

# ASSEMBLY, No. 1202

## STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblyman ANTHONY CHIAPPONE**

**District 31 (Hudson)**

**SYNOPSIS**

Changes composition and revises authority of Fish and Game Council; creates nonlethal alternative committee within council.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the Fish and Game Council, and amending  
2 P.L.1948, c.488 and amending P.L.1999, c.282.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 26 of P.L.1948, c.448 (C.13:1B-24) is amended to  
8 read as follows:

9 26. There shall be within the **[Division of Fish, Game and**  
10 **Wildlife]** Department of Environmental Protection, a Fish and  
11 Game Council which shall consist of **[11]** 13 members appointed  
12 and qualified as follows:

13 a. the Commissioner of Environmental Protection, ex officio,  
14 provided, however, that the commissioner may designate an officer  
15 or employee of the department to represent the commissioner at  
16 meetings of the council, and the designee may vote and otherwise  
17 act on behalf of the commissioner;

18 b. the chairperson, ex officio, of the committee established  
19 pursuant to section 7 of "The Endangered and Nongame Species  
20 Conservation Act," P.L.1973, c.309 (C.23:2A-7); and

21 c. 11 members of the public , each of whom shall be chosen with  
22 due regard to **[his]** the person's knowledge of and interest in the  
23 conservation of fish and game. Each public member of the council  
24 shall be appointed by the Governor, with the advice and consent of  
25 the Senate **[. Three]** ;

26 (1) two of **[such]** the members shall be farmers, recommended  
27 to the Governor for appointment to the council by the agricultural  
28 convention held pursuant to **[the provisions of article 2 of chapter 1**  
29 **of Title 4 of the Revised Statutes; six]** R.S.4:1-5;

30 (2) two of **[such]** the members shall be sportsmen,  
31 recommended to the Governor for appointment to the council by the  
32 New Jersey State Federation of Sportsmen's Clubs; **[one of such**  
33 **members shall be the chairman of the committee established**  
34 **pursuant to section 7 of the "Endangered and Nongame Species**  
35 **Conservation Act" (P.L.1973, c.309; C.23:2A-7), and one of such**  
36 **members shall be a person knowledgeable in land use management**  
37 **and soil conservation practices]**

38 (3) two of the members shall be individuals with experience in  
39 environmental protection, recommended to the Governor for  
40 appointment to the council by the New Jersey Environmental  
41 Federation; and

42 (4) five of the members shall be individuals with experience in  
43 environmental protection or other fields relevant to animal welfare  
44 and with a background in the preservation of wildlife,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

**Matter underlined thus is new matter.**

1 recommended to the Governor for appointment to the council by the  
2 New Jersey Animal Rights Alliance, The Bear Education and  
3 Resource Group, and the Humane Society of the United States, and  
4 chosen with due consideration to achieve balanced geographic  
5 representation of all regions of the State .

6 One of  ~~[such] the~~  farmer representatives  ~~[and two] , one of~~   
7  ~~[such] the~~  sportsmen representatives  ~~[in] , and one of the~~   
8 environmental representatives appointed pursuant to paragraph (3)  
9 of this subsection on the council shall be chosen from among  
10 residents of any of the following counties--Bergen, Essex, Hudson,  
11 Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex , Union and  
12 Warren; and one of [such] the  farmer representatives  ~~[and two] ,~~   
13 one of [such] the  sportsmen representatives  ~~[in] , and one of the~~   
14 environmental representatives appointed pursuant to paragraph (3)  
15 of this subsection on the council shall be chosen from among  
16 residents of any of the following counties--  ~~[Hunterdon, Mercer]~~  
17 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester  
18 ,Middlesex, Monmouth, Ocean, [Somerset and Union; and one of  
19 such farmer representatives and two of such sportsmen  
20 representatives shall be chosen from among residents of any of the  
21 following counties--Atlantic, Burlington, Camden, Cape May,  
22 Cumberland, Gloucester] and Salem.

23 Each public member of the council shall be appointed for a term  
24 of  ~~[4] four~~  years and shall serve at the pleasure of the Governor  
25 until  ~~[his] a~~  successor has been appointed and has qualified.  
26 (cf: P.L.1979, c.199, s.72)

27  
28 2. Section 28 of P.L.1948, c.448 (C.13:1B-26) is amended to  
29 read as follows:

30 28.  ~~[Each] The~~  Governor shall designate one of the public  
31 members of the council as  ~~[chairman]~~  chairperson of  ~~[such] the~~   
32 council. Any member of the council so designated shall serve as  
33  ~~[such chairman]~~  the chairperson at the pleasure of the Governor  
34  ~~[designating him]~~  and until  ~~[his] a~~  successor has been designated.  
35 The  ~~[chairman]~~  chairperson of the council shall be its presiding  
36 officer.

37 Any vacancies in the membership of  ~~[said] the~~  council occurring  
38 other than by expiration of term shall be filled in the same manner  
39 as the original appointment but for the unexpired term only.  ~~[Any~~  
40  ~~member of the council may be removed from office by the~~  
41  ~~Governor, for cause, upon notice and opportunity to be heard.]~~

42 The members of the council shall serve without compensation  
43 but shall be reimbursed for necessary expenses incurred in the  
44 performance of their duties.

45 No person who has been appointed a member of the council for  
46 two successive terms, including an unexpired term, shall again be

1 eligible for that office for four years next following the expiration  
2 of **【his】** the second successive term.

3 (cf: P.L.1948, c.448, s.28)

4

5 3. Section 29 of P.L.1948, c.448 (C.13:1B-27) is amended to  
6 read as follows:

7 29. The Division of Fish and **【Game】** Wildlife shall be under  
8 the immediate supervision of a director, who shall be a person with  
9 special training and experience in **【wild life】** wildlife management  
10 and otherwise qualified to direct the work of **【such】** the division.  
11 The director of **【such】** the division shall be appointed by the **【Fish**  
12 **and Game Council, subject to the approval of the Governor,】**  
13 Commissioner of Environmental Protection and shall **【, unless**  
14 **sooner removed by the Governor as hereinafter provided,】** serve at  
15 the pleasure of **【such council】** the commissioner and until the  
16 director's successor is appointed **【and has qualified】** . **【He】** The  
17 director shall receive such salary as **【shall be】** provided by law.

18 The director shall administer the work of **【such】** the division  
19 under the direction and supervision of the commissioner.

20 (cf: P.L.1948, c.448, s.29)

21

22 4. Section 30 of P.L.1948, c.448 (C.13:1B-28) is amended to  
23 read as follows:

24 30. In addition to its powers and duties otherwise hereinafter  
25 provided, the Fish and Game Council shall, subject to the approval  
26 of the commissioner, formulate comprehensive policies for the  
27 protection and propagation of fish, birds, and game animals and for  
28 the propagation and distribution of food fish and for the keeping up  
29 of the supply thereof in the waters of the State.

30 The council shall also:

31 a. **【Consult】** consult with and advise the commissioner and  
32 director of the Division of Fish and **【Game】** Wildlife with respect  
33 to the work of **【such】** the division **【.】** ;

34 b. **【Study】** study the activities of the Division of Fish and  
35 **【Game】** Wildlife and hold hearings with respect thereto as it may  
36 deem necessary or desirable **【.】** ;

37 c. create a nonlethal alternatives committee within the council to  
38 investigate, recommend and expedite the use of non-lethal  
39 alternatives for dealing with wildlife conflicts, develop an  
40 integrated and biologically sound approach to white-tailed deer  
41 reproductivity and lowering fertility rates, study single-species  
42 management and propagation of game species on State and private  
43 lands, and promote public outreach and education; and

44 **【c. Report】** d. report to the Governor and the Legislature  
45 annually, and at such other times as it may deem in the public

1 interest, with respect to its findings and conclusions.  
2 (cf: P.L.1948, c.448, s.30)

3  
4 5. Section 31 of P.L.1948, c.448 (C.13:1B-29) is amended to  
5 read as follows:

6 31. As used in this article, unless otherwise specifically  
7 indicated:

8 "Division" means the Division of Fish and **Game** Wildlife in  
9 the Department of **Conservation and Economic Development.**  
10 Environmental Protection;

11 "Council" means the Fish and Game Council in the **Division of**  
12 **Fish and Game of the** Department of **Conservation and Economic**  
13 **Development.** Environmental Protection and established pursuant  
14 to section 26 of P.L.1948, c.448 (C.13:1B-24); and

15 "Code" means the State Fish and Game Code established  
16 pursuant to section 32 of P.L.1948, c.448 (C.13:1B-30) .  
17 (cf: P.L.1948, c.448, s.31)

18  
19 6. Section 32 of P.L.1948, c.448 (C.13:1B-30) is amended to  
20 read as follows:

21 32. For the purpose of providing an adequate and flexible  
22 system of protection, propagation, increase, control and  
23 conservation of **fresh water** freshwater fish, game birds, game  
24 animals, and fur-bearing animals in this State, **and for their use**  
25 **and development for public recreation and food supply,** the council  
26 , subject to the approval of the Commissioner of Environmental  
27 Protection, is hereby authorized and empowered to determine under  
28 what circumstances, when and in what localities, by what means  
29 and in what amounts and numbers such **fresh water** freshwater  
30 fish, game birds, game animals, and fur-bearing animals, or any of  
31 them, may be pursued, taken, killed, or had in possession so as to  
32 maintain an adequate and proper supply thereof, and may, subject to  
33 the approval of the Commissioner of Environmental Protection,  
34 after first having determined the need for such action on the basis of  
35 scientific investigation and research, adopt and from time to time  
36 amend and repeal such appropriate and reasonable regulations  
37 concerning the same, or any of them, penalties for the violation of  
38 which are prescribed by certain of the sections of Title 23 of the  
39 Revised Statutes amended herein, as it deems necessary to preserve,  
40 properly utilize or maintain the best relative number of any species  
41 or variety thereof, at the times, in the manner and to the extent  
42 hereinafter provided. The regulations so established shall be called  
43 the State Fish and Game Code.

44 (cf: P.L.1948, c.448, s.32)

45  
46 7. Section 33 of P.L.1948, c.448 (C.13:1B-31) is amended to  
47 read as follows:

1       33. Any regulation of the council or amendment thereto , as  
2 approved by the Commissioner of Environmental Protection,  
3 adopted pursuant to the provisions of this article which relates to  
4 **freshwater** freshwater fish, or any species or variety thereof,  
5 after the council has first determined the need for such action on the  
6 basis of scientific investigation and research, may apply to all or  
7 any portion of the State, **at the discretion of the council,** and may  
8 do any or all of the following as to any or all species or varieties of  
9 **freshwater** freshwater fish:

10       a. **Establish** establish , extend, shorten or abolish open  
11 seasons and closed seasons **;** :

12       b. **Establish** establish , change or abolish bag limits,  
13 possession limits and size limits **;** :

14       c. **Establish** establish and change territorial limits for the  
15 pursuit, taking, or killing of any or all species or varieties **;** and

16       d. **Prescribe** prescribe the manner and the means of pursuing,  
17 taking, or killing any species or variety.

18 (cf: P.L.1948, c.448, s.33)

19

20       8. Section 34 of P.L.1948, c.448 (C.13:1B-32) is amended to  
21 read as follows:

22       34. Any regulation of the council or amendment thereto , as  
23 approved by the Commissioner of Environmental Protection,  
24 adopted pursuant to the provisions of this article which relates to  
25 game birds, game animals or fur-bearing animals, after the council  
26 has first determined the need for such action on the basis of  
27 scientific investigation and research, may apply to all or any part of  
28 the State, **at the discretion of the council,** and may do any or all  
29 of the following as to any or all species or varieties of game birds,  
30 game animals, and fur-bearing animals:

31       a. **Establish** establish, extend, shorten or abolish open seasons  
32 and closed seasons **;** :

33       b. **Establish** establish, change or abolish bag limits and  
34 possession limits **;** :

35       c. **Establish** establish and change territorial limits for the  
36 pursuit, taking, or killing of any or all species or varieties **;** :

37       d. **Prescribe** prescribe the manner and the means of pursuing,  
38 taking, or killing any species or variety **;** and

39       e. **Establish** establish, change or abolish restrictions based  
40 upon sex, maturity, or other physical distinction.

41 (cf: P.L.1948, c.448, s.34)

42

43       9. Section 35 of P.L.1948, c.448 (C.13:1B-33) is amended to  
44 read as follows:

45       35. Prior to final adoption by the council and approval by the  
46 Commissioner of Environmental Protection of any regulation

1 authorized to be established pursuant to the provisions of this  
2 article, or any amendment thereto or repealer thereof, the council  
3 shall hold a public hearing thereon. Notice of **[such]** the hearing  
4 shall be filed with the **[Secretary of State]** Office of Administrative  
5 Law at least **[twenty]** 20 days prior to the hearing, and shall be  
6 published in the New Jersey Register **[if such Register be then**  
7 **required to be published by the Secretary of State]**, and in **[such]**  
8 any other manner as the council shall determine, not less than  
9 **[fifteen]** 15 days prior to the hearing. **[Such]** The notice shall  
10 specify the time when and the place where **[such]** the hearing will  
11 be held, together with the text of the proposed regulation,  
12 amendment or repealer.

13 (cf: P.L.1948, c.448, s.35)

14

15 10. Section 36 of P.L.1948, c.448 (C.13:1B-34) is amended to  
16 read as follows:

17 36. If after **[such]** the hearing required pursuant to section 35 of  
18 P.L.1948, c.448 (C.13:1B-33) the council is satisfied that the  
19 proposed regulation, amendment or repealer, or any part of such  
20 regulation, amendment or repealer, is advisable, it may, subject to  
21 the approval of the Commissioner of Environmental Protection,  
22 adopt the **[same]** regulation, amendment or repealer, and if so, it  
23 shall state the date on which it takes effect and the council shall  
24 cause a true copy of the **[same]** regulation, amendment or repealer  
25 to be filed with the **[Secretary of State]** Office of Administrative  
26 Law.

27 Every regulation, amendment or repealer adopted by the council  
28 and approved by the Commissioner of Environmental Protection  
29 pursuant to the provisions of this article shall become effective at  
30 the time specified therein but not sooner than **[5]** five days after its  
31 publication in the New Jersey Register **[following such filing, if**  
32 **such register be then required to be published by the Secretary of**  
33 **State; or if such register is not then required to be published by the**  
34 **Secretary of State, then not sooner than 10 days after such filing]**.

35 The council may publish and distribute summaries of **[such]** its  
36 regulations, amendments, and repealers in **[such]** any manner as it  
37 may from time to time determine.

38 Copies of the State Fish and Game Code, and its amendments,  
39 duly certified by the **[chairman]** chairperson of the council shall be  
40 received in evidence in all court or other judicial proceedings in the  
41 State.

42 If the Governor **[shall find]** determines that an emergency exists  
43 by reason of unusual snow, flood or other natural disaster, the  
44 council may, subject to the approval of the Commissioner of  
45 Environmental Protection, amend any regulation establishing open  
46 and closed seasons, to extend, shorten or abolish **[such]** any season,

1 without public hearings, and [such] the amendment may become  
2 effective immediately.

3 Notwithstanding the provisions of this section to the contrary,  
4 the Commissioner of Environmental Protection may suspend any  
5 season at any time, without public hearings, if the commissioner  
6 determines that it is necessary to do so to protect the species, public  
7 safety or the public interest.

8 (cf: P.L.1960, c.149, s.1)

9

10 11. Section 37 of P.L.1948, c.448 (C.13:1B-35) is amended to  
11 read as follows:

12 37. Any regulation, or amendment thereto, or repealer thereof  
13 adopted by the council and approved by the Commissioner of  
14 Environmental Protection pursuant to the provisions of this article  
15 shall be subject to review on certiorari, or action or proceeding in  
16 lieu thereof, to any court of competent jurisdiction.

17 (cf: P.L.1948, c.448, s.37)

18

19 12. Section 2 of P.L.1999, c.282 (C.23:2B-15.1) is amended to  
20 read as follows:

21 2. a. The Division of Fish, Game and Wildlife is continued and  
22 constituted as the Division of Fish and Wildlife in the Department  
23 of Environmental Protection. All the functions, powers, and duties  
24 of the existing Division of Fish, Game and Wildlife and the director  
25 thereof are continued in the Division of Fish and Wildlife and the  
26 director thereof, and whenever the term "Division of Fish, Game  
27 and Wildlife" occurs or any reference is made thereto in any law,  
28 contract, or document, it shall be deemed or mean to refer to the  
29 Division of Fish and Wildlife.

30 b. The Fish and Game Council, together with all its functions,  
31 powers and duties, is continued as the Fish and Game Council in the  
32 **【Division of Fish and Wildlife in the】** Department of  
33 Environmental Protection.

34 (cf: P.L.1999, c.282, s.2)

35

36 13. This act shall take effect January 1 next following the date  
37 of enactment, but the Governor, the Senate, the Department of  
38 Environmental Protection, the Division of Fish and Wildlife, and  
39 the Fish and Game Council may take such action in advance thereof  
40 as shall be necessary for the implementation of this act.

41

42

43

#### STATEMENT

44

45 This bill would increase the membership, change the  
46 composition, and revise the authority of the Fish and Game  
47 Council. Current law provides for 11 members on the council as

1 follows: three farmers, recommended to the Governor for  
2 appointment by the agricultural convention held pursuant to statute;  
3 six sportsmen, recommended to the Governor for appointment by  
4 the New Jersey State Federation of Sportsmen's Clubs; one member  
5 "knowledgeable in land use management and soil conservation  
6 practices"; and the chairperson of the Endangered and Nongame  
7 Species Advisory Committee established pursuant to "The  
8 Endangered and Nongame Species Conservation Act."

9 This bill would change the composition and increase the  
10 membership of the council from 11 members to 13 members. The  
11 new membership is as follows: the Commissioner of Environmental  
12 Protection, ex officio, or a designated representative; the  
13 chairperson, ex officio, of the committee established pursuant to  
14 "The Endangered and Nongame Species Conservation Act"; two  
15 farmers; two sportsmen; two individuals with experience in  
16 environmental protection, recommended to the Governor for  
17 appointment to the council by the New Jersey Environmental  
18 Federation; and five individuals with experience in environmental  
19 protection or other fields relevant to animal welfare and with a  
20 background in the preservation of wildlife, recommended to the  
21 Governor for appointment to the council by the New Jersey Animal  
22 Rights Alliance, The Bear Education and Resource Group, and the  
23 Humane Society of the United States. Of the farmer  
24 representatives, the sportsmen representatives, and the  
25 environmental representatives, one representative of each group  
26 would be a resident of any of the following counties--Bergen,  
27 Essex, Hudson, Hunterdon, Mercer, Morris, Passaic, Somerset,  
28 Sussex, Union and Warren; and one representative of each group  
29 would be a resident of any of the following counties--Atlantic,  
30 Burlington, Camden, Cape May, Cumberland, Gloucester ,  
31 Middlesex, Monmouth, Ocean, and Salem. The remaining five  
32 members appointed by the Governor would be chosen with due  
33 consideration to achieve balanced geographic representation of all  
34 regions of the State.

35 The bill would provide that the public members of the council  
36 serve at the pleasure of the Governor. Current law provides that  
37 members of the council may be removed by the Governor, for  
38 cause, upon notice and the opportunity to be heard. The bill also  
39 would amend current law to place the Fish and Game Council  
40 within the Department of Environmental Protection generally,  
41 rather than specifically within the Department's Division of Fish  
42 and Wildlife.

43 The bill would amend current law to provide that the  
44 Commissioner of Environmental Protection shall select the Director  
45 of the Division of Fish and Wildlife, and the director shall serve at  
46 the pleasure of the commissioner. Under current law, the Director  
47 of the Division of Fish and Wildlife is selected by the Fish and  
48 Game Council, subject to the approval of the Governor and serves

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1 at the pleasure of the council.

2 The bill would also amend current law to make all regulatory and  
3 policy decisions of the Fish and Game Council subject to the  
4 approval of the Commissioner of Environmental Protection.

5 The bill also would create a nonlethal alternatives committee  
6 within the council charged with investigating, recommending and  
7 expediting the use of non-lethal alternatives for dealing with  
8 wildlife conflicts, developing an integrated and biologically sound  
9 approach to white-tailed deer reproductivity and lowering fertility  
10 rates; studying single-species management and propagation of game  
11 species on State and private lands; and promoting public outreach  
12 and education.

13 Lastly, the bill makes various technical amendments to the  
14 statutory text to update references to the Department of  
15 Environmental Protection and the Division of Fish and Wildlife,  
16 and to update statutory references.