

Summary Sheet

Meeting dates: August 2, 2019

Agenda item: 6. 2020 Legislative Session—Update

Presenter(s): Nate Pamplin, Director of Budget and Government Affairs
Raquel Crosier, Legislative Director

Background summary:

The 2020 Legislative Session is a short, 60-day supplemental session, intended primarily for emergent issues or technical adjustments.

At this briefing, staff will present an update regarding draft proposals for agency request legislation.

At the June meeting, staff indicated that they will need to track 2019 bills such as the recreational license fee bill, the ADA discount bill, PILT legislation, and the CRSSE bill in the 2020 legislative session. There is also a need to support anticipated southern resident killer whale task force legislation, and have capacity to respond to other emerging issues.

At the June 2019 Commission meeting, staff proposed five draft bills. After further review and incorporating the Commission's guidance to reduce the number of bills to pursue while the Department is simultaneously seeking a substantial supplemental budget request, the Department is recommending that it advances two bills:

Enforcement Civil Authority and License Revocation Bill. This bill accomplishes five items:

- Reduces some lower level fish and wildlife crimes to an infraction. Often, deputy prosecutors will altogether dismiss, or amend down to a different charge, an offense by a first time offender. When prosecutors dismiss misdemeanor wildlife offenses it decriminalizes these activities, allowing repeat offenders to poach without fear of punishment. Moving first-time offenses from misdemeanors to infractions allows officers to distinguish frequent offenders from those that have no history of violating a fish and wildlife code. Furthermore, issuing infractions for first-time offenses allows WDFW officers to immediately serve the infraction, similar to writing a speeding ticket. The recipient of an infraction can either pay their fine in court or contest the infraction, similar to a traffic ticket. Correcting the behavior of low-level first-time offenders with an infraction, rather than a misdemeanor, is more likely to keep hunters and fishers participating in the sport.
 - Changes the definition of conviction, allowing the Department to maintain possession of seized animals. Wildlife offenses are frequently processed as infractions or criminal code offenses that do not qualify as a "conviction" under RCW 77.15.050. These infractions and criminal code offenses do not trigger the forfeiture of animal parts by the department. Under current statutes, the department may be liable to an offender for the return of or payment for, seized fish, shellfish, or wildlife if the offender's case resolves with a wildlife infraction. The conviction definition is incomplete and allows defendants and attorneys to exploit the possibility of a lower-level infraction charge. The definition of "conviction" would be updated to require an infraction, a lesser offense, to result in the department maintaining possession of seized animals.
-

- Adjusts the revocation statutes to target repeat violators. Current statute states that the department shall revoke a license after three violations in ten years, regardless of license grouping. When the department revokes a license, all hunting and fishing privileges are suspended for two years. The current law too severely punishes licensees who hunt or fish for years without a violation. At least half of the Department's license suspensions involve the 3 in 10 violation. Of these, the majority of violators have their first two violations within three years of each other and the third violation seven to eight years later. The current law suspends both an individual's hunting and fishing license regardless of the nature of the three violations. To more efficiently respond to re-current offenders whose violations lead to license suspensions, this proposal would adopt a new schedule for license revocation at two violations in five years within the same license grouping (such as big game, small game, and fish).
- Requires notice of license revocation by courts. Washington state courts have the authority to sentence a fish and wildlife crime with the revocation of a fishing and/or hunting license. However, the courts are not required to notify the department when they have issued this ruling. The department cannot effectively manage bad actors and revoke licenses or prevent a criminal from purchasing a new fishing or hunting license if the department is not aware of the ruling. This proposal would add a new statute, requiring the clerk of the court hearing such a fish and wildlife matter to prepare and immediately forward an abstract of the case to WDFW Enforcement.
- Aligns Department recruitment with other civil service and law enforcement agencies. In 2018 the legislature amended the eligibility requirement for most civil service and law enforcement agencies to include "lawful permanent resident" as an alternative to requiring United States citizenship to serve as a law enforcement officer. The Department's statutes weren't captured during that revision, leaving our enforcement personnel as the only law enforcement in the state that cannot appoint lawful permanent residents to serve as police officers. This proposal would add "lawful permanent resident" to RCW 77.15.075 as an alternative to United States citizenship, bringing the Department's recruitment into alignment with the state's other law enforcement agencies.

State Wildlife Account Transparency Bill.

During the 2017 legislative session, the Legislature provided direction to the Department of Fish and Wildlife to conduct a budget and performance audit. The audit firm the Department contracted with, Matrix Consulting, identified various budget challenges and verified a structural deficit in the State Wildlife Account (SWA). The firm also recognized that part of the Department's budget challenges stem from a lack of budget transparency and recommended that the Department address this by separating the State Wildlife Account into its non-restricted and restricted funding sources.

Currently, the State Wildlife Account is managed as a single account, yet contains 26 subaccounts. The various subaccounts have different restrictions on their use. For example, deposits from Discover Pass sales into the account must be dedicated to stewardship of department lands used for public recreation purposes. Currently, the statewide accounting systems do not all track the different subaccounts and only WDFW is able to track how much flexible funding is available. This means that for the Governor's Office or the legislature, this account appears solvent, because the restricted accounts are shoring up the flexible accounts, effectively masking what we know to be a significant structural deficit.

In order to address this issue, and with direction from the Office of Financial Management (OFM), the Department proposes legislation to separate the SWA into two accounts – one with restrictions on use named the "Limited Fish and Wildlife Account" and one that is unrestricted named the "Fish, Wildlife, and Conservation Account." This legislation will provide much

needed transparency into the Department's budget.

This minor relabeling of our accounts will increase the Department's ability to educate budget writers and the public about the fiscal health of the agency.

Staff recommendation: Staff are seeking approval from the Commission to advance both bills to the Governor's Office as agency request legislation.

Policy issue(s) and expected outcome: Increased transparency around the State Wildlife Account and improved enforcement outcomes that reduces burden on county prosecutors and adopt a new framework for license revocation.

Fiscal impacts of agency implementation: N/A

Public involvement process used and what you learned: The Department met with the Budget and Policy Advisory Group over the past two years to develop much of the strategy included in the recommendations. The Department is meeting with the BPAG on July 31 to review these proposals and will relay feedback to the Commission at the August 2019 meeting.

Action requested and/or proposed next steps: N/A

Draft motion language: "I move to approve the agency-request legislative proposals as proposed by staff."

Post decision communications plan: The Department will work with members of the Budget and Policy Advisory Group and other advisory groups and stakeholders to secure support for the bills. Legislative fact sheets and other outreach materials will be posted to the Department's website and provided to the Commission.