

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/CS/HB 1133](#)

**TITLE:** Fish and Wildlife Conservation Commission

**SPONSOR(S):** Shoaf

**COMPANION BILL:** None

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 116 Y's

0 N's

**GOVERNOR'S ACTION:**

Pending

### SUMMARY

#### Effect of the Bill:

The bill creates the Fish and Wildlife Conservation Commission Regional Representation Act (Act). The bill creates residency requirements for members of the Florida Fish and Wildlife Conservation Commission (Commission) and requires the Governor to ensure compliance with the Act when appointing members to the Commission.

Additionally, the bill specifies that the members of the Commission, the executive director, and law enforcement officers may enter private land in the same manner and subject to the same requirements as a law enforcement officer.

#### Fiscal or Economic Impact:

None.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

### ANALYSIS

#### EFFECT OF THE BILL:

##### Florida Fish and Wildlife Conservation Commission

The bill creates the Fish and Wildlife Conservation Commission (Commission) Regional Representation Act (Act). (Section [1](#))

The bill establishes five regions within the state and requires one Commission [member](#) to reside full-time in each region. The regions are the Northwest Region, North Central Region, Northeast Region, Southwest Region, and South Region. The bill requires the remaining two members to be at-large members, representing the whole state. The bill authorizes the Commission to take all necessary actions to define the geographic boundaries of the five regions. The bill requires the Governor to ensure compliance with the Act. (Section [2](#))

The bill requires each regional member to reside full-time within the boundaries of his or her respective region at the time of appointment and throughout his or her term of service. The bill specifies that at-large members are not subject to the regional residency requirement, but are required to be residents of the state. (Section [2](#))

The bill requires the members to serve staggered terms of five years and requires a vacancy that occurs during the term of a member to be filled in the same manner as the original appointment and for the remainder of the unexpired term. The bill specifies that a vacancy for a regional member may not be filled by an individual who resides in the same region as a sitting member. (Section [2](#))

##### Entry onto Private Property

The bill specifies that members of the Commission, the executive director and his or her assistants, and Commission [law enforcement officers](#) may enter private property in the same manner and subject to the same requirements as all other law enforcement officers.<sup>1</sup> (Section [3](#))

<sup>1</sup> See [s. 943.10, F.S.](#)

## **Effective Date**

Subject to the Governor's veto powers, the effective date of the bill is July 1, 2025. (Section [4](#))

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### **Florida Fish and Wildlife Conservation Commission**

The Fish and Wildlife Conservation Commission (Commission), created by Art. IV, s. 9 of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.<sup>2</sup> The Commission is headquartered in Tallahassee,<sup>3</sup> with five regional offices and 76 field offices and facilities throughout the state.<sup>4</sup>

As a result of the Commission's constitutional authority, the Legislature is prohibited from adopting statutes in conflict with rules adopted by the Commission to execute such authority.<sup>5</sup> 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 the Commission regulations must be prescribed by the Legislature.<sup>6</sup> In addition, the Legislature must provide for the Commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing.<sup>7</sup> The Legislature may also enact laws to aid the Commission that are not inconsistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.<sup>8</sup>

#### **Members**

Art. IV, s. 9 of the Florida Constitution requires the Commission to be composed of seven members who are appointed by the Governor, subject to confirmation by the Senate, for staggered terms of five years.<sup>9</sup> The members meet four times per year to hear staff reports, consider rule proposals, and conduct other business.<sup>10</sup> Each meeting is held at a different location within the state.<sup>11</sup> Currently, there is no residency requirement for members. Members do not receive compensation for their services but may be reimbursed for travel expenses.<sup>12</sup> Annually, the members select one of the members to serve as the chair.<sup>13</sup> The chair may be removed at any time for sufficient cause, by an affirmative vote of a majority of the members.<sup>14</sup>

The executive director of the Commission is responsible for keeping meeting minutes for Commission meetings, purchasing supplies and employing assistants, representing the Commission in its dealings with other state departments and entities, appointing and establishing the salaries of other employees, and any other powers and duties as prescribed by the Commission.<sup>15</sup> The Commission has authorized its executive director to perform certain functions.<sup>16</sup>

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<sup>2</sup> Art. IV, s. 9, Fla. Const.

<sup>3</sup> Section [379.10255, F.S.](#)

<sup>4</sup> Commission, *FWC Overview*, <https://myfwc.com/about/overview/> (last visited Mar. 28, 2025).

<sup>5</sup> Art. IV, s. 9, Fla. Const.

<sup>6</sup> *Id.*

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

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*; additionally, these requirements have been codified in statute. Section [379.102\(1\), F.S.](#)

<sup>10</sup> Commission, *Commission Meetings*, <https://myfwc.com/about/commission/commission-meetings/> (last visited Mar. 28, 2025).

<sup>11</sup> Commission, *The Commission*, <https://myfwc.com/about/commission/> (last visited Mar. 28, 2025). See Commission, *Commission Meetings*, <https://myfwc.com/about/commission/commission-meetings/> (last visited Mar. 28, 2025) for meeting locations from 2012 through 2025.

<sup>12</sup> Section [379.102\(3\), F.S.](#)

<sup>13</sup> Section [379.102\(2\), F.S.](#)

<sup>14</sup> *Id.*

<sup>15</sup> Section [379.103, F.S.](#)

<sup>16</sup> Commission, *Executive Orders*, <https://myfwc.com/about/inside-fwc/executive-orders/> (last visited Mar. 28, 2025).

## Law Enforcement Officers

The Commission, the executive director, and the assistants designated by her or him, and each Commission law enforcement officer are considered peace officers with the power to make arrests for violations of laws when the act is committed in the presence of the officer or on certain state managed or owned lands.<sup>17</sup> Entry onto any of these lands is not considered trespassing.<sup>18</sup>

Commission rules must be enforced by certified law enforcement officers.<sup>19</sup> The Division of Law Enforcement within the Commission enforces all laws and rules relating to hunting, fishing, and wildlife.<sup>20</sup> Commission law enforcement officers are authorized to do the following as part of their duties:

- Enter lands, public or private.
- Execute warrants and search warrants.
- Serve subpoenas issued for the examination, investigation, and trial of all offenses that violate laws governing fish and wildlife and Commission rules.
- Carry firearms or other weapons, concealed or otherwise, in performance of their duties.
- Arrest someone upon probable cause and without a warrant for violating laws governing fish and wildlife or Commission rules.
- Secure and execute search warrants.
- Seize and take possession of all fish and wildlife that have been taken or are possessed by any person who has violated the law or Commission rules related to such species.<sup>21</sup>

## Entry onto Private Property

The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures. The Florida Constitution requires Florida courts to construe Fourth Amendment issues in conformity with rulings of the U.S. Supreme Court.<sup>22</sup> Fourth Amendment rights are implicated when the government interferes with any person's reasonable expectation of privacy when conducting a search or making a seizure of his or her person or property.<sup>23</sup>

To protect against official abuses and unfettered police discretion, most searches of private property require a warrant.<sup>24</sup> Courts will uphold the validity of a warrant that is based on probable cause and issued by a neutral magistrate.<sup>25</sup> Searches conducted pursuant to a warrant may not extend beyond the items or localities described in the warrant.<sup>26</sup> There are certain exceptions where a warrant is not required to conduct a search, including:

- A search that is incident to a lawful arrest.<sup>27</sup>
- When evidence or contraband is in plain view of a law enforcement officer who is lawfully on a person's property.<sup>28</sup>

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<sup>17</sup> Section [379.3311\(1\), F.S.](#); the Commission and other state agencies may acquire conservation easements for certain conservation objectives. Commission, *Conservation Planning*, <https://myfwc.com/conservation/value/fwcg/conservation/planning/> (last visited Mar. 28, 2025).

<sup>18</sup> *Id.*

<sup>19</sup> Section [379.33, F.S.](#); a law enforcement officer is any person elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof who is vested with the authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. Section [943.10\(1\), F.S.](#)

<sup>20</sup> Section [379.3311, F.S.](#); Commission, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Mar. 28, 2025).

<sup>21</sup> Section [379.3311\(2\), F.S.](#)

<sup>22</sup> Art. I, s. 12, Fla. Const.; *State v. Jimeno*, 588 So. 2d 233 (Fla. 1991).

<sup>23</sup> *Oliver v. U.S.*, 466 U.S. 170 (1984); *Jones v. State*, 648 So. 2d 669 (Fla. 1994).

<sup>24</sup> See e.g., *Minnesota v. Dickerson*, 508 U.S. 366 (1993); *Arizona v. Hicks*, 480 U.S. 321 (1987); *Donovan v. Dewey*, 452 U.S. 594 (1981); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978).

<sup>25</sup> *U.S. v. Ventresca*, 380 U.S. 102 (1965).

<sup>26</sup> *Marron v. U.S.*, 275 U.S. 192 (1927).

<sup>27</sup> *U.S. v. Robinson*, 414 U.S. 218 (1973); *Gustafson v. Fla.*, 414 U.S. 260 (1973); *Preston v. U.S.*, 376 U.S. 364 (1964). To meet constitutional requirements, the search must be contemporaneous with the arrest and can extend to things under the accused's immediate control and, depending on the circumstances of the case, to the place where he or she is arrested. *Preston*, 376 U.S. 364.

<sup>28</sup> *Horton v. California*, 496 U.S. 128 (1990); *Hicks*, 480 U.S. 321.

- When consent is given by the owner or possessor of the property.<sup>29</sup>
- Exigent circumstances.<sup>30</sup>

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<sup>29</sup> *Schneekloth v. Bustamonte*, 412 U.S. 218 (1973).

<sup>30</sup> *See Arkansas v. Sanders*, 442 U.S. 753 (1979). The exception encompasses several common situations when a search warrant is not feasible or advisable, including where there is danger of flight or escape; loss or destruction of evidence; risk of harm to the public or the police; mobility of a vehicle; and hot pursuit. *U.S. v. Holloway*, 290 F.3d 1331 (11th Cir. 2002).