Date

Agenda Item #: 74 1

PALM BEACH COUNTY **BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

			-		
Meeting Date:	August 16, 2011	[]	Consent Workshop	[X]	Regular Public Hearing
Department:	County Attorney				
Submitted By:	County Attorney				
Submitted For:	County Attorney	=======			
		I. EXECUT	IVE BRIEF		
Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on September 13, 2011 at 9:30 a.m.: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 9, ARTICLE 2, DIVISION 1, SECTION 9-35 OF THE PALM BEACH COUNTY CODE; PROVIDING FOR DECLARATION OF EMERGENCY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.					
Summary: The subject ordinance deletes the County Administrator's ability to restrict the sale, purchase or possession of firearms during a state of emergency. This amendment is necessary due to a change in state law, which prohibits a county from adopting any ordinance, rule, or regulation relating to the regulation of firearms and ammunition. Any existing ordinances, rules, or regulations not specifically authorized by the legislature are in violation of state law and must be amended. (AH, Countywide)					
Background and Policy Issues: Chapter 2011-109 Laws of Florida, which amends Florida Statute, section 790.33, provides a preemption by the legislature that it is occupying the whole field of regulation of firearms and ammunition including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state governments. Any such existing ordinances, rules or regulations are declared null and void. Additionally, Chapter 2011-109 Laws of Florida created penalties if any person, county, municipality, district or other entity violates the Legislature's occupation of the whole field of regulation of firearms and ammunition. Such penalties extend to elected or appointed local government officials under whose jurisdiction the violation occurred, and includes a civil fine up to \$5,000 against the elected or appointed local government official and could be cause for removal from office by the Governor. The above amendment is necessary to bring Chapter 9, Article 2, Division 1, Section 9-35 of the Palm Beach County Code into statutory compliance.					
Attachments:	Proposed ordinance.	\cdot			
Recommended by:		MW		:==== %	5/1/11
Approved by:	Couňty N/A	/ Attorney			Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	\$	0-	-0-	-0-	0-
Operating Costs	-0-	-0-		-0-	-0-
External Revenues	-0-	-0-	-0-	-0	-0-
Program Income (County)	-0-	-0-	-0- -0- -0-	-0-	-0-
In-Kind Match (County)	0-	<u>-0-</u>	-0-	-0-	-0- -0- -0- -0-
NET FISCAL IMPACT	~0~ sec	-0-	0	-0-	<u>-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)	<u> </u>				
Is Item Included in Curren	t Budget?	Yes	No		
Budget Account No.:	Fund	Depart	Unit		
	Object	_ Program	-		
B Recommended Source	os of Funda/	Summary of E	ioool Impootu		

- B. Recommended Sources of Funds/Summary of Fiscal Impact:
- C. Departmental Fiscal Review:

C. Other Department Review:

Department Director

III. RI	EVIEW COMMENTS:
A. OFMB Fiscal and/or Contract Dev. a *No fiscal and/or Contract Dev. a OFMB VA B 2 B. Legal Sufficiency:	Contract Dev. and Control
Assistant County Attorney	

ORDINANCE NO. 2011-____

AN ORDINANCE OF THE BOARD OF COUNTY **COMMISSIONERS** OF **PALM** COUNTY, **BEACH** FLORIDA, AMENDING PALM BEACH COUNTY CODE, **CHAPTER EMERGENCY** 9, **ARTICLE** II **MANAGEMENT**; **AMENDING SECTION** DECLARATION OF EMERGENCY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has determined that Chapter 9, Article II of the Palm Beach County Code, Emergency Management, Section 9-35, Declaration of emergency, needs to be amended in order to comply with Chapter 2011-109 Laws of Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that: Chapter 9 of the Palm Beach County Code of Law and Ordinances, Article II, Emergency Management, is hereby amended as follows:

Section 1.

Sec. 9-35. Declaration of Emergency, is hereby amended as follows:

(d) In order to insure the public safety during a state of emergency declared pursuant to this article, the county administrator, in collaboration with municipalities located within the county, may establish a countywide curfew or a specific area curfew, to restrict travel and movement within the county. Other restrictions including, but not limited to, the sale, purchase, or possession of alcoholic beverages, firearms, or flammable substances, may be instituted by the county administrator or his designee. The duration and application of such emergency restrictions shall be tailored to meet the specific crisis and may be modified from time to time.

Section 2. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 3. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. CAPTIONS:

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 6. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective on filing with the Department of State.

APPROVED and ADOPTED by t	he Board of County Commissioners of Palm Beach
County, Florida, on this the day of	, 20
SHARON R. BOCK, CLERK AND COMPTROLLER	PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
By: Deputy Clerk	By:Karen T. Marcus, Chair
APPROVED AS TO FORM AND LEGAL SUFFICIENCY	
By: Anne Dulyant County Attorney	
Filed with the Department of Stat	te on the day of, 20