

House Joint Resolution

A joint resolution proposing an amendment to Section 9 of Article IV of the State Constitution to require the Fish and Wildlife Conservation Commission to provide a rule challenge process in commission procedures for persons who are affected by any existing or proposed rule of the commission and to provide guidelines for commission rules and rule challenges.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 9 of Article IV of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IV

EXECUTIVE

SECTION 9. Fish and wildlife conservation commission.--There shall be a fish and wildlife conservation commission, composed of seven members appointed by the governor, subject to confirmation by the senate, for staggered terms of five years. The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating

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29 regulations of the commission shall be prescribed by general
30 law. The commission shall establish procedures to ensure
31 adequate due process in the exercise of its regulatory and
32 executive functions. The procedures shall include a rule
33 challenge process for persons who are affected by any existing
34 or proposed rule of the commission. In a rule challenge, the
35 burden shall be on the commission to show by a preponderance of
36 the evidence that the rule is supported by competent and
37 substantial evidence and that the evidence demonstrates the
38 rational basis for the rule. Rules of the commission shall not
39 be based upon speculation unsupported by evidence or empirical
40 data. Procedures for a rule challenge process shall follow those
41 set forth in the state administrative procedure act. The
42 legislature may enact laws in aid of the commission, not
43 inconsistent with this section, except that there shall be no
44 special law or general law of local application pertaining to
45 hunting or fishing. The commission's exercise of executive
46 powers in the area of planning, budgeting, personnel management,
47 and purchasing shall be as provided by law. Revenue derived from
48 license fees for the taking of wild animal life and fresh water
49 aquatic life shall be appropriated to the commission by the
50 legislature for the purposes of management, protection, and
51 conservation of wild animal life and fresh water aquatic life.
52 Revenue derived from license fees relating to marine life shall
53 be appropriated by the legislature for the purposes of
54 management, protection, and conservation of marine life as
55 provided by law. The commission shall not be a unit of any other
56 state agency and shall have its own staff, which includes

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57 management, research, and enforcement. Unless provided by
 58 general law, the commission shall have no authority to regulate
 59 matters relating to air and water pollution.

60 BE IT FURTHER RESOLVED that the following statement be
 61 placed on the ballot:

62 CONSTITUTIONAL AMENDMENT

63 ARTICLE IV, SECTION 9

64 FISH AND WILDLIFE CONSERVATION COMMISSION RULE CHALLENGE
 65 PROCEDURES.--Proposing an amendment to the State Constitution to
 66 require the Fish and Wildlife Conservation Commission to provide
 67 in the procedures of the commission a rule challenge process for
 68 persons affected by existing or proposed commission rules, to
 69 require that the burden in a rule challenge shall be on the
 70 commission to show by a preponderance of the evidence that the
 71 rule is supported by competent and substantial evidence and that
 72 the evidence demonstrates the rational basis for the rule, to
 73 require that a rule not be based on speculation unsupported by
 74 evidence or empirical data, and to require that the commission's
 75 rule challenge process procedures follow those set forth in the
 76 state Administrative Procedure Act.