

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## AGENDA ITEM SUMMARY

**Meeting Date: September 13, 2011**

☐ Consent      ☒ Regular  
☐ Public Hearing

**Department: Legislative Affairs**

**Submitted By: Legislative Affairs**

**Submitted For: Legislative Affairs**

## I. EXECUTIVE BRIEF

**Motion and Title:** **Staff recommends motion to adopt:** A resolution of the Board of County Commissioners of Palm Beach County, Florida, requesting the Legislature to reconsider its position on the ability of local governments to pass local ordinances related to firearms and ammunition.

**Summary:** The County had four ordinances and two resolutions related to gun control that must be amended because of the enactment of Chapter 2011-109 Laws of Florida. The County concurs with the position of the Florida Association of Counties on Home Rule that a local government is often best able to enact local rules and ordinances to protect the safety of its residents and visitors. With the enactment of Chapter 2011-109 Laws of Florida, Florida Statute Section 790.33 has been amended to provide penalties to local governments that violate the preemption language in said Statute that prevents all local governments in Florida from passing certain gun control measures. It is the desire of the County to request that the Legislature reconsider the enactment of this preemption and subsequent penalties. Countywide (DW)

**Background and Policy Issues:** During the 2011 Legislative Session, the Florida Legislature passed into law Chapter 2011-109 Laws of Florida, which amends Florida Statute, Section 790.33. Prior to the passage of this legislation, Counties were prohibited from passing ordinances related to firearms with the exception of requiring criminal background checks and enacting waiting periods prior to the purchase and delivery of a handgun. However, despite this preemption, local governments continued to pass ordinances related to firearms in violation of Florida Statute Section 790.33. With the enactment of Chapter 2011-109 Laws of Florida, stiff penalties are now in place to discourage violations of this preemption. These penalties include fines not less than \$5,000.00 and not more than \$100,000.00. Penalties also call for the immediate termination of employment of an employee acting in an official capacity that violates these provisions. Furthermore, this legislation reiterates the preemption by the Legislature to allow only the Legislature to regulate the whole field 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.

(continued on Page 3)

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact: N/A

Fiscal Years	20 <u>11</u>	20 <u>12</u>	20 <u>13</u>	20 <u>14</u>	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>-0-</u> * see below	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

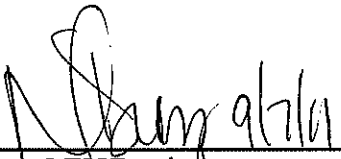
### B. Recommended Sources of Funds/Summary of Fiscal Impact: N/A

\* There is no fiscal impact associated with this item.

### C. Departmental Fiscal Review:

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

  
\_\_\_\_\_  
OFMB VA  
9/14/11

  
\_\_\_\_\_  
Contract Dev. and Control

### B. Legal Sufficiency:

  
\_\_\_\_\_  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

REVISED 9/03  
ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

Counties still have the authority, pursuant to Art. VIII, Section 5(b) of the Florida Constitution, to require a criminal history records check and a 3 to 5-day waiting period in connection with the sale of any firearm occurring within such county.

**Attachments:**

1. Resolution

---

Recommended by: \_\_\_\_\_

  
Department Director

9/6/11  
Date

Approved By: \_\_\_\_\_

  
County Administration

9/6/11  
Date

**Resolution No. 2011-\_\_\_\_\_**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
PALM BEACH COUNTY, FLORIDA, REQUESTING THE LEGISLATURE  
TO RECONSIDER ITS POSITION ON THE ABILITY OF LOCAL  
GOVERNMENTS TO PASS LOCAL ORDINANCES RELATED TO  
FIREARMS AND AMMUNITION.**

**WHEREAS**, Palm Beach County, Florida firmly believes in the position of the Florida  
Association of Counties related to Home Rule, which reads:

*County officials are dedicated to the preservation of democratic principles, specifically that the government closest to the people is the appropriate authority to serve the needs and requirements of the community. Home rule is the right of the people to determine and implement a public purpose at the grassroots level. Home rule power is conferred to Florida counties by Article VIII, Sections 1(f) and 1(g) of the Florida Constitution (1968), and by Section 125.01, Florida Statutes. The preservation of this fundamental democratic concept is essential to the operation of county governments in Florida. Accordingly, the Florida Association of Counties is dedicated to maintaining the integrity of county home rule power, both administrative and fiscal, which allows counties to develop and implement community-based solutions to local problems.*

; and

**WHEREAS**, the enactment of Chapter 2011-109 Laws of Florida, which amends Florida  
Statute, section 790.33, clearly infringes upon the Home Rule authority of counties in Florida;  
and

**WHEREAS**, Palm Beach County had four ordinances and two resolutions related to  
firearms and ammunition that were passed for the good of local safety:

1. Appendix D. Chapter 1, Palm Beach County Rules & Regulations Governing Child Care  
Facilities, Article X, Physical Facilities: this rule provides that no firearms could be  
located on the premise of a child care facility except on the person of security personnel  
who are licensed to carry a firearm;

2. Appendix D. Chapter 2, Palm Beach County Rules & Regulations Governing Family Day Care, Article VIII – Physical Facility: this rule requires firearms in family day care centers to be unloaded and locked in a location out of the reach of children, ammunition shall be stored separately under lock, and neither shall be in the portion of the home used for child care services;
3. Chapter 9, Palm Beach County Code of Law and Ordinances, Article II, Emergency Management, Section 9-35. Declaration of Emergency: allows the County Administrator to restrict the sale, purchase or possession of firearms during a declared State of Emergency;
4. Chapter 28, Palm Beach County Code of Law and Ordinances, Article II, Firearms, Section 28-22. Discharge of Firearms: forbids the discharge of a weapon within certain boundaries of the County, primarily in the more densely populated areas;
5. Chapter 17, Palm Beach County Code of Law and Ordinances, Article IV, Section 17-128, Section 17-131 and Section 17-136. Records of Transaction, Holding Period and Secondhand Dealers: this rule requires secondhand dealers and pawnbrokers to maintain their records and hold secondhand goods including firearms for a specified period of time before the secondhand goods can be sold, bartered, exchanged, altered or disposed of;
6. Chapter 11, Palm Beach County Code of Law and Ordinances, Article XI, Natural Areas, Section 11-262. Prohibited Activities: this rule forbids the use of firearms or other weapons potentially detrimental to wildlife and dangerous to human safety in natural areas of the County, except by law enforcement or persons authorized to remove nuisance and exotic animals; and

**WHEREAS**, the four ordinances and two resolutions were passed by the Board of County Commissioners to be in the best interest of the residents and visitors of Palm Beach County; and

**WHEREAS**, local governments should be able to pass rules and laws to meet the specific needs of its community without interference from the Legislature, specifically when related to matters concerning public safety.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

1. Palm Beach County requests the Legislature of the State of Florida to reconsider Chapter 2011-109 Laws of Florida, specifically the language amending Florida Statute, Section 790.33 that provides a preemption by the Legislature that allows only the Legislature to regulate the whole field 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.
2. Palm Beach County encourages the Legislature of the State of Florida to support the Florida Association of Counties position on Home Rule to the extent allowable under the Florida Constitution and Florida Statute.
3. A copy of this resolution shall be forwarded to the Governor of Florida, the President of the Florida Senate, the Speaker of the Florida House of Representatives, members of the Palm Beach County Legislative Delegation, and the Florida Association of Counties.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Commissioner Karen T. Marcus, Chair	-	_____
Commissioner Shelley Vana, Vice Chair	-	_____
Commissioner Paulette Burdick	-	_____
Commissioner Burt Aaronson	-	_____
Commissioner Steven L. Abrams	-	_____
Commissioner Jess Santamaria	-	_____
Commissioner Priscilla Taylor	-	_____


The Chair thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Approved as to Form  
And Legal Sufficiency

Palm Beach County, Florida by its  
Board of County Commissioners

Sharon R. Bock, Clerk & Comptroller

By: \_\_\_\_\_

  
Assistant County Attorney

By: \_\_\_\_\_

Deputy Clerk