. This act shall take effect upon becoming a
14 law.

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17 SENATE SUMMARY

18 Reorganizes the Fish and Wildlife Conservation
19 Commission. Revises the organization, structure, powers,
20 and duties of the commission. Deletes obsolete
21 provisions. (See bill for details.)
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