

ASSEMBLY, No. 141

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman DAWN FANTASIA

District 24 (Morris, Sussex and Warren)

Assemblyman MICHAEL INGANAMORT

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Clarifies that Fish and Game Council has sole authority to regulate freshwater fishing, hunting, and trapping.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A141 FANTASIA, INGANAMORT

2

1 AN ACT concerning the Fish and Game Council, the Division of
2 Fish and Wildlife, and the Department of Environmental
3 Protection, amending various parts of the statutory law, and
4 supplementing Title 23 of the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 25 of P.L.1948, c.448 (C.13:1B-23) is amended to
10 read as follows:

11 25. All of the functions, powers and duties of the Division of
12 Fish and Game of the existing State Department of Conservation,
13 **[of the Fish and Game Council therein,]** and of the State
14 Commissioner of Conservation relating to or administered through
15 **[said]** that division, herein transferred to the Department of
16 Conservation and Economic Development, are hereby assigned to,
17 and shall be exercised and performed through, the Division of Fish
18 and Game in the department.

19 (cf: P.L.1948, c.448, s.25)

20

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

23 26. There shall be within , but not of, the Division of Fish **[,**
24 **Game]** and Wildlife, a Fish and Game Council which shall consist
25 of 11 members, each of whom shall be chosen with due regard to
26 **[his]** the member's knowledge of and interest in the conservation of
27 fish and game. Each member of the council shall be appointed by
28 the Governor, with the advice and consent of the Senate. Three of
29 **[such]** the members shall be farmers, recommended to the
30 Governor for appointment to the council by the agricultural
31 convention held pursuant to the provisions of article 2 of chapter 1
32 of Title 4 of the Revised Statutes; six of **[such]** the members shall
33 be sportsmen, recommended to the Governor for appointment to the
34 council by the New Jersey State Federation of Sportsmen's Clubs;
35 one of **[such]** the members shall be the **[chairman]** chairperson
36 of the committee established pursuant to section 7 of **[the**
37 **"Endangered]** "The Endangered and Nongame Species
38 Conservation **[Act"** (P.L.1973, c.309; C.23:2A-7) **]** Act," P.L.1973,
39 c.309 (C.23:2A-7) , and one of **[such]** the members shall be a
40 person knowledgeable in land use management and soil
41 conservation practices. One of **[such]** the farmer representatives
42 and two of **[such]** the sportsmen representatives in the council shall
43 be chosen from among residents of any of the following counties--
44 Bergen, Essex, Hudson, Morris, Passaic, Sussex and Warren; one of

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 **【such】** the farmer representatives and two of **【such】** the sportsmen
2 representatives in the council shall be chosen from among residents
3 of any of the following counties--Hunterdon, Mercer, Middlesex,
4 Monmouth, Ocean, Somerset and Union; and one of **【such】** the
5 farmer representatives and two of **【such】** the sportsmen
6 representatives shall be chosen from among residents of any of the
7 following counties--Atlantic, Burlington, Camden, Cape May,
8 Cumberland, Gloucester and Salem.

9 Each member of the council shall be appointed for a term of **【4】**
10 four years and shall serve until his successor has been appointed
11 and has qualified.

12 (cf: P.L.1979, c.199, s.72)

13

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

16 29. The Division of Fish and **【Game】** Wildlife shall be under
17 the immediate supervision of a director, who shall be a person with
18 special training and experience in **【wild life】** wildlife management
19 and otherwise qualified to direct the work of **【such】** the division.
20 The director of **【such】** the division shall be appointed by the Fish
21 and Game Council, subject to the approval of the Governor, and
22 shall, unless sooner removed by the Governor as hereinafter
23 provided, serve at the pleasure of **【such】** the council and until the
24 director's successor is appointed and has qualified. **【He】** The
25 director shall receive such salary as shall be provided by law.

26 The director shall administer the work of **【such】** the division
27 under the direction and supervision of the commissioner , except,
28 with respect to implementation of the State Fish and Game Code
29 and any comprehensive policies concerned therewith adopted or
30 formulated by the Fish and Game Council, the director shall be
31 under the direction of the Fish and Game Council.

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

33

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

36 30. a. In addition to its powers and duties otherwise hereinafter
37 provided in sections 31 through 41 of P.L.1948, c.448 (C.13:1B-29
38 et al.) , the Fish and Game Council shall, subject to the approval of
39 the commissioner, formulate comprehensive policies for the
40 protection and propagation of fish, birds, and game animals and for
41 the propagation and distribution of food fish and for the keeping up
42 of the supply thereof in the waters of the State. No such approval
43 of the commissioner shall be required with respect to the
44 formulation of any comprehensive policies concerning the State
45 Fish and Game Code adopted pursuant to sections 31 through 41 of
46 P.L.1948, c.448 (C.13:1B-29 et al.) or with respect to the

1 implementation of the State Fish and Game Code by the Division of
2 Fish and Wildlife, the division director, the Department of
3 Environmental Protection, and the commissioner as directed by the
4 council.

5 b. The council shall also:

6 **【a.】** (1) Consult with and advise the commissioner and director
7 of the Division of Fish and **【Game】** Wildlife with respect to the
8 work of such division.

9 **【b.】** (2) Study the activities of the Division of Fish and
10 **【Game】** Wildlife and hold hearings with respect thereto as it may
11 deem necessary or desirable.

12 **【c.】** (3) Report to the Governor and the Legislature annually,
13 and at such other times as it may deem in the public interest, with
14 respect to its findings and conclusions.

15 (cf: P.L.1948, c.448, s.30)

16

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

19 31. As used in this article, unless otherwise specifically
20 indicated:

21 **【**"Division" means the Division of Fish and Game in the
22 Department of Conservation and Economic Development.

23 "Council" means the Fish and Game Council in the Division of
24 Fish and Game of the Department of Conservation and Economic
25 Development.**】**

26 "Code" means the State Fish and Game Code **【.**】 :

27 "Council" means the Fish and Game Council in but not of the
28 Division of Fish and Wildlife; and

29 "Division" means the Division of Fish and Wildlife in the
30 Department of Environmental Protection.

31 (cf: P.L.1948, c.448, s.31)

32

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

35 32. For the purpose of providing an adequate and flexible
36 system of protection, propagation, increase, control and
37 conservation of fresh water fish, game birds, game animals, and fur-
38 bearing animals in this State, and for their use and development for
39 public recreation and food supply, the council is hereby authorized
40 and empowered to determine under what circumstances, when and
41 in what localities, by what means and in what amounts and numbers
42 such fresh water fish, game birds, game animals, and fur-bearing
43 animals, or any of them, may be pursued, taken, killed, or had in
44 possession so as to maintain an adequate and proper supply thereof,
45 and may, after first having determined the need for such action on
46 the basis of scientific investigation and research, adopt and from

A141 FANTASIA, INGANAMORT

1 time to time amend and repeal such appropriate and reasonable
2 regulations concerning the same, or any of them, penalties for the
3 violation of which are prescribed by certain of the sections of Title
4 23 of the Revised Statutes amended herein, as it deems necessary to
5 preserve, properly utilize or maintain the best relative number of
6 any species or variety thereof, at the times, in the manner and to the
7 extent hereinafter provided. The regulations so established shall be
8 called the State Fish and Game Code.

9 The council shall be the sole authority in determining whether or
10 not any species of fresh water fish, game bird, game animal, or fur-
11 bearing animal may be pursued, taken, killed, or had in possession
12 and in determining what circumstances, when and in what localities,
13 by what means and in what amounts and numbers those species may
14 be pursued, taken, killed, or had in possession. As directed by the
15 council, the division, the division director, the Department of
16 Environmental Protection, and the Commissioner of Environmental
17 Protection shall implement the State Fish and Game Code as
18 adopted by the council and any comprehensive policies concerned
19 therewith as formulated by the council.

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

21

22 7. Section 7 of P.L.1970, c.33 (C.13:1D-4) is amended to read
23 as follows:

24 7. a. All the functions, powers and duties of the Division of
25 Fish and Game of the existing Department of Conservation and
26 Economic Development, **【of the Fish and Game Council therein,】**
27 and of the Division of Shell Fisheries of the existing Department of
28 Conservation and Economic Development, and of the Shell
29 Fisheries Council therein, and of the Commissioner of Conservation
30 and Economic Development relating to, or administered through
31 **【said】** those divisions, are transferred to and vested in the Division
32 of Fish, Game and Shell Fisheries established hereunder.

33 b. The Fish and Game Council, together with all of its
34 functions, powers and duties, is continued as the Fish and Game
35 Council in but not of the Division of Fish, Game and Shell Fisheries
36 in the Department of Environmental Protection. This act shall not
37 affect the terms of office of the present members of the council.
38 The members of the council shall continue to be appointed as
39 provided by existing law.

40 c. The Shell Fisheries Council, together with all of its
41 functions, powers, and duties, is continued as the Shell Fisheries
42 Council in the Division of Fish, Game and Shell Fisheries in the
43 Department of Environmental Protection. This act shall not affect
44 the terms of office of the present members of the council. The
45 members of the council shall continue to be appointed as provided
46 by existing law.

47 (cf: P.L.1970, c.33, s.7)

- 1 8. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read
2 as follows:
- 3 12. The department shall formulate comprehensive policies for
4 the conservation of the natural resources of the State, the promotion
5 of environmental protection and the prevention of pollution of the
6 environment of the State. These comprehensive policies shall not
7 supersede or contradict the State Fish and Game Code as adopted
8 and implemented by the Fish and Game Council pursuant to
9 sections 31 through 41 of P.L.1948, c.448 (C.13:1B-29 et al.) or any
10 comprehensive policies concerned therewith formulated by the
11 council. The department shall in addition to the powers and duties
12 vested in it by this act or by any other law have the power to:
- 13 a. Conduct and supervise research programs for the purpose of
14 determining the causes, effects and hazards to the environment and
15 its ecology;
- 16 b. Conduct and supervise Statewide programs of education,
17 including the preparation and distribution of information relating to
18 conservation, environmental protection and ecology;
- 19 c. Require the registration of persons engaged in operations
20 which may result in pollution of the environment and the filing of
21 reports by them containing such information as the department may
22 prescribe to be filed relative to pollution of the environment, all in
23 accordance with applicable codes, rules or regulations established
24 by the department;
- 25 d. Enter and inspect any property, facility, building, premises,
26 site or place for the purpose of investigating an actual or suspected
27 source of pollution of the environment and conducting inspections,
28 collecting samples, copying or photocopying documents or records,
29 and for otherwise ascertaining compliance or noncompliance with
30 any laws, permits, orders, codes, rules and regulations of the
31 department. Any information relating to secret processes
32 concerning methods of manufacture or production, obtained in the
33 course of such inspection, investigation or determination, shall be
34 kept confidential, except this information shall be available to the
35 department for use, when relevant, in any administrative or judicial
36 proceedings undertaken to administer, implement, and enforce State
37 environmental law, but shall remain subject only to those
38 confidentiality protections otherwise afforded by federal law and by
39 the specific State environmental laws and regulations that the
40 department is administering, implementing and enforcing in that
41 particular case or instance. In addition, this information shall be
42 available upon request to the United States Government for use in
43 administering, implementing, and enforcing federal environmental
44 law, but shall remain subject to the confidentiality protection
45 afforded by federal law. If samples are taken for analysis, a
46 duplicate of the analytical report shall be furnished promptly to the
47 person suspected of causing pollution of the environment;

- 1 e. Receive or initiate complaints of pollution of the
2 environment, including thermal pollution, hold hearings in
3 connection therewith and institute legal proceedings for the
4 prevention of pollution of the environment and abatement of
5 nuisances in connection therewith and shall have the authority to
6 seek and obtain injunctive relief and the recovery of fines and
7 penalties in a court of competent jurisdiction;
- 8 f. Prepare, administer and supervise Statewide, regional and
9 local programs of conservation and environmental protection,
10 giving due regard for the ecology of the varied areas of the State
11 and the relationship thereof to the environment, and in connection
12 therewith prepare and make available to appropriate agencies in the
13 State technical information concerning conservation and
14 environmental protection, cooperate with the Commissioner of
15 Health and Senior Services in the preparation and distribution of
16 environmental protection and health bulletins for the purpose of
17 educating the public, and cooperate with the Commissioner of
18 Health and Senior Services in the preparation of a program of
19 environmental protection;
- 20 g. Encourage, direct and aid in coordinating State, regional and
21 local plans and programs concerning conservation and
22 environmental protection in accordance with a unified Statewide
23 plan which shall be formulated, approved and supervised by the
24 department. In reviewing such plans and programs and in
25 determining conditions under which such plans may be approved,
26 the department shall give due consideration to the development of a
27 comprehensive ecological and environmental plan in order to be
28 assured insofar as is practicable that all proposed plans and
29 programs shall conform to reasonably contemplated conservation
30 and environmental protection plans for the State and the varied
31 areas thereof;
- 32 h. Administer or supervise programs of conservation and
33 environmental protection, prescribe the minimum qualifications of
34 all persons engaged in official environmental protection work, and
35 encourage and aid in coordinating local environmental protection
36 services;
- 37 i. Establish and maintain adequate bacteriological, radiological
38 and chemical laboratories with such expert assistance and such
39 facilities as are necessary for routine examinations and analyses,
40 and for original investigations and research in matters affecting the
41 environment and ecology;
- 42 j. Administer or supervise a program of industrial planning for
43 environmental protection; encourage industrial plants in the State to
44 undertake environmental and ecological engineering programs; and
45 cooperate with the State Departments of Health and Senior
46 Services[,] and Labor and Workforce Development, and the New

- 1 Jersey **【Commerce Commission】** Economic Development
2 Authority, in formulating rules and regulations concerning
3 industrial sanitary conditions;
- 4 k. Supervise sanitary engineering facilities and projects within
5 the State, authority for which is now or may hereafter be vested by
6 law in the department, and shall, in the exercise of such supervision,
7 make and enforce rules and regulations concerning plans and
8 specifications, or either, for the construction, improvement,
9 alteration or operation of all public water supplies, all public
10 bathing places, landfill operations and of sewerage systems and
11 disposal plants for treatment of sewage, wastes and other
12 deleterious matter, liquid, solid or gaseous, require all such plans or
13 specifications, or either, to be first approved by it before any work
14 thereunder shall be commenced, inspect all such projects during the
15 progress thereof and enforce compliance with such approved plans
16 and specifications;
- 17 l. Undertake programs of research and development for the
18 purpose of determining the most efficient, sanitary and economical
19 ways of collecting, disposing, recycling or utilizing **【of】** solid
20 waste;
- 21 m. Construct and operate, on an experimental basis, incinerators
22 or other facilities for the disposal of solid waste, provide the various
23 municipalities and counties of this State, and the Division of Local
24 Government Services in the Department of Community Affairs with
25 statistical data on costs and methods of solid waste collection,
26 disposal and utilization;
- 27 n. Enforce the State air pollution, water pollution,
28 conservation, environmental protection, solid and hazardous waste
29 management laws, rules and regulations, including the making and
30 signing of a complaint and summons for their violation by serving
31 the summons upon the violator and thereafter filing the complaint
32 promptly with a court having jurisdiction;
- 33 o. Acquire by purchase, grant, contract or condemnation, title
34 to real property, for the purpose of demonstrating new methods and
35 techniques for the collection or disposal of solid waste;
- 36 p. Purchase, operate and maintain, pursuant to the provisions of
37 this act, any facility, site, laboratory, equipment or machinery
38 necessary to the performance of its duties pursuant to this act;
- 39 q. Contract with any other public agency or corporation
40 incorporated under the laws of this or any other state for the
41 performance of any function under this act;
- 42 r. With the approval of the Governor, cooperate with, apply
43 for, and receive and expend funds from, the federal government, the
44 State Government, or any county or municipal government or from
45 any public or private sources for any of the objects of this act;

A141 FANTASIA, INGANAMORT

1 s. Make annual and such other reports as it may deem proper to
2 the Governor and, pursuant to section 2 of P.L.1991, c.164
3 (C.52:14-19.1), to the Legislature, evaluating the demonstrations
4 conducted during each calendar year;

5 t. Keep complete and accurate minutes of all hearings held
6 before the commissioner or any member of the department pursuant
7 to the provisions of this act. All such minutes shall be retained in a
8 permanent record, and shall be available for public inspection at all
9 times during the office hours of the department;

10 u. Require any person subject to a lawful order of the
11 department, which provides for a period of time during which such
12 person subject to the order is permitted to correct a violation, to
13 post a performance bond or other security with the department in
14 such form and amount as shall be determined by the department.
15 Such bond need not be for the full amount of the estimated cost to
16 correct the violation but may be in such amount as will tend to
17 insure good faith compliance with said order. The department shall
18 not require such a bond or security from any public body, agency or
19 authority. In the event of a failure to meet the schedule prescribed
20 by the department, the sum named in the bond or other security
21 shall be forfeited unless the department shall find that the failure is
22 excusable in whole or in part for good cause shown, in which case
23 the department shall determine what amount of said bond or
24 security, if any, is a reasonable forfeiture under the circumstances.
25 Any amount so forfeited shall be utilized by the department for the
26 correction of the violation or violations, or for any other action
27 required to insure compliance with the order;

28 v. Encourage and aid in coordinating State, regional and local
29 plans, efforts and programs concerning the remediation and reuse of
30 former industrial or commercial properties that are currently
31 underutilized or abandoned and at which there has been, or is
32 perceived to have been, a discharge, or threat of a discharge, of a
33 contaminant. For the purposes of this subsection, "underutilized
34 property" shall not include properties undergoing a reasonably
35 timely remediation or redevelopment process; and

36 w. Conduct research and implement plans and programs to
37 promote ecosystem-based management.

38 (cf: P.L.2007, c.288, s.6)

39

40 9. Section 21 of P.L.1970, c.33 (C.13:1D-18) is amended to
41 read as follows:

42 21. With respect to the functions, powers and duties hereby
43 transferred to the Department of Environmental Protection,
44 whenever in any law, rule, regulation, contract, document, judicial
45 or administrative proceeding or otherwise, reference is made to the
46 Department of Conservation and Economic Development, or the
47 commissioner thereof, the same shall mean and refer to the

1 Department of Environmental Protection and the Commissioner of
2 Environmental Protection, respectively.

3 With respect to the functions, power and duties of the
4 Department of Health and the commissioner thereof, which are
5 herein transferred and vested in the Division of Environmental
6 Quality established hereunder, whenever in any law, rule,
7 regulation, contract, document or otherwise, reference is made to
8 the Department of Health, or the commissioner thereof, the same
9 shall be deemed to mean and refer to the Department of
10 Environmental Protection and the Commissioner of Environmental
11 Protection, respectively.

12 Whenever the term "Division of Clean Air and Water" occurs or
13 any reference is made thereto in any law, contract or document, the
14 same shall be deemed to mean or refer to the Division of
15 Environmental Quality in the Department of Environmental
16 Protection established hereunder.

17 Whenever the term "Clean Air Council" occurs or any reference
18 is made thereto in any law, contract or document, the same shall be
19 deemed to mean or refer to the Clean Air Council in the Department
20 of Environmental Protection established hereunder.

21 Whenever the term "Clean Water Council" occurs or any
22 reference is made thereto in any law, contract or document, the
23 same shall be deemed to mean or refer to the Clean Water Council
24 in the Department of Environmental Protection established
25 hereunder.

26 Whenever the term, "Commission on Radiation Protection" or
27 any reference is made thereto in any law, contract or document, the
28 same shall be deemed to mean or refer to the Commission on
29 Radiation Protection in the Department of Environmental Protection
30 established hereunder.

31 Whenever the term "Division of Fish and Game" or "Division of
32 Shell Fisheries" occurs or any reference is made thereto in any law,
33 contract or document, the same shall be deemed to refer to the
34 Division of Fish **】, Game and Shell Fisheries】** and Wildlife
35 established hereunder.

36 Whenever the term "Director of Fish and Game" occurs or any
37 reference is made thereto in any law, contract or document, the
38 same shall be deemed to mean or refer to the Director of the
39 Division of Fish **】, Game and Shell Fisheries】** and Wildlife
40 established hereunder.

41 Whenever the term "Fish and Game Council" occurs or any
42 reference is made thereto in any law, contract or document, the
43 same shall be deemed to mean or refer to the Fish and Game
44 Council in but not of the Department of Environmental Protection
45 established hereunder.

46 Whenever the term "Shell Fisheries Council" occurs or any
47 reference is made thereto in any law, contract or document, the

A141 FANTASIA, INGANAMORT

1 same shall be deemed to mean or refer to the Shell Fisheries
2 Council in the Department of Environmental Protection established
3 hereunder.

4 Whenever the term "Director of Shell Fisheries" occurs or any
5 reference is made thereto in any law, contract or document, the
6 same shall be deemed to mean or refer to the Director of the
7 Division of Fish **】, Game and Shell Fisheries】** and Wildlife
8 established hereunder.

9 Whenever the term "Division of Resource Development" or
10 "Director of the Division of Resource Development" occurs or any
11 reference is made thereto in any law, contract or document, the
12 same shall be deemed to mean or refer to the Division of Natural
13 Resources established hereunder and the director thereof,
14 respectively.

15 Whenever the term "Resource Development Council" or
16 "Planning and Development Council" occurs or any reference is
17 made thereto in any law, contract or document, the same shall be
18 deemed to mean or refer to the Natural Resource Council
19 established hereunder.

20 Whenever the term "Division of Parks, Forestry and Recreation"
21 occurs or any reference is made thereto in any law, contract or
22 document, the same shall be deemed to mean or refer to the
23 Division of Parks, Forestry and Recreation in the Department of
24 Environmental Protection established hereunder.

25 Whenever the term "Parks, Forestry and Recreation Council"
26 occurs or any reference is made thereto in any law, contract or
27 document, the same shall be deemed to mean or refer to the Parks,
28 Forestry and Recreation Council in the Department of
29 Environmental Protection established hereunder.

30 Whenever the term "Division of Water Policy and Supply"
31 occurs or any reference is made thereto in any law, contract or
32 document, the same shall be deemed to mean or refer to the
33 Division of Water Policy and Supply in the Department of
34 Environmental Protection.

35 Whenever the term "Water Policy and Supply Council" occurs or
36 any reference is made thereto in any law, contract or document, the
37 same shall be deemed to mean or refer to the Water Policy and
38 Supply Council in the Department of Environmental Protection.

39 Whenever the term "Division of Economic Development" is
40 referred to in any law, contract or document, the same shall be
41 deemed to mean or refer to the Division of Economic Development
42 in the Department of Labor and Industry.

43 Whenever the term "Economic Development Council" is referred
44 to in any law, contract or document, the same shall be deemed to
45 mean or refer to the Economic Development Council in the
46 Department of Labor and Industry.

47 Whenever the term "Division of Veterans' Services" is referred

1 to in any law, contract or document, the same shall be deemed to
2 mean or refer to the organizational unit of the Department of
3 Institutions and Agencies to be established pursuant to section 13 of
4 this act.

5 Whenever the term "Veterans' Services Council" is referred to in
6 any law, contract or document, the same shall be deemed to mean or
7 refer to the Veterans Services Council in the Department of
8 Institutions and Agencies.

9 With respect to the functions, powers and duties of the
10 Department of Agriculture which are hereby transferred and vested
11 in the Division of Environmental Quality established hereunder,
12 whenever in any law, rule, regulation, contract, document or
13 otherwise reference is made to the Department of Agriculture, the
14 same shall mean and refer to the Department of Environmental
15 Protection established hereunder.

16 (cf: P.L.1970, c.33, s.21)

17

18 10. R.S.23:1-1 is amended to read as follows:

19 23:1-1. As used in this title:

20 "Apprentice license" means any resident's apprentice firearm
21 hunting license, resident's apprentice bow and arrow license,
22 nonresident's apprentice firearm hunting license, or nonresident's
23 apprentice bow and arrow license issued pursuant to R.S.23:3-4.

24 "Assistant protector" or "assistant fish and game protector"
25 means the Deputy Chief of the Bureau of Law Enforcement in the
26 division;

27 "Closed season" means the date and time of year when wildlife
28 may not be captured, taken, killed, or had in possession in the field;

29 "Code" means the State Fish and Game Code;

30 "Conservation officer" means any sworn, salaried member of the
31 Bureau of Law Enforcement in the division holding the titles of
32 Conservation Officer I, II, or III, and includes the titles of
33 Supervising Conservation Officer and Chief of the Bureau of Law
34 Enforcement;

35 "Council" means the Fish and Game Council in but not of the
36 Division of Fish and Wildlife in the Department of Environmental
37 Protection;

38 "Delaware river" means the waters of the Delaware river from
39 the Pennsylvania shore to the New Jersey shore, or in the case of
40 any tributaries or inland bays on the New Jersey side, to the mouths
41 of those tributaries or bays;

42 "Deputy warden" or "deputy fish and game warden" means any
43 commissioned deputy conservation officer of the Bureau of Law
44 Enforcement in the division;

45 "Division," "Division of Fish, Game and Wildlife," "board," or
46 "Board of Fish and Game Commissioners" means the Division of
47 Fish and Wildlife in the Department of Environmental Protection;

1 "Fishing" means the possession of an instrument used to take fish
2 in a condition that makes the instrument readily usable, while in a
3 place or in proximity thereto where fish may be found;

4 "Hunting" means the possession of an instrument used to take
5 wildlife in a condition that makes the instrument readily usable,
6 while in a place or in proximity thereto where wildlife may be
7 found;

8 "Open season" means the date and time of year when wildlife
9 may be captured, taken, killed, or had in possession;

10 "Protector" or "fish and game protector" means the Chief of the
11 Bureau of Law Enforcement in the division;

12 "Warden" or "fish and game warden" means a conservation
13 officer; and

14 "Wildlife" means any wild mammal, bird, reptile, amphibian,
15 fish, mollusk, crustacean or other wild animal or any part, product,
16 egg or offspring or the dead body or parts thereof.

17 (cf: P.L.2015, c.83, s.1)

18

19 11. R.S.23:2-2 is amended to read as follows:

20 23:2-2. The duties of the **[board]** division shall be the
21 protection and propagation of fish, birds and game animals,
22 implementation of the State Fish and Game Code as adopted by the
23 Fish and Game Council pursuant to sections 31 through 41 of
24 P.L.1948, c.448 (C.13:1B-29 et al.) and of any comprehensive
25 policies concerned therewith as formulated by the council,
26 enforcement of the laws relating thereto, propagation and
27 distribution of food fish and the keeping up of the supply thereof in
28 the waters of the **[state]** State . The **[board]** division may close
29 streams or parts of streams for **[forty-eight]** 48 hours immediately
30 following the stocking **[of same]** thereof by the **[board]** division ,
31 and may revoke the license of any person who shall violate the
32 regulation so prescribed. The **[board]** division may permit persons,
33 when duly authorized by the **[board]** division , to carry firearms in
34 the woods and fields at any time when necessary for the
35 conservation of **[wild life]** wildlife. The **[board]** division shall
36 have the conduct and control of all hatching stations owned and
37 operated by the **[state]** State. It may investigate any complaint
38 made to it, at all times inspect any dam, weir, fish basket, net or
39 other illegal apparatus for taking fish, and forthwith remove the
40 same, and, on view or information, enforce the laws for the
41 protection and propagation of fish, birds and game animals in **[this**
42 **state]** the State, by arrest and prosecution of the offender, without
43 complaint or warrant. It shall make a full report to the **[legislature]**
44 Legislature annually, at its meeting, of all its official operations for

A141 FANTASIA, INGANAMORT

14

1 the year ending on June **[thirtieth]** 30 preceding, with any
2 suggestions and recommendations it deems useful.

3 (cf: R.S.23:2-2)

4

5 12. Section 1 of P.L.1948, c.39 (C.23:2-2.1) is amended to read
6 as follows:

7 1. Whenever pursuant to law the Governor shall, by
8 proclamation, close any forests, woodlands or open lands to entry,
9 and any open season for taking fish, game birds, game animals or
10 fur-bearing animals or any of them, shall have been suspended or
11 curtailed thereby, the Fish and Game Council, at the expiration of
12 the period of **[such]** that closure, may **[**, subject to the approval of
13 the State Commissioner of Conservation,**]** by order provide for a
14 new open season or for an extension of **[such]** the open season
15 curtailed, within the limits of the area affected by the Governor's
16 proclamation, for a period not exceeding that during which **[said]**
17 the open season was suspended or curtailed.

18 (cf: P.L.1948, c.39, s.1)

19

20 13. Section 74 of P.L.1979, c.199 (C.23:2B-15) is amended to
21 read as follows:

22 74. a. The Division of Fish, Game and Shellfisheries is
23 continued and constituted as the Division of Fish, Game and
24 Wildlife in the Department of Environmental Protection. Except as
25 otherwise provided by this act, all the functions, powers and duties
26 of the existing Division of Fish, Game and Shellfisheries, and the
27 director, thereof, are continued in the Division of Fish, Game and
28 Wildlife and the director thereof, and whenever the term "Division
29 of Fish, Game and Shellfisheries" occurs or any reference is made
30 thereto in any law, contract or document, the same shall be deemed
31 or mean to refer to the Division of Fish, Game and Wildlife.

32 b. The Fish and Game Council, together with all its functions,
33 powers and duties, is continued as the Fish and Game Council in
34 but not of the Division of Fish, Game and Wildlife in the
35 Department of Environmental Protection.

36 (cf: P.L.1979, c.199, s.74)

37

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

40 2. a. The Division of Fish, Game and Wildlife is continued and
41 constituted as the Division of Fish and Wildlife in the Department
42 of Environmental Protection. All the functions, powers, and duties
43 of the existing Division of Fish, Game and Wildlife and the director
44 thereof are continued in the Division of Fish and Wildlife and the
45 director thereof, and whenever the term "Division of Fish, Game
46 and Wildlife" occurs or any reference is made thereto in any law,

1 contract, or document, it shall be deemed or mean to refer to the
2 Division of Fish and Wildlife.

3 b. The Fish and Game Council, together with all its functions,
4 powers and duties, is continued as the Fish and Game Council in
5 but not of the Division of Fish and Wildlife in the Department of
6 Environmental Protection.

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

8

9 15. Section 4 of P.L.1984, c.37 (C.23:4-22.4) is amended to read
10 as follows:

11 4. The Board of Governors of Rutgers, The State University,
12 shall direct the Department of Wildlife Management at Cook
13 College to conduct a study to identify or develop an animal trap
14 which substantially reduces injury and pain to both targeted and
15 nontargeted animals which are caught in the trap and which could
16 serve as an alternative to the steel-jaw leghold type animal trap.
17 The results of this study shall be published in a report to the New
18 Jersey Fish and Game Council, hereinafter referred to as the
19 "council," in but not of the Department of Environmental Protection
20 within one year of the effective date of this amendatory and
21 supplementary act. For the purposes of this amendatory and
22 supplementary act, the steel-jaw leghold type animal trap does not
23 mean mouse and rat traps designed for use in or under buildings.

24 (cf: P.L.1984, c.37, s.4)

25

26 16. (New section) a. Notwithstanding any law, rule, or
27 regulation to the contrary, including but not limited to the
28 provisions of subsection a. of section 5 of P.L.1948, c.448
29 (C.13:1B-5), lands under the administration, ownership,
30 management, or control of the Division of Fish and Wildlife or the
31 Department of Environmental Protection which were acquired in
32 whole or in part with monies from the "hunters' and anglers' license
33 fund" created pursuant to R.S.23:3-11 and R.S.23:3-12, from the
34 New Jersey Waterfowl Stamp Account established pursuant to
35 section 5 of P.L.1983, c.504 (C.23:3-79), or with federal aid for fish
36 and wildlife purposes, shall not be closed to the taking of any
37 species of freshwater fish or wildlife in accordance with the State
38 Fish and Game Code by the action of any State agency or official
39 without the approval of the Fish and Game Council.

40 b. For the purposes of subsection a. of this section, "federal aid
41 for fish and wildlife purposes" means any federal grant program to
42 the states for fish and wildlife purposes using funds derived from
43 the assessment of federal excise taxes on sporting equipment,
44 including but not limited to the federal aid in sport fish restoration
45 program, 16 U.S.C. s.777 et seq., and the federal aid in wildlife
46 restoration program, 16 U.S.C. s.669 et seq.

1 17. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill clarifies existing law that the Fish and Game Council is
7 empowered as the sole State governmental entity responsible for
8 determining whether or not any species of fresh water fish, game
9 bird, game animal, or fur-bearing animal may be fished, hunted, or
10 trapped, and in determining what circumstances, when and in what
11 localities, by what means and in what amounts and numbers those
12 species may be fished, hunted, or trapped. The bill also clarifies
13 existing law to require the Division of Fish and Wildlife, the
14 division director, the Department of Environmental Protection
15 (DEP), and the Commissioner of Environmental Protection to
16 implement the State Fish and Game Code as adopted by the council
17 and any comprehensive policies concerned therewith as formulated
18 by the council, all as directed by the council. The bill further
19 emphasizes the autonomy of the council pertaining to matters of
20 fresh water fishing, hunting, and trapping by removing the council
21 from the division and instead locating it in, but not of, the division
22 and the DEP.

23 This bill is necessary to correct the clearly erroneous
24 interpretation of the statutory law given recently by the New Jersey
25 Supreme Court in the case of U.S. Sportsmen's Alliance Foundation
26 v. New Jersey Department of Environmental Protection. In its
27 February 28, 2005 decision in that case, the Court reversed a well-
28 reasoned, unanimous three-judge Appellate Division opinion and
29 thereby stopped the black bear hunt scheduled for December 2004
30 until certain specified conditions were met. In doing so, the
31 Supreme Court found that the Fish and Game Council and the
32 Commissioner of Environmental Protection have "shared
33 responsibility" regarding the formulation of comprehensive policies
34 pertaining to game animals, including black bears. The effect of
35 this decision was to give the commissioner veto authority over any
36 action taken by the council, thereby transforming the council into a
37 mere advisory body. This result is clearly contrary to the statutory
38 law establishing the Fish and Game Council as a fully capable
39 regulatory body, providing for adoption of the State Fish and Game
40 Code by the council only, and establishing the State Fish and Game
41 Code as the only mechanism by which fresh water fishing, hunting,
42 and trapping is regulated in the State. The Court's decision wrongly
43 upset an established statutory framework, over 50 years of
44 precedent, and the designed and mutually accepted working
45 relationship established by the council with the Division of Fish and
46 Wildlife over that time period since the council was created by law.

47 Section 16 of this bill also provides that lands under the

1 administration, ownership, management, or control of the Division
2 of Fish and Wildlife or the DEP which were acquired in whole or in
3 part with monies from the "hunters' and anglers' license fund," from
4 the New Jersey Waterfowl Stamp Account, or with federal aid for
5 fish and wildlife purposes, shall not be closed to the taking of any
6 species of freshwater fish or wildlife in accordance with the State
7 Fish and Game Code by the action of any State agency or official
8 without the approval of the Fish and Game Council. This section
9 responds in part to an Appellate Division opinion issued November
10 24, 2004 in the case of Safari Club International v. New Jersey
11 Department of Environmental Protection in which the court
12 interpreted the current statutory law in support of affirming the
13 notice recently issued by the Commissioner of Environmental
14 Protection closing all lands owned, managed or controlled by the
15 DEP to bear hunting.