

067201118

**HOUSE BILL NO. 938**

Offered January 11, 2006

Prefiled January 10, 2006

*A BILL to amend and reenact §§ 2.2-106, 29.1-102, 29.1-103, and 29.1-109 of the Code of Virginia, relating to powers of the Board of Game and Inland Fisheries.*

Patrons—Morgan, Callahan, Jones, S.C., Orrock, Scott, E.T., Wardrup and Wittman

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-106, 29.1-102, 29.1-103, and 29.1-109 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-106. Appointment of agency heads.

Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. ~~Executive Director of the Department of Game and Inland Fisheries;~~
4. Executive Director of the Jamestown-Yorktown Foundation;
54. Executive Director of the Motor Vehicle Dealer Board;
65. Librarian of Virginia;
76. Administrator of the Commonwealth's Attorneys' Services Council;
87. Executive Director of the Virginia Housing Development Authority;
98. Executive Director of the Board of Accountancy; and
109. Chief Information Officer of the Commonwealth.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven days of the appointment. Each appointee shall be available for interviews by the Committees on Privileges and Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and Elections consisting of five members of the House Committee and three members of the Senate Committee appointed by the respective chairs of the committees to review the resumes and statements of economic interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of a failure to comply with the provisions of this paragraph pertaining to the confirmation process.

For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, 23-252, and; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

§ 29.1-102. Board of Game and Inland Fisheries; how constituted; meetings.

~~The Commission of Game and Inland Fisheries is continued and shall hereafter be known as the~~ *The Board of Game and Inland Fisheries is hereby established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government.*

A. The Board shall consist of not more than one member from each congressional district. Each member of the Board shall be appointed by the Governor, subject to confirmation by the General Assembly. Members shall be appointed for terms of one to four years; however, appointments shall be

INTRODUCED

HB938

59 made in a manner whereby no more than three members shall have terms which expire in the same  
60 year. An appointment to fill a vacancy shall be made in the same manner, but only for the unexpired  
61 term. No person shall be eligible to serve more than two consecutive four-year terms. Members may be  
62 removed from office during their respective terms by the Governor.

63 B. The Board shall adopt rules and procedures for the conduct of its business.

64 C. The Board shall elect one of its members as its chairman, who shall preside at all regular and  
65 called meetings of the Board.

66 D. The Board shall meet once every three months beginning July 1 of each year for the transaction  
67 of business, and other meetings may be called if necessary. The majority of the members shall constitute  
68 a quorum. In the event of unavoidable absence of the chairman, the members present shall designate  
69 some other member to act in place of the chairman. Meetings shall be held in Richmond or at such  
70 other places within the Commonwealth as may be expedient.

71 § 29.1-103. Powers and duties of the Board.

72 The Board is responsible for carrying out the purposes and provisions of this title and is authorized  
73 to:

74 1. ~~Appoint the Director of the Department.~~

75 2. Acquire by purchase, lease, exchange, gift or otherwise, lands and waters in the Commonwealth  
76 and to establish buildings, structures, dams, lakes and ponds on such lands and waters.

77 32. Conduct operations for the preservation and propagation of game birds, game animals, fish and  
78 other wildlife in order to increase, replenish and restock the lands and inland waters of the  
79 Commonwealth.

80 43. Purchase, lease, or otherwise acquire lands and waters for game and fish refuges, preserves or  
81 public shooting and fishing, and establish such lands and waters under appropriate regulations.

82 54. Acquire by purchase, lease, or otherwise, lands and structures for use as public landings,  
83 wharves, or docks; to improve such lands and structures; and to control the use of all such public  
84 landings, wharves, or docks by regulation.

85 65. Acquire and introduce any new species of game birds, game animals or fish on the lands and  
86 within the waters of the Commonwealth.

87 76. Restock, replenish and increase any depleted native species of game birds, game animals, or fish.

88 87. Have educational matter pertaining to wildlife published and distributed.

89 98. Hold exhibits throughout the Commonwealth for the purpose of educating school children,  
90 agriculturists and other persons in the preservation and propagation of wildlife in the Commonwealth.

91 109. Control land owned by and under control of the Commonwealth in Back Bay, its tributaries and  
92 the North Landing River from the North Carolina line to North Landing Bridge. The Board shall  
93 regulate or prohibit by regulation any drilling, dredging or other operation designed to recover or obtain  
94 shells, minerals, or other substances in order to prevent practices and operations which would harm the  
95 area for fish and wildlife.

96 110. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating  
97 and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.

98 121. Adopt resolutions or regulations conferring upon the Director all such powers, authorities and  
99 duties as the Board possesses and deems necessary or proper to carry out the purposes of this title.

100 132. Administer and manage the Virginia Fish Passage Grant and Revolving Loan Fund pursuant to  
101 Article 1.1 (§ 29.1-101.2 et seq.) of Chapter 1 of this title.

102 143. Establish and collect admittance, parking, or other use fees at certain Department-owned  
103 facilities as determined by the Board. Any daily fee established by the Board shall not exceed \$3. Any  
104 annual fee established by the Board shall not exceed the cost of an annual state resident fishing license  
105 pursuant to subdivision A 2 of § 29.1-310, or an annual state resident hunting license pursuant to  
106 subdivision 2 of § 29.1-303.

107 154. Establish and collect a use fee through the issuance of an annual hunting stamp required to be  
108 obtained to hunt on private lands managed by the Department through a lease agreement or other similar  
109 memorandum of agreement. The annual hunting stamp shall be in addition to the required licenses to  
110 hunt, and the cost of such stamp shall be the same as the cost of the annual state resident hunting  
111 license in § 29.1-303.

112 165. Revise, as it deems appropriate, through the promulgation of regulations as prescribed in  
113 Article 1 (§ 29.1-500 et seq.) of Chapter 5 of this title, the fees charged for all hunting, fishing and  
114 trapping licenses authorized under Articles 1 (§ 29.1-300 et seq.) and 2 (§ 29.1-340 et seq.) of Chapter 3  
115 of this title, notwithstanding any other provision of this title. Such license fees may be increased or  
116 decreased beginning July 1, 2004; however, no fee shall be increased or decreased more frequently than  
117 once every three years thereafter and no fee shall be increased or decreased more than \$5 during such  
118 period.

119 § 29.1-109. Department of Game and Inland Fisheries; Director.

120 A. The Department of Game and Inland Fisheries shall exist to provide public, informational and

educational services related to this title, and to serve as the agency responsible for the administration and enforcement of all rules and regulations of the Board, the statutory provisions of this title, and related legislative acts. The Department shall employ scientific principles and procedures, as developed, researched, recognized and accepted within the bounds of comprehensive professional wildlife resource management, in the management of the Commonwealth's wildlife and natural resources.

B. ~~The Board shall appoint a Director to head the Department and to act as principal administrative officer.~~ In addition to the powers designated elsewhere in this title, the Director shall have the power to:

1. Enforce or cause to be enforced all laws for the protection, propagation and preservation of game birds and game animals of the Commonwealth and all fish in the inland waters thereof. Inland waters shall include all waters above tidewater and the brackish and freshwater streams, creeks, bays, including Back Bay, inlets, and ponds in the tidewater counties and cities.

2. Initiate prosecution of all persons who violate such laws, and seize and confiscate wild birds, wild animals and fish that have been illegally killed, caught, transported or shipped.

3. Employ persons necessary for the administrative requirements of the Board and to designate the official position and duties of each. The salaries of all such employees shall be as provided in accordance with law.

4. Perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife projects with the federal government as prescribed by acts of Congress and in compliance with rules and regulations promulgated by the Secretary of the Interior.

5. Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth.

6. When practicable, consult with, and keep informed, wildlife and boating constituent organizations so as to benefit Virginia's wildlife and natural resources and accomplish the Department's mission.

**2. That the Executive Director of the Department of Game and Inland Fisheries serving at the time of the effective date of this act shall continue in the position until such time as the person resigns the position or is terminated by the Board of Game and Inland Fisheries; whereupon, the Governor shall appoint a successor who shall serve at the pleasure of the Governor.**