



LOUISIANA WILDLIFE FEDERATION

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Regarding HB 529 to Expand the LWFC

The Louisiana Wildlife & Fisheries Commission was established by an amendment to the Louisiana Constitution in 1952 to oversee the state administrative agency, also known as the Louisiana Wildlife & Fisheries Commission (formerly the Louisiana Department of Wildlife & Fisheries). The 7-member LWFC was given the authority to hire the “Director” of the agency. Prior to that, the “Director” was appointed by the Governor.

The establishment of the LWFC was consistent with a national trend to create a group of peers of each state’s stakeholders in the conservation and use of the natural resources that would determine the management of the state’s fish & wildlife resources and regulation of the use of those resources. The primary purpose of establishing such a commission form of governance was to reduce to a minimum the amount of political interference in the management of fish and wildlife resources compared to the preexisting situation where the sitting Governor had all the influence over the decision-making through the appointment of the agency director.

Establishing a commission form of governance for regulating the take of fish, fur and game was a chief goal of the Wildlife Management Institute (WMI), an organization established by a national association of leaders in the manufacture of sporting arms and ammunition and other outdoor gear with the intent of promoting the management of fish and wildlife resources based on sound science. In Louisiana, establishing the LWFC was the primary purpose of the Louisiana Wildlife Federation at the time. Interestingly, the WMI recommended, and still recommends when asked, a 5-person wildlife commission.

The language creating the 7-member LWFC in 1952 is as follows:

“The control and supervision of the wildlife of the state, including all aquatic life, is vested in the Louisiana Wildlife and Fisheries Commission. The commission shall be in the executive branch and shall consist of seven members appointed by the governor, subject to confirmation by the Senate. Six members shall serve overlapping terms of six years, and one member shall serve a term concurrent with that of the governor. Three members shall be electors of the coastal parishes and representatives of the commercial fishing and fur industries, and four shall be electors from the state at large other than representatives of the commercial fishing and fur industries, as provided by law. No member who has served six years or more shall be eligible for reappointment.”

With the adoption of the new state constitution in 1974, the governance of the administrative agency was removed from the LWFC's authority and in 1975 the Legislature created the Department of Wildlife & Fisheries as a cabinet agency with a secretary appointed by the Governor. The constitution retained the LWFC and its authority to regulate harvest and other aspects of fish and wildlife conservation, though the Legislature maintained statutory authority over certain aspects of the regulations of seasons, limits, etc.

As the LWFC matured and new processes for rulemaking were established to maximize the opportunity for public participation while allowing the full consideration of the data and advice provided by the professional fish & wildlife managers and enforcement experts of the Louisiana Department of Wildlife & Fisheries, the Legislature ceded more authority to the LWFC so that it now has complete jurisdiction over the setting of seasons, size limits, creel and bag limits and harvest quotas, without the requirement for legislative oversight in the process of making these rules. Most conservation advocates and members of the Legislature understand and appreciate the wisdom of this separation of responsibilities. The Legislature still has full opportunity to participate in providing counsel to the LWFC as the rulemaking process proceeds and it retains its ultimate authority over the actions of the LDWF and LWFC through the appropriations process.

The LWFC performs what is sometimes a difficult job, well. In observing its work over the past 30 years I have never known it to take action that is adverse to conserving the resources it is bound by the state constitution and statutory law to "protect, conserve and replenish." If it did, we would be meeting them in court.

Since many of the decisions of the LWFC affect user preference, sometimes one "side" gets what it wants at the expense of the "other side," such as in setting a specific opening day of a hunting or commercial fishing season. These decisions are what sometimes provokes dissatisfaction on the part of segments of stakeholders and the legislators who represent them. The Louisiana Wildlife Federation advocates that, when a controversial decision by the LWFC is pending that is not compelled by conservation need but is provoked by user preference, a statistically valid survey of stakeholders be made, when feasible, prior to decision and that the results demonstrate a supermajority of survey respondents in support of the proposed rule for it to be finally adopted.

Some have expressed the opinion that LWFC members should have technical expertise in resource management, or that the LWFC is a duplication of effort and its responsibilities could easily be assumed by the LDWF and its Secretary. The concept of the commission is that of a board of peers to the users it regulates and it is not intended to be a board of technical experts. That expertise is available through the LDWF staff. We view the LWFC as a necessary complement to the work of the LDWF and vice versa, and its role is essential to the stakeholders' need and right to participate in the decision-making process.

With the exception of the requirement that 3 members of the 7-member LWFC be representatives of the commercial fur and/or fishing industry, the idea of the LWFC is to represent all citizens of the state and all the natural resources within its authority, not just citizens and resources within a certain region. Although it makes sense that the LWFC and its constituencies would benefit from having at least one LWFC member from each geographic region of the state, both to avoid the perception of regional bias in decision-making, but more importantly, to inform the decision-making process with knowledge of and familiarity with each geographic area, it is a mistake to mandate it in statutory or constitutional law because it would imply that the commissioner from each specified region should represent the interests of that region rather than those of the state as a whole; therefore it would make the LWFC more "political." The Governor should have the sound practical and political sense to appoint LWFC members from each part of the state to avoid the perception of regional bias in decision-making.

All this relates to our concern with HB 529 by Rep. Chandler & B. Badon, Billiot, H. Burns, Gisclair, S. Jones, Lambert, Little and Morris to amend the Louisiana Constitution to expand the Louisiana Wildlife & Fisheries Commission (LWFC) to 9 members and require geographic representation per the 5 Public Service Commission Districts and an additional state at-large member. Additionally, the legislation eliminates the reference to the fur industry with respect to representation on the LWFC.

HB 529 was introduced as a proposal to abolish the LWFC because the primary author is disgruntled with the treatment he received when appearing before the LWFC and the outcome of the petition to the Commission by his constituents. He has opined that the LWFC is just an opportunity for political patronage and is redundant to the Louisiana Department of Wildlife & Fisheries and therefore an unnecessary layer of state bureaucracy. Yet now, the author of the original bill and its co-authors want to expand the LWFC!

HB 529 proposes to require geographic representation on the LWFC by having 5 of the LWFC members appointed, one each from a different Public Service Commission District. That guarantees that only one of the proposed 9 be from north of Alexandria (more or less) and does not provide for compact geographic representation that the authors apparently desire, so the premise of the legislation to promote geographic representation is faulty.

Adding members to the LWFC and requiring geographic representation will make it more, not less political; LWFC members should represent all citizens of the state and its natural resources, not just the people and resources from regions of the state.

The Wildlife Management Institute, a well-respected industry- supported conservation advocacy organization founded in the 1930s recommends 5-member state fish and game commissions, which many states have; a 9-member LWFC is going in the wrong direction. HB 529 can be viewed as merely adding the opportunity for more political patronage.

Since the CA HB 529 proposes will not be on the ballot until 2010, there is plenty of time to evaluate the efficacy of the LWFC and its structure and develop, if deemed advisable after thorough review and study, legislation for the 2010 Regular Session of the Louisiana Legislature. There is a state (read taxpayer) cost for each item added to the election ballot, so washing hands of the issue with the idea of “let the people decide” ignores the need to assure that the proposed amendment is well considered, advisable and worth the public expense to put it on the ballot.

The Governor(s) should exercise good practical and political sense when making appointments to the LWFC to assure that appointments are reasonably distributed geographically to avoid the perception of regional bias in LWFC decision-making. It is not necessary to designate those geographic boundaries. Doing so will tend to lead LWFC members to represent their “region” over resources.

The Louisiana Wildlife Federation believes that the LWFC performs a difficult task well, and should not be altered without a more thorough evaluation of the pros and cons of changing its structure and adding members than has been provided in the meager discussion of the merits of HB 529 during this legislative session.

Thank you for your consideration.

Randy P. Lanctot, Executive Director
Louisiana Wildlife Federation