

Public Law 98-244
98th Congress

An Act

To establish a National Fish and Wildlife Foundation.

Mar. 26, 1984

[H.R. 2809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Fish and Wildlife Foundation Establishment Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Fish and Wildlife Foundation Establishment Act".

16 USC 3701 note.

16 USC 3701.

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) **ESTABLISHMENT.**—There is established the National Fish and Wildlife Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) **PURPOSES.**—The purposes of the Foundation are—

- (1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service; and
- (2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

16 USC 3702.

(a) **ESTABLISHMENT AND MEMBERSHIP.**—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors, each of whom shall be a United States citizen and—

- (1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and
- (2) three of whom must be educated and experienced in the principles of fish and wildlife management.

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation. The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) **APPOINTMENT AND TERMS.**—By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this Act as the "Secretary") shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

- (A) appointing officers and employees;
- (B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act; and
- (C) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

5 USC 5101
et seq.
5 USC 5331.

5 USC 5332.

16 USC 3703.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

- (1) shall have perpetual succession;
- (2) may conduct business throughout the several States, territories, and possessions of the United States;
- (3) shall have its principal offices in the District of Columbia; and
- (4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

Gifts and property.

(d) **CERTAIN LANDS, WATERS, AND INTERESTS NOT SUBJECT TO CONDEMNATION.**—No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Director of the United States Fish and Wildlife Service or the Migratory Bird Conservation Commission, as the case may be, to be valuable for purposes of fish and wildlife conservation or management shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.

16 USC 3704.

The Secretary may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 3, not to exceed then current Federal Government per diem rates, for a period of up to five years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 6. VOLUNTEER STATUS.

16 USC 3705.

The Secretary may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

16 USC 3706. **SEC. 7. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.**

(a) **AUDITS.**—For purposes of the Act entitled “An Act for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(b) **REPORT.**—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) **RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.**—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so;

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

16 USC 3707. **SEC. 8. UNITED STATES RELEASE FROM LIABILITY.**

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

16 USC 3708. **SEC. 9. AMENDMENT AND REPEAL.**

The Congress expressly reserves the right to repeal or amend this Act at any time.

16 USC 3709. **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

For the ten-year period beginning on October 1, 1984, there are authorized to be appropriated to the Department of the Interior not to exceed \$1,000,000 to be made available to the Foundation—

(1) to match, on a one-for-one basis, private contributions made to the Foundation; and

(2) to provide administrative services under section 5.

Approved March 26, 1984.

LEGISLATIVE HISTORY—H.R. 2809:

HOUSE REPORTS: No. 98-134, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORT No. 98-272 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 12, considered and passed House.

Nov. 2, considered and passed Senate, amended.

Vol. 130 (1984): Feb. 6, House concurred in Senate amendments and in another with an amendment.

Mar. 8, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 13:

Mar. 26, Presidential statement.