

By Senator Baker

24-1682-07

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Senate 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 regulations of the commission

1 shall be prescribed by general law. The commission shall
2 establish procedures to ensure adequate due process in the
3 exercise of its regulatory and executive functions. The
4 procedures shall include a rule challenge process for persons
5 who are affected by any existing or proposed rule of the
6 commission. In a rule challenge, the burden shall be on the
7 commission to show by a preponderance of the evidence that the
8 rule is supported by competent and substantial evidence and
9 that the evidence demonstrates the rational basis for the
10 rule. Rules of the commission shall not be based upon
11 speculation unsupported by evidence or empirical data.
12 Procedures for a rule challenge process shall follow those set
13 forth in the state administrative procedure act. The
14 legislature may enact laws in aid of the commission, not
15 inconsistent with this section, except that there shall be no
16 special law or general law of local application pertaining to
17 hunting or fishing. The commission's exercise of executive
18 powers in the area of planning, budgeting, personnel
19 management, and purchasing shall be as provided by law.
20 Revenue derived from license fees for the taking of wild
21 animal life and fresh water aquatic life shall be appropriated
22 to the commission by the legislature for the purposes of
23 management, protection, and conservation of wild animal life
24 and fresh water aquatic life. Revenue derived from license
25 fees relating to marine life shall be appropriated by the
26 legislature for the purposes of management, protection, and
27 conservation of marine life as provided by law. The commission
28 shall not be a unit of any other state agency and shall have
29 its own staff, which includes management, research, and
30 enforcement. Unless provided by general law, the commission
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1 shall have no authority to regulate matters relating to air
2 and water pollution.

3 BE IT FURTHER RESOLVED that the following statement be
4 placed on the ballot:

5 CONSTITUTIONAL AMENDMENT

6 ARTICLE IV, SECTION 9

7 FISH AND WILDLIFE CONSERVATION COMMISSION RULE

8 CHALLENGE PROCEDURES.--Proposing an amendment to the State
9 Constitution to require the Fish and Wildlife Conservation
10 Commission to provide in the procedures of the commission a
11 rule challenge process for persons affected by existing or
12 proposed commission rules, to require that the burden in a
13 rule challenge shall be on the commission to show by a
14 preponderance of the evidence that the rule is supported by
15 competent and substantial evidence and that the evidence
16 demonstrates the rational basis for the rule, to require that
17 a rule not be based on speculation unsupported by evidence or
18 empirical data, and to require that the commission's rule
19 challenge process procedures follow those set forth in the
20 state Administrative Procedure Act.

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