

May 7, 2013 - Regular Meeting
Agenda Item #14

Subject

Publication of Ordinance repealing Special Acts relating to Fishing Activities and Regulations.

Briefings

Briefing Provided Upon Request

Approved in Open Sessoin 5/7/13,
Manatee Board of County Commissioners

Contact and/or Presenter Information

James A. Minix, Chief Assistant County Attorney
Jo Ann Grace, Legal Assistant, Ext. 3753

Action Requested

Motion to authorize publication of a Notice of Public Hearing on proposed Ordinance No. 13-16 repealing Chapter 1-12 of the Manatee County Code relating to certain fishing acts.

Enabling/Regulating Authority

Sections 125.01 and 125.66.

Background Discussion

In a letter dated November 1, 2012, the Florida Fish and Wildlife Conservation Commission (FFWCC) asked the County Attorney's Office to review certain Special Acts of local application regulating fishing by the FFWCC and repeal those that are within its jurisdiction. The Special Acts have been incorporated into the Manatee County Code in Chapter 1-12 and are no longer effective under F.S. 379.1025 and Article IV, Section 9, Florida Constitution. The FFWCC is responsible for enforcing these Special Acts at this time and has requested that the County repeal the ordinance containing the Special Acts. The County Attorney's Office has prepared an Ordinance (Ord. No. 13-16) to address this issue. The Commission has also indicated that a Resolution related to the repeal of said Special Acts is required. In response to that request, Resolution R-13-079 has been prepared and is also attached for information only as notice is not required for the Resolution.

Publication of a Notice of Public Hearing is required for consideration of the adoption of the proposed Ordinance No. 13-16. The County Attorney's Office requests permission to publish the proposed ordinance for public hearing and future consideration by the Board. Ordinance No.13-16 will repeal certain Special Acts listed therein and Chapter 1-12 of the Manatee County Code.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

See attached Notice of Public Hearing for publication in the Bradenton Herald, Proposed Ordinance No. 13-16 and Resolution No. R-13-079 (Notice not required).

Reviewing Attorney

N/A

Instructions to Board Records

Please return a fully approved electronic copy of this agenda memo with supporting documents to:

joann.grace@mymanatee.org. Emailed 5/8/13, RLL

Thank you.

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

N/A

Attachment: [Ord 13-16 Fishing Activities.pdf](#)

Attachment: [Fishing Acts Res. 13-079.pdf](#)

Attachment: [FFWC letter.pdf](#)

Attachment: [FWCC SEC. 9.pdf](#)

ORDINANCE 13-16

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REPEALING CHAPTER 1-12 OF THE MANATEE COUNTY CODE RELATED TO COMMERCIAL FISHING ACTIVITIES AND REGULATION IN CERTAIN INLAND WATERS CREATED BY SPECIAL ACT 63-1585; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Special Act 63-1585, Laws of Florida was created by the Legislature on May 23, 1963 repealing Chapter 61-2454, House Bill No. 30050, and;

WHEREAS, Special Act 70-799 was enacted by the Legislature on July 2, 1970 amending Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Chapter 67-1685, and;

WHEREAS, Special Act 70-800 was created by the Legislature July 2, 1970 amending Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Chapter 63-1585, and;

WHEREAS, Special Act 74-528 was enacted by the Legislature on June 22, 1974 amending Section 1 of Chapter 70-799, and;

WHEREAS, Special Act 84-480 was enacted by the Legislature on October 1, 1984 amending subsection 2 of Section 3, and sections 5 and 6 of Chapter 70-799, and;

WHEREAS, Sections 1-12-31 *et seq.* and 1-12-51 *et seq.* of the Manatee County Code codified the Regulation and Closing of Certain Inland Waters and Regulation in Certain Other Inland Waters, and;

WHEREAS, Sections 1-12-1 *et seq.* of the Manatee County Code codified the General Regulations relating to fishing, and;

WHEREAS, Chapters 19961, 26000, 27697, 61-2452, 63-1585, 67-1685, 67-1883, 70-799, 70-800, 74-528, and 84-480, Laws of Florida, relating to commercial fishing, regulating fishing and closing of certain inland waters to commercial fishing and netting, regulating bag limits, and regulating possession of certain nets in the inland salt waters of Manatee County are no longer necessary, and;

WHEREAS, pursuant to Sections 379.1025, Florida Statutes and Article IV, Section 9 of the Florida Constitution, the Florida Fish and Wildlife Conservation Commission has authority to regulate the substance of these Special Acts, and;

WHEREAS, the Manatee County Board of County Commissioners wishes to repeal the special fishing acts codified in Chapter 1-12 of the Manatee County Code of Ordinances.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Chapter 1-12 of the Manatee County Code is hereby repealed in its entirety and the codifier shall reserve these sections of Chapter 1-12 for future use.

Section 2. This Ordinance shall take effect immediately upon filing with the Department of State.

PASSED AND DULY ADOPTED in open session, with a quorum voting, this __ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairperson

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

RESOLUTION NO. R-13-079

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REQUESTING THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION TO REPEAL CHAPTERS 19961, 26000, 27697, 63-1585, 67-1685, 67-1883, 70-799, 70-800, 74-528, AND 84-480, LAWS OF FLORIDA; PROVIDING FOR CONFLICTING PRIOR RESOLUTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Special Act 63-1585, Laws of Florida was created by the Legislature on May 23, 1963 repealing Chapter 61-2454, House Bill No. 30050, and;

WHEREAS, Special Act 70-799 was enacted by the Legislature on July 2, 1970 amending Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Chapter 67-1685, and;

WHEREAS, Special Act 70-800 was created by the Legislature July 2, 1970 amending Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Chapter 63-1585, and;

WHEREAS, Special Act 74-528 was enacted by the Legislature on June 22, 1974 amending Section 1 of Chapter 70-799, and;

WHEREAS, Special Act 84-480 was enacted by the Legislature on October 1, 1984 amending subsection 2 of Section 3, and sections 5 and 6 of Chapter 70-799, and;

WHEREAS, Chapters 19961, 26000, 27697, 63-1585, 67-1685, 67-1883, 70-799, 70-800, 74-528, and 84-480, Laws of Florida, relating to commercial fishing, regulating fishing and closing of certain inland waters to commercial fishing and netting, regulating bag limits, and regulating possession of certain nets in the inland salt waters of Manatee County are no longer necessary, and;

WHEREAS, pursuant to Sections 379.1025, Florida Statutes and Article IV, Section 9 of the Florida Constitution, the Florida Fish and Wildlife Conservation Commission has authority to regulate the substance of these Special Acts, and;

WHEREAS, the Board of County Commissioners requests that these special acts be repealed by the Florida Fish and Wildlife Conservation Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, THAT:

1. It is the request of this Board that the Florida Fish and Wildlife Conservation Commission repeal Chapters 19961, 26000, 27697, 61-2452, 63-1585, 67-1685, 67-1883, 70-799, 70-800, 74-528, and 84-480, Laws of Florida.

BE IT FURTHER RESOLVED that this Resolution shall be effective upon adoption.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, this ___ day of _____, 2013.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

F



To JAM Fr - MOP 12/14/12

Jim - Please handle.

November 1, 2012

Received By Manatee County Attorney's
Date 11/5/12
Time 10:00AM
 Rec'd By Mail
 Rec'd By Hand Delivery
 Rec'd By Fax
Time Sensitive Y N U

Florida Fish and Wildlife Conservation Commission

Mitchell "Mickey" Palmer
Manatee County Attorney
Post Office Box 1000
Bradenton, Florida 34206-1000

Commissioners

Kenneth W. Wright
Chairman
Winter Park

Kathy Barco
Vice Chairman
Jacksonville

Ronald M. Bergeron
Fort Lauderdale

Richard A. Corbett
Tampa

Aliese P. "Liesa" Priddy
Immokalee

Charles W. Roberts III
Tallahassee

Brian S. Yablonski
Tallahassee

Executive Staff

Nick Wiley
Executive Director

Greg Holder
Assistant Executive Director

Karen Ventimiglia
Chief of Staff

Legal Office

Bud Vielhauer
General Counsel

(850) 487-1764
(850) 487-1790
FAX

Dear Mr. Palmer,

I am writing because the Florida Fish and Wildlife Conservation Commission is attempting to review Special Acts of Local Application that became rules of the Commission in 1983 by act of the legislature in Chapter 83-134, Laws of Florida. These Acts relate to fishing activities and, for the most part, prohibit certain activities specific to an area. Several of these acts apply to your county, which I have attached.

When practicable, the Commission attempts to regulate species and gear on a statewide level in order to maintain consistency and fairness. While the Commission has exclusive Constitutional authority to regulate fishing, except for the limited ability of a local government to regulate hunting and fishing from its property for health and safety purposes, the Commission has followed the practice of only modifying or repealing these special acts of local application upon request by a County via resolution asking the Commission to do so. However, the Commission and many of its stakeholders have an interest in ensuring that these Special Acts continue to meet the needs of the citizens of the State and its resources.

I would appreciate if you could take a critical look at the attached Special Acts and, if necessary, take a request for revision or repeal to your County Commission. The Commission is likely to take action to update these rules in the near future, and so is requesting input now. Please feel free to contact me with any questions you may have. I anticipate there will be many, particularly in regards to comparisons between the old Special Acts and current statewide regulation. I look forward to hearing from you.

Sincerely,

Quilla Miralia
Assistant General Counsel

Enclosure

Managing fish and wildlife resources for their long-term well-being and the benefit of people.

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

Hearing/speech-impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

SECTION 9. Fish and wildlife conservation commission.—There shall be a fish and wildlife conservation commission, composed of seven members appointed by the governor, subject to confirmation by the senate for staggered terms of five years. The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission shall be prescribed by general law. The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions. The legislature may enact laws in aid of the commission, not inconsistent with this section, except that there shall be no special law or general law of local application pertaining to hunting or fishing. 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 license fees for the taking of wild animal life and fresh water aquatic life shall be appropriated to the commission by the legislature for the purposes of management, protection, and conservation of wild animal life and fresh water aquatic life. Revenue derived from license fees relating to marine life shall be appropriated by the legislature for the purposes of management, protection, and conservation of marine life as provided by law. The commission shall not be a unit of any other state agency and shall have its own staff, which includes management, research, and enforcement. Unless provided by general law, the commission shall have no authority to regulate matters relating to air and water pollution.

History.—Am. C.S. for H.J.R. 637, 1973; adopted 1974; Am. proposed by Constitution Revision Commission, Revision No. 5, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

From: [Robin Liberty](#)
To: ["joann.grace@mymanatee.org"](mailto:joann.grace@mymanatee.org)
Subject: BCC Mtg 5/7/13: Item 14 - Ordinance 13-16
Date: Thursday, May 09, 2013 10:56:00 AM
Attachments: [BC20130507DOCA14.pdf](#)

Attached is Agenda Item 14, with supporting documents, stamped approved by the County Commission on 5/7/13.

Robin Liberty
Board Records
For R.B. "Chips" Shore
Manatee County Clerk of the Circuit Court & Comptroller
www.manateeclerk.com
robin.liberty@manateeclerk.com
941-749-1800, ext. 4181

"Pride in Service with a Vision to the Future"