

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 864
SPONSOR: Fiscal Policy Committee and Natural Resources Committee
SUBJECT: Fish and Wildlife Conservation Commission
DATE: March 29, 1999 REVISED: 3/31/99 _____

<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1. <u>Green</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2. <u>Hendon</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

I. Summary:

The bill renames the Game and Fresh Water Fish Commission as the Fish and Wildlife Conservation Commission (FWCC) and provides for the appointment of the new commission's executive director. Transfers the powers, duties, functions, and jurisdiction of the Marine Fisheries Commission (MFC) in effect on March 1, 1998, to the FWCC and also transfers the fund balances of the MFC assigned to the Board of Trustees of the Internal Improvement Trust Fund to the FWCC. It also transfers all of the powers, duties, functions, staff, equipment, and fund balances of the Game and Fresh Water Fish Commission to the FWCC. Transfers the Department of Environmental Protection's (DEP's) Division of Marine Resources related to the Office of Fisheries Management, Bureau of Marine Resources Regulation and Development, Bureau of Protected Species Management, and the Florida Marine Research Institute to the FWCC, but provides that portions of the Division of Marine Resources relating to the Bureau of Coastal and Aquatic Managed Areas shall remain within DEP. Transfers the following DEP units to the FWCC: Division of Law Enforcement related to the Office of Enforcement Planning and Policy Coordination, Bureau of Administrative Support, Bureau of Operational Support, and the Bureau of Environmental Law Enforcement. Retains the powers, duties, functions, staff, equipment and fund balances related to the Bureau of Park Patrol, Bureau of Emergency Response, and the Office of Investigations within the department's Division of Law Enforcement.

The bill also abolishes the Division of Marine Resources and the Division of Environmental Resource Permitting within DEP and renames the Division of Water Facilities as the Division of Water Resource Management. Requires the Secretary of DEP and the Executive Director of the FWCC to appoint staff members to a transition advisory committee which will review and determine the appropriate number of positions to be transferred from DEP's Office of General Counsel and the Division of Administrative and Technical Services to the FWCC, but allowing no more than 60 positions and their related funding levels and funding sources to be transferred to the new commission. Requires the Governor to appoint an Office of Planning and Budget staff member to chair the advisory committee's meetings and assist with implementation of these provisions and adjustments in the operating budgets of the two agencies involved during the

1999-2000 fiscal year. In addition, the bill in sections 15 through 216 and 221 through 249 contains numerous technical revisions necessary to conform the Florida Statutes to the organizational changes included in this act. The bill creates s. 403.0611, F.S., providing for the use of citizen support organizations by DEP; s. 403.0613, F.S., authorizing the DEP to publish its statutes and rules and charge for educational and technical publications; s. 403.0614, F.S., authorizing DEP to establish grant programs consistent with its statutory authority. The bill authorizes the Executive Office of the Governor to transfer funds as necessary to align the budget with the organization of the Fish and Wildlife Conservation Commission are provided for in the bill.

The bill substantially amends ss. 20.325, 20.255, 206.606, 259.101, 370.0603, 370.0608, 370.16, 370.26, and 932.7055, Florida Statutes. The bill repeals ss. 370.0205, 370.025, 370.026, 370.027, 372.021, 372.061, 373.1965, 373.197, and 403.261, Florida Statutes. The bill creates ss. 403.0611, 403.0613, and 403.0614, Florida Statutes.

II. Present Situation:

Every 20 years, the state of Florida forms a commission to study the state constitution and propose changes that are placed on a ballot for public vote. Pursuant to Florida Const. Art. XI, s. 2, the Constitution Revision Commission conducted numerous public meetings and held numerous working sessions of the commission to determine changes needed to Florida's Constitution. On May 5, 1998, the commission filed its proposed constitutional revisions with the Secretary of State. The proposed revisions were submitted to the electors at the general election on November 3, 1998. Seventy-two percent of the voters approved Revision 5, creating the new Fish and Wildlife Conservation Commission on July 1, 1999, and abolishing the Game and Fresh Water Fish Commission and the Marine Fisheries Commission.

Revision 5 included provisions related to the state's environment and natural resources. Florida's population has grown substantially in the past 20 years and is expected to exceed 17 million by 2010. This growth will inevitably affect the state's natural resources. Revision 5 increases conservation efforts by addressing the purchase of state lands, wildlife regulation, and the state's environmental policy.

Currently, Florida Const. Art. IV, s. 9 establishes the Game and Fresh Water Fish Commission. This 5-member commission has broad regulatory and executive powers with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating the commission's regulations shall be prescribed by specific statute.

The Marine Fisheries Commission, as established in s. 370.026, F.S., consists of seven members with full rulemaking authority over marine life, except endangered species, subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund. Endangered marine species, such as marine turtles, are regulated by the Department of Environmental Protection.

The Constitution also has provisions relating to bond issuance. Provisions contained in Florida Const. Art. XII, s. 9 allow bonds to be issued for land acquisition and capital improvement for outdoor recreation development. This section authorizes the Land Acquisition Trust Fund to be

used for these multiple purposes, but the fund is scheduled to expire in 2013 pursuant to these constitutional provisions. A change in the State Constitution is needed to allow the issuance of bonds for longer periods of time than the remaining years to 2013 and to provide broader powers for purchasing conservation and recreation lands.

At this time, the State Constitution does not contain any provision guiding the disposition of conservation and recreation lands acquired with bond proceeds. However, s. 259.101(6), F.S., includes provisions that must be followed in disposing of lands acquired pursuant to the Preservation 2000 Program using bond proceeds. These provisions address lands vested in the Board of Trustees of the Internal Improvement Trust Fund or in the governing boards of water management districts. Basically, these provisions require a determination that the lands are no longer needed for the purposes for which they were acquired and upon disposal the funds received must be used to acquire other conservation lands.

With respect to environmental policy, Florida Const. Art. II, s. 7 contains general provisions regarding natural resources and scenic beauty. This brief subsection states, "It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise."

The Senate Natural Resources Committee has devoted considerable time to develop a bill that implements the provisions of Revision 5. The committee began discussions on what type of legislation would be required on December 1, 1998. The Game and Fresh Water Fish Commission and the Department of Environmental Protection made presentations regarding implementation proposals to the committee during its January 6, 1999, meeting. The committee proposed a bill, SB 864, during its January 19, 1999, meeting. The committee devoted this entire January 19 meeting to the discussion of the proposed bill. On March 8, 1999, the committee voted favorably on SB 864 as a committee substitute. On March 31, 1999, the Fiscal Policy Committee voted favorably on a proposed committee substitute for the committee substitute for SB 864 sponsored by the Fiscal Policy Committee and the Natural Resources Committee.

III. Effect of Proposed Changes:

Section 20.325, F.S., is amended as follows:

Section 1. Renames the Game and Fresh Water Fish Commission as the Fish and Wildlife Conservation Commission (FWCC) and establishes divisions within the new commission. Provides the executive director of the FWCC will be appointed by the commission and confirmed by the Senate.

Section 2. Transfers the powers, duties, functions, and jurisdiction of the Marine Fisheries Commission (MFC) in effect on March 1, 1998, to the FWCC. Provides for the transfer of staff and equipment of the MFC to the FWCC. Also transfers fund balances of the MFC assigned to the Board of Trustees of the Internal Improvement Trust Fund to the FWCC using a type two transfer.

Section 3. Transfers the powers, duties, functions, staff, equipment, and fund balances of the Game and Fresh Water Fish Commission to the FWCC using a type two transfer.

Section 4. Transfers the powers, duties, functions, staff, equipment, facilities and fund balances of the Department of Environmental Protection's (DEP's) Division of Marine Resources related to the Office of Fisheries Management, Bureau of Marine Resources Regulation and Development, Bureau of Protected Species Management, and the Florida Marine Research Institute to the FWCC using a type two transfer. Provides that portions of the Division of Marine Resources relating to the Bureau of Coastal and Aquatic Managed Areas shall remain within DEP.

Section 5. Transfers the powers, duties, functions, staff, equipment, facilities, and fund balances of the following units within the DEP to the FWCC: Division of Law Enforcement related to the Office of Enforcement Planning and Policy Coordination, Bureau of Administrative Support, Bureau of Operational Support, and the Bureau of Environmental Law Enforcement. Provides the Bureau of Park Patrol, Bureau of Emergency Response, and the Office of Investigations shall remain within the DEP's Division of Law Enforcement. Specifies that no duties or responsibilities relating to boating safety matters shall remain within DEP.

Section 20.255, F.S., is amended as follows:

Section 6. Abolishes the Division of Marine Resources and the Division of Environmental Resource Permitting within DEP. Renames the Division of Water Facilities as the Division of Water Resource Management.

Section 7. Requires the Secretary of DEP and the Executive Director of the FWCC to each appoint 3 staff members to a transition advisory committee which will review and determine the appropriate number of positions to be transferred from DEP's Office of General Counsel and the Division of Administrative and Technical Services to the FWCC to provide legal services and administrative support services, including communications equipment involving the National Crime Information System (NCIS) and the Florida Crime Information System (FCIS). Provides that no more than 60 positions and their related funding levels and funding sources shall be transferred to the new commission. Requires the Governor to appoint an Office of Planning and Budget staff member to chair the meetings of the advisory committee and to assist with implementation of these provisions and adjustments in the operating budgets of the two agencies involved during the 1999-2000 fiscal year, consulting with the Appropriations Committees in the House of Representatives and the Senate.

Section 8. Amends s. 206.606, F.S., to provide the department shall deposit an additional \$1.25 million each fiscal year into the Aquatic Plant Control Trust Fund.

Section 9. Amends s. 259.101, F.S., to require that lands acquired for conservation purposes be disposed of only upon a two-thirds vote of the appropriate governing board determining the land is no longer needed for conservation purposes. This language is needed to conform with Revision 5.

Section 10. Amends s. 370.0603, F.S., to move the Marine Resources Conservation Trust Fund from the department to the FWCC.

Section 11. Amends s. 370.0608, F.S., to provide that up to 12.5 percent of saltwater fishing license fees may be used for administration of the licensing program and for information and education.

Section 12. Amends s. 370.16, F.S., to transfer oyster and shellfish special activity licenses, harvesting, and gear regulation to the FWCC. The department maintains its role in approving lease applications and collecting license fees. It also retains oysters and clam shells as the property of the department with the officers of the FWCC acting as surveillance agents when the DEP chooses to exercise its authority to oversee the deposition of shells. Provides that lease fees paid to the DEP shall be deposited into the Land Acquisition Trust Fund.

Section 13. Amends s. 370.26, F.S., to transfer certain activities relating to aquaculture from the department to the FWCC. These activities mainly relate to stock enhancement projects and the FWCC's role in working with the Department of Agriculture and Consumer Services to encourage and promote aquaculture.

Section 14. Amends s. 932.7055, F.S., to provide that proceeds from property forfeited to the department under the Florida Contraband Forfeiture Act shall be deposited into the Forfeited Property Trust Fund.

Sections 15 through 216. Make numerous technical changes to conform the Florida Statutes to the State Constitution and this act.

Section 217. Repeals the following sections: s. 370.0205, F.S., which provides for the use of citizen support organizations; s. 370.025, F.S., which provides policies for the Marine Fisheries Commission; s. 370.026, F.S., which provides for the creation of the Marine Fisheries Commission; s. 370.027, F.S., which provides rulemaking authority; s. 372.021, F.S., which provides for the powers of the Game and Fresh Water Fish Commission; s. 372.061, F.S., which provides for meetings of the Game and Fresh Water Fish Commission; s. 373.1965, F.S., which creates the Coordinating Council on the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin; s. 373.197, F.S., which provides direction for the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; and s. 403.261, F.S., which provides for the repeal of rulemaking jurisdiction over air and water pollution.

Section 218. Creates s. 403.0611, F.S., to provide for citizen support organizations determined by the DEP to support the goals of the department and the best interests of the state. Provides for use of DEP property by these organizations under certain conditions. Provides for annual audits of citizen support organizations with annual expenditures of \$100,000 or more. Subjects these organizations to the public records requirements in chapter 119. (The DEP currently has these same provisions in s. 370.0205, F.S., which this bill deletes from that chapter which addresses saltwater fisheries.)

Section 219. Creates s. 403.0613, F.S., to authorize the DEP to publish the statutes under its jurisdiction, along with the department's rules, for free distribution in this state. Allows the DEP to charge for technical and educational publications and copies used for educational or reference purposes. Requires moneys received for publications to be deposited into the fund from which

the cost of publication was paid. (The DEP currently has this authority in s. 370.021(8), F.S., 1998 Supplement, which this bill deletes from that chapter which addresses saltwater fisheries.)

Section 220. Creates s. 403.0614, F.S., to authorize the DEP to establish grant programs consistent with its statutory authority and legislative appropriations. Requires the DEP to adopt rules pursuant to chapter 120 for these grant programs. Authorizes the DEP to preaudit or postaudit a recipient's account books to ensure grant funds were used in accordance with the terms of the grant. (The DEP currently has this authority in s. 370.023, F.S., which this bill deletes from that chapter which addresses saltwater fisheries.)

Sections 221 through 249. Make numerous technical changes to conform the Florida Statutes to the State Constitution and this act.

Section 250. Provides that the Executive Office of the Governor may transfer funds as necessary to align the budget with the organization of the Fish and Wildlife Conservation Commission are provided for in the bill. Such transfers must be made after consultation with the Legislature.

Section 251. Provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The figures below indicate the units and associated positions transferred from the Department of Environmental Protection to the new Fish and Wildlife Conservation Commission. The Legislature appropriated approximately \$71.8 million in the current fiscal year and 805.5 positions to the DEP for the functions transferred. Combining these transferred functions with those of the Game and Fresh Water Fish Commission (\$72.8 million) will create an agency with a budget of approximately \$144.6 million and between 1,795.5 and 1,855.5 positions. The transfer of these functions as provided for in the bill will not create a significant positive or negative fiscal impact. Cost savings would only be realized if duplicative offices and functions are eliminated.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ORGANIZATIONAL UNITS TRANSFERRED	TOTAL POSITIONS
Division of Law Enforcement	
Office of Enforcement Planning and Policy Coordination	10.0
Bureau of Administrative Support	16.0
Bureau of Operational Support	43.5
Bureau of Law Enforcement (except for Florida Park Patrol)	414.0
Law Enforcement Subtotal	483.5
Marine Fisheries Commission	10.0
Division of Marine Resources	
Director's Office	16.5
Office of Fisheries Management	24.0
Bureau of Marine Resource Regulation and Development	41.0
Bureau of Protected Species Management	19.0
Bureau of Florida Marine Research Institute	211.5
Marine Resources Subtotal	312.0
Division of Administrative and Technical Services and Office of General Counsel	60 or less

DEPARTMENT OF ENVIRONMENTAL PROTECTION ORGANIZATIONAL UNITS TRANSFERRED	TOTAL POSITIONS
Total Positions Transferred	805.5 - 865.5

DEPARTMENT OF ENVIRONMENTAL PROTECTION ORGANIZATIONAL UNITS NOT TRANSFERRED	TOTAL POSITIONS
Division of Law Enforcement	
Director and Assistant Director	6.0
Office of Investigations	22.0
Bureau of Emergency Response	28.0
Bureau of Environmental Law Enforcement (Florida Park Patrol)	77.0
Law Enforcement Subtotal	133.0
Division of Marine Resources	
Bureau of Coastal and Aquatic Managed Areas	86.0
Total Positions Retained	219.0

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.