



**STATE OF WASHINGTON**  
**RECREATION AND CONSERVATION OFFICE**

June 2008

**Item #9: 2009 Recreation and Conservation Funding Board Request Legislation**

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**Approved by the Director:**

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**Proposed Action: Discussion and Direction**

**Summary**

The Governor must receive agency requests for legislation that does not have a fiscal impact by September 29. To meet that deadline, the Recreation and Conservation Funding Board (Board) should decide at its June 19-20 meeting whether to submit legislation for the 2009 session. Staff will then draft the bills and meet with stakeholders. The Board will have final approval of the legislation request at its September 23-24 meeting.

**Staff Recommendation**

Staff recommends that the Board pursue two requests for legislation for 2009.

1. Amend RCW 79A.25.250, which requires the Board to give preference to projects related to parks in or near urban areas.
2. Repeal RCW 79A.15.060(4) and RCW 79A.15.120(7), which make mitigation banking projects eligible to receive grants in the Urban Wildlife Habitat, Critical Habitat, and Riparian Protection categories of the Washington Wildlife and Recreation Program.



## **Background**

At the March 2008 Board meeting, staff asked the Board to consider 2009 agency-request legislation in the following areas:

1. Population proximity: amend statutes that require the Board to give preference to parks in or near urban areas.
2. Nonhighway and Off-Road Vehicle Activities (NOVA) program: authorize the Board to apply excess NOVA facility dollars to the Education and Enforcement (E&E) category.
3. Washington Wildlife and Recreation Program (WWRP)—work with the Washington Wildlife and Recreation Coalition to explore:
  - a. Repealing the authority to fund mitigation banking projects;
  - b. Providing planning/design grants to allow phasing of projects and giving preference to projects ready to proceed;
  - c. Making farm forestry eligible in the Farmland Preservation Program; and
  - d. Making nonprofit organizations eligible in one or more categories
4. Youth Athletic Facility Account (YAF)
  - a. Provide the Board flexibility to move excess dollars from one category to another.
  - b. Amend the requirement that grants be distributed in proportion to population.
5. Boating: Establish a boating council that would make recommendations on statewide boating policy issues and help ensure coordination between state boating programs.
6. Firearms and Archery Range Recreation Program: Amend the term requirements for advisory committee members

## **Analysis**

For a small agency, having more than one or two agency request bills likely would result in few receiving hearings or having enough momentum to make it through the legislative process. RCO staff held internal discussions and preliminary conversations with some stakeholders, and determined that items 1 (park population proximity) and 3a (repealing authority for mitigation banks) should have the highest priority.

### Park Population Proximity

RCW 79A.25.250 (Attachment A) requires that the Board “place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas.” It defines urban areas as “any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater.”

The intent of the proximity statute—placing parks near people—makes sense, but using the same criteria for different types of parks and users does not. For example, different

approaches should be used for siting a neighborhood play area, a regional athletic complex, or interconnecting trail segment. Since the adoption of this statute in 1980, there have been many advances in the approaches used to locate recreation facilities, including RCO's Level of Service methodology and the Growth Management Act. The Board can achieve the intent of RCW 79A.25.250 more effectively with these modern approaches.

### Mitigation Banking Projects in WWRP

RCW 79A.15.060(4) and RCW 79A.15.120(7) (Attachment B) make mitigation banking projects eligible to receive grants in the Urban Wildlife Habitat, Critical Habitat, and Riparian Protection categories of the Washington Wildlife and Recreation Program. However, mitigation banking projects may not be a good fit to WWRP due to philosophical, financial, and legal issues. Concerns include:

- WWRP is intended to preserve intact, functional habitat. Mitigation banks target restoration of degraded habitat.
- WWRP is intended to provide a net gain in the amount of habitat land protected in perpetuity. Mitigation banks aim to achieve "no net loss" of habitat and ecological function.
- WWRP is a grant program. Funding mitigation banks and allowing income from credit sale or exchange to be returned or reinvested effectively makes the program act more like a revolving loan fund.
- Regulatory agencies take years to approve mitigation banks. This, adds a significant amount of time for project completion and creates a need to reappropriate the funding.
- Federal regulations on the use of tax-exempt bond funds greatly restrict the use of WWRP-funded mitigation banks.

The Board, through its 2006 pilot program requesting mitigation banking grant proposals, made an attempt to make mitigation banking fit with WWRP. Although it is clear that mitigation banking will play an important role in the future of habitat protection in Washington, experience suggests that grants from WWRP probably are not the best way to provide needed funding. The Senate sponsor of the amendment authorizing mitigation banking projects in WWRP indicated that he was amenable to modifying or repealing the authority if it is not a good fit to WWRP.

### **Next Steps**

If the Board directs staff to proceed with one or more of the above items, staff will begin drafting bills and meeting with stakeholders. Staff will bring the results for final Board approval at its September 23-24 meeting.

**Attachments**

- A. Statute Requiring Park Proximity to Urban Areas
- B. Statutes Authorizing WWRP Grants to Mitigation Banking Projects

## **Attachment A: Statute Requiring Park Proximity to Urban Areas**

### RCW 79A.25.250

#### **Acquisition, development, etc., of urban area parks by recreation and conservation funding board.**

Recognizing the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks, that few state parks are located in or near urban areas, that a need exists to conserve energy, and that local governments having jurisdiction in urban areas cannot afford the costs of maintaining and operating the extensive park systems needed to service their large populations, the legislature hereby directs the recreation and conservation funding board to place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas. For purposes of RCW [79A.25.250](#) and [79A.05.300](#), "urban areas" means any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater. This section shall be implemented by January 1, 1981.

## **Attachment B: Statutes Authorizing WWRP Grants to Mitigation Banking Projects**

### RCW 79A.15.060

#### **Habitat conservation account — Acquisition policies and priorities.**

(4) Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of critical habitat and urban wildlife habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (5) of this section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where critical habitat or urban wildlife habitat is restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.

### RCW 79A.15.120

#### **Riparian protection account — Use of funds.**

(7) Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of riparian habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (8) of this section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where riparian habitat is restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.