

STATE GAME COMMISSION REFORM  
PRESENTATION TO WATER & NATURAL RESOURCES INTERIM COMMITTEE.  
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FEDERATION

First, I want to establish that the New Mexico Wildlife Federation and I, personally, support the State Game Commission System. In fact, our organization's founders were the driving force in its creation nearly a century ago.

More recently, in 2011, the Federation and I, personally, strongly opposed and helped defeat bills to make the game commission a toothless advisory board, and to make the Game and Fish Department director an appointee of the Energy, Minerals and Natural Resources Department secretary.

So: We do believe that the Commission system is way ahead of whatever's in second place. We also believe it can be made better – stronger, more diverse, and more independent from political influences.

Some brief history to illustrate how the commission system is such a key component of wildlife management: Our predecessor organizations -- Game Protective Associations, or GPAs – began lobbying for a professionally run game and fish department and a commission in 1914. It took them until 1931 to complete the package.

One of those founders was Aldo Leopold, a visionary and powerful organizing force for the change:

Here's what he and his fellow sportsmen were looking it, what drove them:

They were eyewitnesses to the human-caused extirpation of mega fauna. Bison, elk, bighorn sheep, deer, pronghorns – had already disappeared, or nearly disappeared, from New Mexico and most of the West.

They had some wildlife laws to work with, and improve upon. Our Territorial legislators had set rudimentary game laws, outlawed market hunting, and even established an embryonic, one-person territorial game and fish department in 1903. The first territorial warden, appointed by the governor, worked hard to educate the public about the need for protecting wildlife and enforce such laws as existed. He was also the governor's younger brother. So the territorial and state warden appointments began with nepotism, and for the next two decades were political plums awarded to governors' supporters.

The legislature also created hunting and fishing license systems. Early sportsmen envisioned the revenues as being used to build fish hatcheries, hire staff and

conduct game transplants. Instead, they saw the game fund raided -- and emptied -- twice: in 1912 for \$8,000, again in 1914 for \$14,000. That was big money in those days, and it's no coincidence that the GPAs started forming that same year.

Those early conservationists also believed wildlife was a public resource, to be held in trust by the state on behalf of its citizens. They firmly rejected the European model that says that a landowner also owns the wildlife on his property. Yet they saw that model gaining a foothold right in front of them: A 1912 law created a game park license that made the proprietor of the land the proprietor of the wildlife, allowing the landowner to "retain, pursue, capture, kill, use, sell or dispose of the game or fish therein in any quantity, in any manner and at any time of the year."

With all that confronting them, Leopold and his colleagues in the GPAs lobbied hard for the commission system: They saw it as a means to democratize, professionalize, and depoliticize wildlife management.

They envisioned the commission as a citizens' body, an interface between the public, the game department, the governor and legislators.

They believed the commissioners should hire the warden -- the agency director -- based on knowledge and merit, not political connections. They would regulate hunting and fishing and grow the game herds and fish stocks, under a mandate to use the best biological information they could get.

It took seven years for the GPAs to score their first important -- but not complete -- legislative success:

The 1921 legislature established a three-person game commission -- all appointed by the governor, which remains the case today. The 1921 laws also created the Game Protection Fund, assuring license buyers there would be no more raids on agency revenues. Both laws were hugely important, then and still.

However, the Governor reserved authority to appoint the director. And the Legislature retained authority to set hunting and fishing regulations -- statutes, actually -- that were inadequate and inflexible.

Sportsmen protested and persisted. The commission got authority to hire the director in 1925. And finally, in 1931, the Legislature relinquished authority to set hunting, fishing and other regulations to the commission. The commission's powers and duties have expanded greatly over the years, and the legislature has amended the commission's make up three times since:

1945 -- expanded to five members. The main debate wasn't over the expansion, but whether the commissioners should be appointed at-large or from specific districts. The decision then favored at-large appointments. But in 1985, the legislature reversed itself and created five districts, with one commissioner from each of four quadrants of the state and a fifth from Bernalillo County.

The existing statute passed in 1991. The amendments grew the commission to seven members – five from the existing districts, and two at-large. The two new members were to specifically represent the agriculture and conservation communities.

The legislature attached some basic criteria to those agriculture and conservation appointees. Those are the first and still only criteria ever set for service on the game commission and, I'd suggest, a precedent for the future.

So: If we like the commission system so much, why did the federation try to amend the existing statutes, first in 2013 and again, alongside other organizations, in 2017?

There are a number of reasons, including these figures on the economic and social importance of wildlife-related recreation in New Mexico from a U.S. Fish and Wildlife Survey in 2011.

This data is for New Mexico residents aged 16 and over: 592,000 residents hunted, fished, or enjoyed wildlife-watching and related activities in 2011. That's 38 percent of New Mexicans in that age group.

Combined resident and nonresident activity: 783,000 people hunted, fished or watched wildlife in New Mexico. Their direct spending was \$937 million on travel and equipment.

The most recent state figures are not yet available, but they can only have gone one direction: up. So we're closing in on a billion dollar industry supported by nearly 800,000 people. That's just one illustration of how commissioners' job responsibilities have grown since 1921, and we're suggesting there are ways to help them better meet those responsibilities.

What we're looking for:

Basic expertise: Current statutes set criteria for two commissioners: We'd build upon those to assure qualified candidates represent conservationists, agriculture, wildlife science and sportsmen, as well as the public at large.

Strength: Under both the 2013 and 2017 bills, the governor and legislative leadership would share the appointing authority, vetting and appointing the most qualified candidates.

A core reason for shared appointments is what I call the pendulum effect -- the wide swings in priorities with each new governor and set of commissioners. For example: from Garrey Carruthers to Bruce King, to Gary Johnson to Bill Richardson to Susana Martinez.

Some movement is okay – even healthy. But we’d like swings to stay closer to the center. The recent amendments to the State Investment Council were the model.

Stability: Ensure that staggered terms have meaning. Current statutes set staggered terms, but incoming governors can and do replace anywhere from some to all seven commissioners in one swoop. It’s a far more complex job than many people realize: institutional memory is important.

Independence. We want to encourage and enable independent thought and actions – genuine debate – within the commission. That means protecting commissioners from arbitrary dismissal. They do not have it now.

University regents have that protection. Quoting from an Attorney General’s opinion rejecting a previous governor’s attempts to arbitrarily remove one, the protections afforded regents are “clearly intended to maintain the independence of the boards of regents and insulate them from political interference.”

Those words plainly restate what Aldo Leopold and his colleagues strived for in the commission a hundred years ago, and I’d assert that game commissioners now deserve that same level of insulation.

We’re certainly familiar with the assertion that governors should appoint a game commission that reflects that governor’s philosophy and agenda. We believe that’s too narrow a view for such an important board, and a big reason for the big swings in the pendulum. What we’ve aimed for is a qualified, independent board that is responsible to the public, rather than to an individual, and a department director who’s responsible to that board.

There’s more than one path to that end, but all those paths go through the Legislature. We appreciate this opportunity to outline these thoughts and to answer your questions as best we can.

Thank you.