Introduced by Senators Bray, Hardy, McCormack and White

Referred to Committee on

Date:

Subject: Fish and wildlife; Fish and Wildlife Board; hunting coyote; governance

Statement of purpose of bill as introduced: This bill proposes to transfer the authority to adopt rules for the taking of fish, wildlife, and fur-bearing animals from the Fish and Wildlife Board to the Department of Fish and Wildlife. The bill would also amend the authority of the Fish and Wildlife Board so that it serves in an advisory capacity to the Department of Fish and Wildlife. In addition, the bill would prohibit the hunting of coyote with dogs.

An act relating to the management of fish and wildlife

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Fish and Wildlife Board; Governance * * *

Sec. 1. 10 V.S.A. §§ 4041 and 4042 are amended to read:

§ 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE BOARD; MEMBERS, TERM, CHAIR

(a) There is hereby established a Department of Fish and Wildlife that shall be administered by the Commissioner. The Department shall be under the
direction and supervision of a Commissioner appointed by the Secretary as provided in 3 V.S.A. § 2851. In addition to the duties and powers provided under this chapter, the Commissioner shall have the powers and duties specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner shall implement the policy and purposes specified in section 4081 of this title where appropriate and to the extent that resources of the Department permit.

(b)(1) There is hereby established a Fish and Wildlife Board. The purpose of the Board shall be to serve in an advisory capacity to the Department of Fish and Wildlife in the establishment of Department policy and rules.

(2) The Board shall consist of 14 members, one from each county, appointed by the Governor with the advice and consent of the Senate. Four members of the Board shall be appointed by the Commissioner, four members of the Board shall be appointed by the Speaker of the House, and four members of the Board shall be appointed by the Committee on Committees. The members of the Board shall be appointed for a term of six years, or the unexpired portion thereof, and during their terms shall reside in the county from which they are appointed. In the event a member no longer resides in the county from which he or she was appointed, the Governor shall appoint a member from that county for the unexpired portion of the term. Appointments shall be made in such a manner that either two or three terms shall expire each
year. A member serving a full six-year term shall not be eligible for reappointment. The Governor Commissioner shall biennially designate a chair.

(3) In order to be appointed to the Board, a person shall apply in writing to the appointing authority. The appointing authority shall acknowledge, in writing, the receipt of each application.

(4) In considering applicants to the Board, the appointing authority shall give due consideration to:

(A) the need for geographic diversity on the part of the Board’s membership;

(B) the need for the Board members to have a history of involvement with and dedication to fish and wildlife, including a knowledge of fish and wildlife biology, ecology, and the ethics of fish and wildlife management;

(C) the need for the Board to include members of the public representing both consumptive uses and nonconsumptive uses of wildlife; and

(D) coordinating their appointments to ensure the appropriate composition of the board as defined by subdivisions (A)–(C) of this subdivision (4).

(5) As used in this subsection, “nonconsumptive use of wildlife” means watching, photographing, listening to wildlife, and similar other activities without engaging in hunting, fishing, trapping, or any other form of extraction.
(c) Upon appointment, each Board member shall receive training from the Department on wildlife biology, coexistence with wildlife, ethics, the reduction of conflict between humans and wildlife, and the impacts of climate change on fish and wildlife.

(d) Upon the filing of a proposed rule with the Secretary of State pursuant to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board for its review. After a public hearing and an opportunity for the public to submit written comments, the Board shall consider whether a proposed rule is designed to maintain the best health, population, viewing opportunities, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species and whether the rules are adequately supported by investigation and research conducted by the Department. If the Board, by majority vote, determines that a proposed rule should be revised, it shall submit a written report to the Department setting forth its recommended revisions, and the reasons therefore, within 60 days following its receipt of a proposed rule. The Board shall include with its report the public comments it received. The Department shall consider fully any recommendations by the Board and shall issue a written explanation of why it overruled the Board’s arguments and considerations for revising the rule. The Board’s written report and the Department’s response thereto shall be included
with the materials submitted to the Legislative Committee on Administrative
Rules under 3 V.S.A. § 841.

§ 4042. COMMISSIONER; APPOINTMENT

The Commissioner shall be appointed pursuant to the provisions of 3
V.S.A. § 2851. The Commissioner shall also be Executive Secretary of the
Board. [Repealed.]

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

(a)(1) As provided by Chapter II, § 67 of the Constitution of the State of
Vermont, the fish and wildlife of Vermont are held in trust by the State for the
benefit of the citizens of Vermont and shall not be reduced to private
ownership. The State of Vermont, in its sovereign capacity as a trustee for the
citizens of the State, shall have ownership, jurisdiction, and control of all of the
fish and wildlife of Vermont.

(2) The Commissioner of Fish and Wildlife shall manage and regulate
the fish and wildlife of Vermont in accordance with the requirements of this
part and the rules of the Fish and Wildlife Board, including the Department of
Fish and Wildlife rules on Non-game Management as set forth in Code of
Vermont Rules 12-010-028. The protection, propagation control,
management, and conservation of fish, wildlife, and fur-bearing animals in this
State are in the interest of the public welfare. It is in the public welfare to
protect, manage, and conserve the fish and wildlife of the State and the habitats
in which they reside. The State, through the Commissioner of Fish and
Wildlife, shall safeguard the fish, and wildlife, and fur-bearing animals of the
State for the people of the State, and the State shall fulfill this duty with a
constant and continual vigilance.

(3) The Commissioner shall commence rulemaking to develop the
nongame wildlife plan required by subsection 4048(d) of this title not later
than July 1, 2024 and shall complete rulemaking not later than September 1,
2025. In so doing, the Commissioner shall work to harmonize provisions of all
Fish and Wildlife rules to realize the public interest in the sound management
of game and nongame species according to ecological principles supported by
the best science available through Department and peer reviewed research.

(b) Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and
Wildlife Board shall be the State agency charged with carrying out the
purposes of this subchapter.

(c) An abundant, A healthy deer herd is a primary goal of the most
important goals of fish and wildlife management. The use of a limited unit
open season on antlerless deer shall be implemented only after a scientific
game management study by the Department of Fish and Wildlife supports such
a season.
(d) Annually, the Department shall update a scientific management study of the State deer herd. The study shall consider data provided by Department biologists and citizen testimony taken under subsection (e) of this section.

(e) Based on the results of the updated management study and citizen testimony, the Board shall decide whether an antlerless deer hunting season is necessary and, if so, how many permits are to be issued. If the Board determines that an antlerless season is necessary, it shall adopt a rule creating one and the Department shall then administer an antlerless program.

(f) Annually, the Department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The Board shall identify the regions by rule.

(g) If the Board finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the Board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of $10.00 for residents and $25.00 for nonresidents, a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following manner:
(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation, or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, “post” means any signage that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the Department for a $10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a $25.00 fee.
Sec. 3. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

(a) The Board Department may adopt rules, under 3 V.S.A. chapter 25, to be known as the “Vermont Fish and Wildlife Regulations” for the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species. The rules shall be supported by investigation and research conducted by the Department on behalf of the Board, the best science available through Department and peer reviewed research.

(b)(1) Except as provided for under subdivision (2) of this subsection, the Board Department annually may adopt rules relating to the management of migratory game birds, and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25. For each such rule, the Board Department shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(2) Beginning with the 2015 hunting season, the Board Department may set by procedure the daily bag and possession limits of migratory game birds that may be harvested in each Waterfowl Hunting Zone annually without following the procedures for rulemaking contained in 3 V.S.A. chapter 25.
The annual daily bag and possession limits of migratory game birds shall be consistent with federal requirements. Prior to setting the migratory game bird daily bag and possession limits, the Board Department shall provide a period of not less than 30 days of public notice and shall conduct at least two public informational hearings. The final migratory game bird daily bag and possession limits shall be enforceable by the Department under its enforcement authority in part 4 of this title.

(c) The Board Department may set by procedure the annual number of antlerless deer that can be harvested in each Wildlife Management Unit and the annual number of moose that can be harvested in each Wildlife Management Unit without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual numbers of antlerless deer and moose that can be harvested shall be supported by investigation and research conducted by the Department on behalf of the Board. Prior to setting the antlerless deer and moose permit numbers, the Board Department shall provide a period of not less than 30 days of public notice and shall conduct at least three public informational hearings. The public informational hearings may be conducted simultaneously with the regional antlerless deer meetings required by 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest permit numbers shall be enforceable by the Department under its enforcement authority in part 4 of this title. The final annual antlerless deer and moose
harvest permit numbers shall be reported to the House Committee on Environment and Energy as part of the annual deer report required under section 4084 of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 4. 10 V.S.A. § 4601 is amended to read:

§ 4601. TAKING FISH; POSSESSION

A person shall not take fish, except in accordance with this part and regulations of the Board Department, or possess a fish taken in violation of this part or regulations of the Board Department.

Sec. 5. 3 V.S.A. § 2803 is amended to read:

§ 2803. ADVISORY CAPACITY

(a) All boards, committees, councils, activities, and departments which that under this chapter are a part of the Agency shall be advisory only, except as hereinafter provided, and the powers and duties of such boards, committees, councils, activities, and departments, including administrative, policy making, rulemaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding subsection (a) of this section or any other provision of this chapter, the Fish and Wildlife Board and the Natural Resources Board shall retain and exercise all powers and functions given to them it by law which that are of regulatory or quasi-judicial nature, including the power to
adopt, amend, and repeal rules and regulations to conduct hearings to adjudicate controversies and to issue and enforce orders, in the manner and to the extent to which those powers are given to those respective boards by law.

Sec. 6. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall make the following revisions throughout the statutes as needed for consistency with Secs. 1–5 of this act, provided the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701, 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

(2) revisions that are substantially similar to those described in subdivision (1) of this section.

Sec. 7. TRANSITION

(a) The Vermont Fish and Wildlife regulations promulgated by the Fish and Wildlife Board and in effect as of the effective date of this act shall remain in effect and have the full force and effect of law until such time as they are repealed or amended by the Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.
(b) The terms of the members of the Fish and Wildlife Board as of the
effective date of this act shall terminate 90 days after the effective date of this
act.

* * * Hunting Coyote * * *

Sec. 8. 10 V.S.A. § 5008 is added to read:

§ 5008. HUNTING COYOTE; USE OF BAIT

(a) No person shall pursue coyote with the aid of dogs, either for the
purposes of training a dog or taking a coyote.

(b) A person shall not take coyote by using bait. As used in this
subsection, “bait” means any animal, vegetable, fruit, or mineral matter placed
with the intention of attracting wildlife.

Sec. 9. REPEALS

(a) 2021 Acts and Resolves No. 165, Sec. 1 (hunting coyote with aid of
dogs) is repealed.

(b) 2021 Acts and Resolves No. 165, Sec. 2 (moratorium on hunting of
coyote with dogs) is repealed.

(c) 2021 Acts and Resolves No. 165, Sec. 3 (Fish and Wildlife Board rules;
hunting coyote with dogs) is repealed.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.