

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 1157 Fishing and Hunting

SPONSOR(S): Agriculture, Conservation & Resiliency Subcommittee, Melo and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SJR 1234

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	17 Y, 0 N, As CS	Gawin	Moore
2) Infrastructure Strategies Committee	19 Y, 0 N	Gawin	Harrington

SUMMARY ANALYSIS

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life. As a result of FWC's constitutional authority, the Legislature is constitutionally prohibited from adopting statutes in conflict with rules adopted by FWC to execute such authority. However, the Constitution specifies that all licensing fees for taking wild animal life, freshwater aquatic life, and marine life as well as the penalties for violating FWC regulations must be prescribed by the Legislature. The Legislature may also enact laws to aid FWC that are not inconsistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.

In 2002, the Legislature recognized that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida, and as such, should be preserved for Floridians. The Legislature also recognized that such activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. The Legislature intended that the citizens of Florida have the right to hunt, fish, and take game, subject to rules and regulations prescribed by general law and FWC. FWC regulates hunting and fishing seasons, means of take, bag limits, and areas authorized for hunting or fishing. With certain exceptions, individuals who wish to hunt or fish in Florida must obtain the appropriate license or permit from FWC.

The joint resolution proposes an amendment to Article I of the Florida Constitution to create a new section that preserves forever fishing and hunting, including by the use of traditional methods, as a public right and preferred means of responsibly managing and controlling fish and wildlife. The joint resolution specifies that the amendment does not limit the authority granted to FWC under Section 9 of Article IV of the Constitution.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 5, 2024. If adopted at the 2024 general election, the resolution would take effect January 7, 2025.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If the HJR is subsequently placed on the ballot, the Constitution requires approval by at least 60 percent of the electors voting on the measure for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Fish and Wildlife Conservation Commission

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life.¹

As a result of FWC's constitutional authority, the Legislature is constitutionally prohibited from adopting statutes in conflict with rules adopted by FWC to execute such authority.² However, the Constitution specifies that all licensing fees for taking wild animal life, freshwater aquatic life, and marine life as well as the penalties for violating FWC regulations must be prescribed by the Legislature.³ In addition, the Legislature must provide for FWC's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing.⁴ The Legislature may also enact laws to aid FWC that are not inconsistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.⁵

Hunting and Fishing

In 2002, the Legislature recognized that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida, and as such, should be preserved for Floridians.⁶ The Legislature also recognized that such activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources.⁷ As such, the Legislature intended that the citizens of Florida have the right to hunt, fish, and take game, subject to rules and regulations prescribed by general law and FWC.⁸ It is prohibited for any person to intentionally interfere with a person lawfully taking fish, game, or nongame animals or to attempt to disturb any fish, game, or nongame animals in an attempt to affect their behavior to prevent the lawful taking of such animals.⁹

FWC regulates hunting and fishing seasons, means of take, bag limits, and areas authorized for hunting or fishing. Florida residents and visitors are required to possess a Florida hunting, freshwater fishing, or saltwater fishing license when engaged in fishing and hunting activities.¹⁰ Fees for licenses and permits typically range from \$17 to \$151¹¹ depending on the type and duration of the license, as well as if the individual is a Florida resident.¹² Certain individuals are exempt from the permitting requirements.¹³

¹ Art. IV, s.9, Fla. Const.

² Art. IV, s.9, Fla. Const.

³ Art. IV, s.9, Fla. Const.

⁴ *Id.*

⁵ *Id.*

⁶ Section 379.104, F.S.

⁷ *Id.*

⁸ *Id.*

⁹ Section 379.105, F.S.

¹⁰ This includes individuals who are aiding in the take. FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited Mar. 14, 2023).

¹¹ Outside of this range, FWC offers a five-year resident gold sportsman's license that includes freshwater fishing, hunting, and saltwater fishing licenses and wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, Florida waterfowl, snook, and lobster permits for \$494.

¹² See, FWC, *Recreational Freshwater Licenses & Permits*, <https://myfwc.com/license/recreational/freshwater-fishing/> (last visited Mar. 14, 2023); FWC, *Recreational Saltwater Licenses & Permits*, <https://myfwc.com/license/recreational/saltwater-fishing/> (last visited Mar. 14, 2023); FWC, *Recreational Hunting Licenses & Permits*, <https://myfwc.com/license/recreational/hunting/> (last visited Mar. 13, 2023).

¹³ See s. 379.353, F.S., for a list of individuals who are exempt from permitting requirements. See also, FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited Mar. 14, 2023).

Hunting and fishing are authorized in various areas throughout the state; however, hunting is prohibited in state parks.¹⁴ FWC oversees more than 6 million acres of land established as wildlife management areas (WMA) or wildlife and environmental areas.¹⁵ FWC works in partnership with other governmental or private landowners on the majority of lands and is the landowner or lead managing agency on the remainder of lands.¹⁶ These lands are managed for both conservation and recreation, including hunting. To hunt on a WMA, an individual must obtain a management area permit.¹⁷

Effect of the Bill

The joint resolution proposes an amendment to Article I of the Florida Constitution to create a new section that preserves forever fishing, hunting and the taking of fish and wildlife, including by the use of traditional methods, as a public right and preferred means of responsibly managing and controlling fish and wildlife. The joint resolution specifies that the amendment does not limit the authority granted to FWC under Section 9 of Article IV of the Constitution.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 5, 2024. If adopted at the 2024 general election, the resolution would take effect January 7, 2025.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The statewide total cost for the Division of Elections within the Department of State to advertise constitutional amendments, in English and Spanish,¹⁸ in newspapers for the 2022 election cycle was \$332,359.17; however, accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from the newspapers.¹⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

¹⁴ Section 258.008(3)(e), F.S.

¹⁵ FWC, *What are Wildlife Management Areas?*, <https://myfwc.com/recreation/wmas/> (last visited Mar. 16, 2023).

¹⁶ *Id.*

¹⁷ FWC, *Recreational Land Use Permits*, <https://myfwc.com/license/public-land-use/> (last visited Mar. 16, 2023).

¹⁸ Section 203 of the Federal Voting Rights Act requires the Department of State to publish a Spanish version of the amendment in addition to an English version.

¹⁹ See Email from Katherine Woodby, Legislative Affairs Director, DOS, "RE: HJR 1157 Cost to Advertise" (Mar. 20, 2023) (on file with the Agriculture, Conservation & Resiliency Subcommittee).

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The mandates provision applies only to general laws, not a joint resolution to amend the Constitution.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.²⁰ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless, pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.²¹

Article XI, section 5(e) of the Florida Constitution requires approval by at least 60 percent of the electors voting on the measure for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as specified in the amendment.²²

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 27, 2023, the Agriculture, Conservation & Resiliency Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment specified that fishing, hunting, and the taking of fish and wildlife, including by the use of traditional methods is forever preserved as the preferred means of responsibly managing and controlling fish and wildlife. Additionally, the amendment removed a provision specifying that the amendment does not limit or restrict any law relating to trespass, property rights, or eminent domain.

This analysis is drafted to the committee substitute as approved by the Agriculture, Conservation & Resiliency Subcommittee.

²⁰ Art. XI, s. 1, Fla. Const.

²¹ Art. XI, s. 5, Fla. Const.

²² *Id.*