

Fish and Wildlife Conservation Commission

Number: PETITION

Date: August 18, 1997

The Honorable Gerald Kogan
Chief Justice, and Justices of The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Kogan and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On August 4, 1997, the Secretary of State submitted to this office an initiative petition seeking to amend the Florida Constitution to form the Florida Fish and Wildlife Conservation Commission. The full text of the proposed amendment provides that Article IV, section 9, Florida Constitution, be amended to read:

"Fish and Wildlife Conservation Commission

(a) The marine, freshwater and wildlife resources of the State of Florida belong to all of the people of the state and should be conserved and managed for the benefit of the state, its people and future generations.

(b)(1) There shall be a Fish and Wildlife Conservation Commission composed of seven (7) members appointed by the Governor subject to confirmation by the Senate for staggered terms of five (5) years.

(2) Notwithstanding paragraph (b)(1), the initial members of the Commission shall be the members of the Game and Fresh Water Fish Commission and the Marine Fisheries Commission who are serving on either of those Commissions on the effective date of this amendment, who shall serve the remainder of their respective terms, and appointments to the Commission shall not be made unless and until all current terms of the members of the Game and Fresh Water Fish Commission and the Marine Fisheries Commission have expired so that only seven (7) members of the Commission remain and, in that event, the governor shall appoint members of the Commission as the terms of the remaining seven (7) members expire.

(c) The Commission shall exercise the regulatory and executive powers of the state with respect to wild animal life, freshwater aquatic life and marine aquatic life, except that all license fees for taking wild animal life, freshwater aquatic life and marine aquatic life, and penalties for violating regulations of the Commission shall be prescribed by specific statute. The Commission shall not be a sub-unit of any other state agency and shall have its own staff which includes management,

research, enforcement and public information functions. The Legislature may enact laws in aid of the Commission, not inconsistent with this section. The Commission's exercise of executive powers in the area of planning, budgeting, personnel management and purchasing shall be as provided by law. Revenue derived from such license fees shall be appropriated to the Commission by the Legislature for the purpose of management, protection and conservation of wild animal life, freshwater aquatic life and marine aquatic life.

(d) If any portion of this section is held invalid for any reason, the remaining portion of this section, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application.

(e) This amendment shall take effect on the July 1 next occurring after approval hereof by vote of the electors of the State of Florida."

The ballot title for the proposed amendment is "Fish and Wildlife Conservation Commission: Unifies Marine Fisheries and Game and Fresh Water Fish Commissions." The summary for the proposed amendment provides:

Unifies the Marine Fisheries Commission and the Game and Fresh Water Fish Commission to form the Florida Fish and Wildlife Conservation Commission; provides for Commission members and for Governor appointment and Senate confirmation thereof; authorizes the Commission to exercise executive and regulatory powers of the state pertaining to conservation of freshwater and marine aquatic life and wild animal life; allows for legislation in certain areas; provides for appropriations of license fees to Commission.

BALLOT TITLE AND SUMMARY

Section 16.061, Florida Statutes, requires the Attorney General to petition this Honorable Court for an advisory opinion as to whether the proposed ballot title and summary comply with section 101.161, Florida Statutes.

Section 101.161, Florida Statutes, provides in relevant part:

"Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of."

This Court has stated on several occasions "that the ballot [must] be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), *quoting*, *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). While the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, they need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986); *Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So. 2d 225, 228 (Fla. 1991).

The ballot title and summary of the proposed amendment substantially advise the voter as to the text of the amendment and the chief purpose of the measure. They advise the public that the purpose of the initiative is to combine the Marine Fisheries Commission and the Game and Fresh Water Fish Commission to form the Florida Fish and Wildlife Conservation Commission.

As the ballot title and summary substantially advise the voters of the chief purpose of the proposed amendment, they appear to satisfy the requirements of section 101.161, Florida Statutes.

I respectfully request this Honorable Court's opinion as to whether the ballot title and summary of the constitutional amendment, proposed by initiative petition, comply with section 101.161, Florida Statutes.

SINGLE SUBJECT LIMITATION

Section 16.061, Florida Statutes, requires the Attorney General, within 30 days after receipt of the proposed amendment to the Florida Constitution by citizens' initiative, to petition this Honorable Court for an advisory opinion as to whether the text of the proposed amendment complies with Article XI, section 3, Florida Constitution.

Article XI, section 3, Florida Constitution, provides in part:

"The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith."

This Court stated in *Advisory Opinion to the Attorney General--Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994), that "[t]o ascertain whether the necessary 'oneness of purpose' exists, we must consider whether the proposal affects separate functions of government and how the proposal affects other provisions of the constitution."

The proposed amendment seeks to consolidate the responsibilities of the Marine Fisheries Commission and the Game and Fresh Water Fish Commission into a single entity. The duties and responsibilities of the new commission are substantially the same as those currently prescribed for the Game and Fresh Water Fish Commission, except that the new commission may also exercise its jurisdiction over marine aquatic life. The amendment provides for the appointment of seven commission members who, like the Game and Fresh Water Fish Commission and the Marine Fisheries Commission, are appointed by the Governor subject to confirmation by the Senate. Provisions contained in the amendment regarding use of the license fee revenue and the commission's exercise of executive powers for planning, budgeting, personnel management and purchasing are similar to provisions in the current Article IV, section 9, Florida Constitution, governing the Game and Fresh Water Fish Commission. Unlike the current provision, however, the amendment provides that the new commission shall not be a sub-unit of any other state agency.

The proposed amendment appears to embrace but one subject, *i.e.*, the creation of a

commission to conserve and manage marine, freshwater and wildlife resources of the state, and matters directly connected therewith. Therefore, the Attorney General's Office respectfully requests this Honorable Court's opinion as to whether the constitutional amendment, proposed by initiative petition, complies with Article XI, section 3, Florida Constitution.

Sincerely,

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RAB/tgk

cc: The Honorable Sandra Mortham
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