

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SJR 1234

INTRODUCER: Environment and Natural Resources and Senator Brodeur

SUBJECT: Hunting and Fishing

DATE: March 27, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	<b>Fav/CS</b>
2.			JU	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SJR 1234 proposes an amendment to the Florida Constitution to preserve hunting, fishing, and the taking of fish and wildlife, including by the use of traditional methods, in perpetuity as a public right. The amendment makes hunting, fishing, and the taking of fish and wildlife the preferred means of responsibly managing and controlling fish and wildlife. This amendment does not limit the authority of the Florida Fish and Wildlife Conservation Commission.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2024 or at an earlier special election.

**II. Present Situation:**

**Hunting and Fishing in Florida**

Wildlife managers often use hunting and fishing as tools for wildlife management and conservation.<sup>1</sup> Based on field research and harvest data, managers can model population growth

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<sup>1</sup> See, Andrew Moore, College of Natural Resources News, *The Role of Hunting in Wildlife Conservation, Explained*, <https://cnr.ncsu.edu/news/2021/02/the-role-of-hunting-in-wildlife-conservation-explained/> (last visited Mar. 28, 2023); U.S. Department of the Interior, *How Hunting Assists Species Conservation and Management*, [https://www.doi.gov/ocl/hearings/112/SpeciesConservation\\_062712](https://www.doi.gov/ocl/hearings/112/SpeciesConservation_062712) (last visited Mar. 28, 2023); Brent Lawrence, U.S. Fish and Wildlife Service, *North American Model of Wildlife Conservation: Wildlife for Everyone*,

and set management regulations according to those models.<sup>2</sup> If a population of fish or wildlife is overabundant, increased harvest can help control the population.<sup>3</sup>

The Florida Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.<sup>4</sup> FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.<sup>5</sup> Under Article IV, Section 9 of the Florida Constitution, FWC has the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. All license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating FWC regulations are found in statute.<sup>6</sup> The Legislature may enact laws to aid FWC, except for special laws or general laws of local application pertaining to hunting or fishing.<sup>7</sup>

### ***Right to Hunt and Fish***

Citizens of Florida have the statutory right to hunt, fish, and take game subject to the regulations and restrictions prescribed by law and by the State Constitution.<sup>8</sup> The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians. The Legislature also recognizes that these activities play an important role in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources.<sup>9</sup> Additionally, it can be a criminal infraction to intentionally harass hunters, trappers, or fishers.<sup>10</sup>

Twenty-three states have passed constitutional amendments giving their citizens the right to hunt, fish, or both.<sup>11</sup> States that preserve the right to both hunt and fish are Alabama, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Minnesota, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, and Wyoming. Both California and Rhode Island have amended their state constitutions to guarantee the right to fish, but not to hunt, and New Hampshire statutorily recognizes the right to hunt and fish.<sup>12</sup>

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<https://www.fws.gov/story/2022-04/north-american-model-wildlife-conservation-wildlife-everyone> (last visited Mar. 28, 2023).

<sup>2</sup> Andrew Moore, *The Role of Hunting in Wildlife Conservation, Explained*.

<sup>3</sup> *Id.*

<sup>4</sup> FLA. CONST. art. IV, s. 9.

<sup>5</sup> *Id.*; see also s. 379.102(1), F.S.

<sup>6</sup> FLA. CONST. art. IV, s. 9.

<sup>7</sup> *Id.*

<sup>8</sup> Section 379.104, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 379.105, F.S.

<sup>11</sup> National Conference of State Legislatures, *State Constitutional Right to Hunt and Fish*, <https://www.ncsl.org/environment-and-natural-resources/state-constitutional-right-to-hunt-and-fish> (last visited Mar. 22, 2023); N.C. CONST. art. I, s. 38; UTAH CONST. art. I, s. 30.

<sup>12</sup> *Id.*

## Taking Fish and Wildlife

“Taking” is defined in the Florida statutes as “taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater or saltwater fish, or their nests or eggs, by any means, whether or not such actions result in obtaining possession of such wildlife or freshwater or saltwater fish or their nests or eggs.”<sup>13</sup> The term “take” is also defined in the federal Endangered Species Act to include harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting to engage in any such conduct.<sup>14</sup>

## Allowed Methods of Hunting in Florida

The Florida Fish and Wildlife Conservation Commission (FWC) authorizes the hunting of resident game birds, crows, or game mammals with:

- Shotguns.
- Rifles, revolvers, or pistols, except that:
  - No fully automatic firearm may be used.
  - Firearms using any rimfire cartridge or non-expanding, full metal case ammunition are prohibited for taking deer or bear.
  - Use of a centerfire semi-automatic rifle having a magazine capable of holding more than five rounds is prohibited.
- Muzzleloading guns of less than .30 caliber firing a single bullet or of less than 20 gauge firing two or more balls, are prohibited for taking deer or bear.
- Air guns, except that:
  - Only pre-charged pneumatic air guns .30 caliber or greater propelling a single projectile may be used for taking deer.
  - Only pre-charged pneumatic air guns .20 caliber or greater propelling a single projectile may be used for taking wild turkey.
- Falcons.
- Bows or crossbows, except that any arrow or bolt used to take deer, bear, or wild turkey shall be equipped with a broadhead with a minimum width of 7/8 inches.<sup>15</sup>

Dogs may be used as an aid to take game unless otherwise prohibited.<sup>16</sup>

FWC allows migratory game birds to be taken with:

- Shotguns not larger than 10 gauge with a capacity not exceeding three shells in the magazine and chamber combined.
- Falcons.
- Bows or crossbows.<sup>17</sup>

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<sup>13</sup> Section 379.101(38), F.S.

<sup>14</sup> 16 U.S.C. §1531; National Oceanic and Atmospheric Administration, *Endangered Species Act*, <https://www.fisheries.noaa.gov/national/endangered-species-conservation/endangered-species-act#section-9-prohibited-acts> (last visited Mar. 27, 2023).

<sup>15</sup> Chapter 68A-12.002, F.A.C.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

A person who holds a furbearer trapping license may take or attempt to take furbearing animals including raccoon, opossum, skunk, nutria, beaver, coyote, bobcat, and otter with a livetrapping of snare and to sell furbearer's hides and meat to a licensed dealer.<sup>18</sup>

FWC does not allow a person to take game or crows with arrows or bolts that have explosive or drug-administering heads or to attempt to take any game with the aid of live decoys, recorded game calls or sounds, set guns, artificial light, net, trap, snare, drug, or poison.<sup>19</sup>

### **Allowed Methods of Fishing in Florida**

FWC allows freshwater game fish to be taken only by hook and line or rod and reel.<sup>20</sup> Freshwater game fish include black bass, crappie, bluegill, redear sunfish, warmouth, redbreast sunfish, spotted sunfish, flier, mud sunfish, longear sunfish, shadow bass, peacock bass, white bass, striped bass, and sunshine bass.<sup>21</sup> Freshwater non-game fish may be taken:

- With pole and line or rod and reel.
- By bush hook, setline, or trotline baited with cut bait or other substance, but only in certain areas.
- At night with bow and arrow or gigs.
- During daylight hours by manually operated spears, gigs, snatch hooks, crossbow, or bow and arrow from a boat or from the shore, except in certain areas.
- By the use of cast nets in certain areas.
- At night with a bow and light.
- By netting or impounding at night in certain areas.
- By the use of not more than one slat basket or one wire trap.<sup>22</sup>

All persons fishing recreationally for saltwater reef fish in the Gulf of Mexico must use a dehooking device and must use non-stainless non-offset circle hooks when using natural baits.<sup>23</sup> In the Atlantic Ocean, recreational and commercial fishers must use dehooking devices as needed when fishing for reef fish. When fishing for reef fish using hook and line with natural baits from a vessel, non-stainless steel, non-offset circle hooks and non-stainless steel hooks may be required depending on the location. These rules apply to all reef fish, including but not limited to groupers, snappers, amberjacks, red porgy, gray triggerfish, black sea bass, golden tilefish, banded rudderfish, and speckled hind.<sup>24</sup>

The following types of nets may be used for recreational purposes in Florida waters:

- Bully nets for lobster,
- Frame nets and push nets for shrimp in certain areas,

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<sup>18</sup> FWC, *Recreational Hunting Licenses & Permits*, <https://myfwc.com/license/recreational/hunting/> (last visited Mar. 27, 2023).

<sup>19</sup> Chapter 68A-12, F.A.C.

<sup>20</sup> Chapter 68A-23.002, F.A.C.

<sup>21</sup> ERegulations, *Florida Freshwater Fishing, Methods of Taking Fish*, <https://www.eregulations.com/florida/fishing/freshwater/methods-of-taking-fish> (last visited Mar. 28, 2023).

<sup>22</sup> *Id.*

<sup>23</sup> ERegulations, *Florida Saltwater Fishing, Recreational Gear*, <https://www.eregulations.com/florida/fishing/saltwater/recreational-gear> (last visited Mar. 28, 2023).

<sup>24</sup> *Id.*

- Hand-held landing or dip nets,
- Cast nets, and
- Beach or haul seines.

Cast nets and seines may be used to harvest only black drum, bluefish, cobia, flounder, mullet, Florida pompano, red drum, sheepshead, shrimp, Spanish mackerel, weakfish, and unregulated species. Fishing with powerheads, explosives, chemicals, or firearms is prohibited in state waters.<sup>25</sup>

Spearing, which includes bow fishing, gigging, and spearfishing, is prohibited for certain species and subject to the same recreational regulations as those marine species that are harvested by any other type of gear. Fishing with the use of powerheads, bangsticks, or rebreathers is prohibited in state waters, however rebreathers are allowed for the harvest of lionfish.<sup>26</sup>

### III. Effect of Proposed Changes:

The joint resolution proposes the creation of Article I, s. 28 of the Florida Constitution to preserve hunting, fishing, and the taking of fish and wildlife, including by the use of traditional methods, forever as a public right and as a preferred means of responsibly managing and controlling fish and wildlife. The section does not limit the authority granted to the Florida Fish and Wildlife Conservation Commission under Article IV, s. 9.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2024 or at an earlier special election specifically authorized by law for that purpose.

The joint resolution also provides the ballot statement, which will appear on the November 2024 ballot if adopted by the Legislature, as follows:

RIGHT TO FISH AND HUNT.—Proposing an amendment to the State Constitution to preserve 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. Specifies that the amendment does not limit the authority granted to the Fish and Wildlife Conservation Commission under Section 9 of Article IV of the State Constitution.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election<sup>27</sup> held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.<sup>28</sup>

Article XI, s. 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 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters 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 may be specified in the amendment.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

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<sup>27</sup> Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

<sup>28</sup> Section 101.161(1), F.S.

**C. Government Sector Impact:**

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 in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,<sup>29</sup> typically paid from non-recurring General Revenue funds.<sup>30</sup> 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 newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.<sup>31</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This resolution creates a new section in Article I of the Florida Constitution.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources on March 27, 2023:**

- Revises the title of Section 28 to “Fishing, hunting, and the taking of fish and wildlife;”
- Adds the taking of fish and wildlife as a constitutional right;

<sup>29</sup> Pursuant to Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503).

<sup>30</sup> See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

<sup>31</sup> Section 100.371(13)(e)4., F.S. See also Chapter 2019-64, s. 3, Laws of Fla.

- Specifically includes the use of traditional methods in the right to fish, hunt, and take fish and wildlife;
- Adds that fishing, hunting, and the taking of fish and wildlife shall be preserved forever as preferred means of responsibly managing and controlling fish and wildlife;
- Deletes language clarifying that the constitutional right to hunt, fish, and take fish and wildlife does not limit or restrict any law relating to trespass, property rights, or eminent domain; and
- Revises the ballot statement and the title of the joint resolution to reflect the changes above.

B. Amendments:

None.