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FISCAL IMPACT REPORT

SPONSOR <u>McQueen</u>	LAST UPDATED _____
SHORT TITLE <u>Transfer Game & Fish Dept. & Game Commission</u>	ORIGINAL DATE <u>1/27/23</u>
	BILL NUMBER <u>House Bill 183</u>
	ANALYST <u>Gaussoin</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
			(\$5,370)	(\$5,370)	Recurring	DGF/EMNRD operating budgets

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 184
 Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From
 Department of Game and Fish (DGF)

No Response Received
 Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of House Bill 183

House Bill 183 (HB183) would transfer the Department of Game and Fish (DGF) to a new division of the Energy, Minerals and Natural Resources Department (EMNRD). It transfers the existing responsibilities of DGF, primarily outlined in Chapter 17 of state statute, to the new division and clarifies in the definitions in that law that references to the State Game Commission or the department are references to the division in EMNRD.

HB183 also changes the State Game Commission from a policy-setting board to one that advises the director of the division, transferring the commission’s authority over the regulation of hunting and fishing, the use of the game protection fund, the designation of wildlife areas, and the management of other wildlife issues to the director of the new division. The commission would lose the authority to hire a game and fish director, who would instead be hired by the EMNRD secretary.

The effective date of the bill is July 1, 2025.

FISCAL IMPLICATIONS

EMNRD has an FY23 budget of \$6.04 million for program support for about 495 budgeted FTE. Adding the 310 FTE of DGF would increase the size of the department by about 60 percent, potentially increasing its program support need to \$9.66 million, or \$3.6 million more than its budget. DGF's FY23 program support budget is \$8.97 million, creating a potential for saving \$5.37 million.

The LFC Program Evaluation Unit, in a report¹ released in October 2020, noted at least 17 states have consolidated state parks, state lands, and game management agencies into a single entity because of the close alignment of their functions and the potential to increase efficiencies. When Colorado combined its parks and wildlife management into a single division under the state's consolidated Department of Natural Resources in 2011, the governor at the time estimated the state would save \$3 million to \$4 million annually.

SIGNIFICANT ISSUES

The LFC evaluation found the consolidation of natural resources funding streams and structures could result in the more efficient use of funds and delivery of services. It pointed out numerous states already have consolidated agencies and DGF already works with divisions of EMNRD to leverage general fund dollars with federal matching funds. From the evaluation:

Combining the work of Game and Fish and EMNRD under a single cabinet-level agency would inherently give the Legislature more comprehensive oversight of the expenditures and activities of its natural resources agencies in the absence of collaboration between Game and Fish and the Legislature.

However, DGF said restrictions on the use of hunting and fishing fee revenue, as well as federal funds would necessitate complicating accounting procedures to keep the funding streams between game and fish activities and other activities at EMNRD separate. From DGF:

Chapter 17 [in state law] shall be a guaranty to the person who pays for hunting or fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978. Federal statute for the Sport Fish and Wildlife Restoration Act are also clear that license fees may only be used for the management of the State's fish and wildlife or Federal funds will be withheld

The agency points to a similar issue with property purchased with revenue from the game protection fund, the depository for hunting and fishing fees, and federal funds. Such property, it argues, "would need to remain in the sole ownership of the Department and could not be used by other EMNRD divisions (such as vehicles). Use or ownership by any other entity would constitute diversion and result in the loss of Federal funding to the new Division."

Nevertheless, EMNRD, while echoing the DGF concerns about mixed funding streams, notes it has experience with complicated accounting, both with restricted funds (e.g., the oil reclamation fund) and with enterprise divisions, such as DGF:

¹ https://www.nmlegis.gov/Entity/LFC/Documents/Program_Evaluation_Reports/Program%20Evaluation%20-%20Performance%20of%20the%20Department%20of%20Game%20and%20Fish.pdf

While EMNRD is used to managing different funds with restrictions and it already has its own enterprise division in State Parks, adding the additional programs and dedicated funding streams found at DGF would further complicate those responsibilities. These considerations are not limited to budget accounts. All property currently owned and purchased [by DGF] would need to remain in the sole ownership of DGF. ... While EMNRD is used to such restrictions for existing programs, adding DGF would only increase the scale and complexity of EMNRD's management responsibilities.

Notably, as reported in the evaluation, 17 states have consolidated agencies. These states manage the funding streams, apparently with few issues.

State Game Commission

According to the DGF website, on January 27, just four of the seven game commission positions were filled; the positions for three of the regional representatives were vacant. Hunting and fishing proponents have raised concerns that conservationist interests have a weak voice with the current commission make up, and some of the commission's decisions, particularly that involving access to streams on private lands, have generated litigation and controversy.

However, EMNRD and DGF raise concerns public meeting rules might not apply to an advisory commission, reducing public participation and transparency. From DGF:

Changing the Commission to an advisory board and vesting all authority with the Division Director under the Secretary has the potential to reduce rule and policy transparency. For example, decisions about the rules for the management of wildlife would no longer require approval at a public Commission meeting and could be accomplished at the discretion of the Division Director. Rulemaking could also occur with much more limited public input. Finally, vesting all authority with the Division Director could result in large shifts in policy over administrations compared to the decision making of a diverse seven-member Commission.

ADMINISTRATIVE IMPLICATIONS

While it is likely administrative positions could be eliminated in a consolidated agency, EMNRD points out this could mean a reduction in the total number of positions and the potential for some people to lose their jobs.

EMNRD indicates moving DGF into EMNRD would complicate the agencies accounting processes; however, it also notes it has experience with the types of issues that would be associated with a consolidated agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 183 conflicts with House Bill 184, which would change commission membership and appointment process with the assumption the commission retain its existing authority.