



Legislation Details (With Text)

File #: RES 2018-065 **Name:** Section 790.33, F.S. Legal Challenge

Type: Resolution **Status:** Passed

File created: 3/5/2018 **In control:** City Commission

On agenda: 3/8/2018 **Final action:** 3/8/2018

Title: A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO PURSUE THE CITY'S LEGAL RIGHTS AND REMEDIES BY FILING A LAWSUIT CHALLENGING THE VALIDITY OF SECTION 790.22, FLORIDA STATUTES. (ADDENDUM)

Sponsors:

Indexes: City Attorney, Litigation, Resolution

Code sections:

Attachments: 1. RESOLUTION 2018-065-Lawsuit Challenging F.S. 790.pdf

Date	Ver.	Action By	Action	Result
3/8/2018	1	City Commission		

AGENDA ITEM REPORT

TITLE:

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO PURSUE THE CITY'S LEGAL RIGHTS AND REMEDIES BY FILING A LAWSUIT CHALLENGING THE VALIDITY OF SECTION 790.22, FLORIDA STATUTES. (ADDENDUM)

BACKGROUND:

On February 22, 2018, the City Commission adopted Resolution No. 2018-053, urging federal and state leaders to impose reasonable limitations on the use and distribution of firearms, magazines, and ammunition. At the moment, the City Commission can do little more than that pursuant to the limitations and penalties imposed upon it by Section 790.33, Fla. Stat.

DISCUSSION:

Pursuant to Chapter 790, Fla. Stat., the State of Florida declared that it is occupying the whole field of regulation of firearms and ammunition, to the exclusion of all existing and future county or city ordinances, regulations or rules, and purports to prohibit the enactment of any future ordinances or regulations "relating to firearms," thereby rendering the City powerless to act to meet the demands of its residents. Furthermore, Section 790.33, Fla. Stat., creates liability and damages for local officials' actions in promulgating ordinances and regulations, as well as supporting any "measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced" in the preempted area. Section 70.33, Fla. Stat., has never been challenged in a court of competent jurisdiction as an invalid law. To the extent that there are legally cognizable arguments to declare the statute null and void, the City authorizes the City Attorney to engage in litigation on the subject matter.

RECOMMENDATION:

Staff recommends approval of this Resolution.

FISCAL IMPACT: Unknown at this time.