
SUBSTITUTE SENATE BILL 5056

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Haugen, Swecker, Prentice, Kastama, Fairley, Honeyford, Zarelli, Hewitt, Berkey, Fraser, Thibaudeau, Jacobsen, McAuliffe, Rasmussen, Kline and Rockefeller)

READ FIRST TIME 02/03/05.

1 AN ACT Relating to creating the department of archaeology and
2 historic preservation; amending RCW 43.17.020, 27.34.020, 27.34.070,
3 27.34.230, 27.34.330, 27.34.342, 27.34.344, 27.53.020, 27.53.030,
4 27.53.070, 27.53.080, and 27.53.095; reenacting and amending RCW
5 43.17.010; adding a new section to chapter 41.06 RCW; adding a new
6 chapter to Title 43 RCW; repealing RCW 27.34.210, 27.34.310, and
7 27.34.320; and providing an expiration date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** (1) There is created a department of state
10 government to be known as the department of archaeology and historic
11 preservation. The department is vested with all powers and duties
12 transferred to it under this chapter and such other powers and duties
13 as may be authorized by law.

14 (2) Unless the context clearly requires otherwise, the definitions
15 in this section apply throughout this chapter.

16 (a) "Department" means the department of archaeology and historic
17 preservation.

18 (b) "Director" means the director of the department of archaeology
19 and historic preservation.

1 NEW SECTION. **Sec. 2.** The executive head and appointing authority
2 of the department is the director. The director shall serve as the
3 state historic preservation officer, and shall have a background in
4 program administration, an active involvement in historic preservation,
5 and a knowledge of the national, state, and local preservation programs
6 as they affect the state of Washington. The director shall be
7 appointed by the governor, with the consent of the senate, and serves
8 at the pleasure of the governor. The director shall be paid a salary
9 to be fixed by the governor in accordance with RCW 43.03.040. If a
10 vacancy occurs in the position while the senate is not in session, the
11 governor shall make a temporary appointment until the next meeting of
12 the senate.

13 NEW SECTION. **Sec. 3.** It is the intent of the legislature wherever
14 possible to place the internal affairs of the department under the
15 control of the director in order that the director may institute
16 therein the flexible, alert, and intelligent management of its business
17 that changing contemporary circumstances require. Therefore, whenever
18 the director's authority is not specifically limited by law, the
19 director has complete charge and supervisory powers over the
20 department. The director may create such administrative structures as
21 the director considers appropriate, except as otherwise specified by
22 law. The director may employ such assistants and personnel as
23 necessary for the general administration of the department. This
24 employment shall be in accordance with the state civil service law,
25 chapter 41.06 RCW, except as otherwise provided.

26 NEW SECTION. **Sec. 4.** If necessary, the department may be
27 subdivided into divisions. Except as otherwise specified or as federal
28 requirements may differently require, divisions shall be established
29 and organized in accordance with plans to be prepared by the director
30 and approved by the governor. In preparing the plans, the director
31 shall endeavor to promote efficient public management, to improve
32 programs, and to take full advantage of the economies, both fiscal and
33 administrative, to be gained from the consolidation of functions and
34 agencies under this chapter.

1 NEW SECTION. **Sec. 5.** The director shall appoint a deputy
2 director, a department personnel director, and assistant directors as
3 needed to administer the department. The deputy director is
4 responsible for the general supervision of the department in the
5 absence or disability of the director and, in case of a vacancy in the
6 office of director, shall continue in charge of the department until a
7 successor is appointed and qualified, or until the governor appoints an
8 acting director.

9 NEW SECTION. **Sec. 6.** Any power or duty vested in or transferred
10 to the director by law or executive order may be delegated by the
11 director to the deputy director or to any other assistant or
12 subordinate; but the director is responsible for the official acts of
13 the officers and employees of the department.

14 NEW SECTION. **Sec. 7.** The director may appoint advisory committees
15 or councils as required by any federal legislation as a condition to
16 the receipt of federal funds by the department. The director may also
17 appoint statewide committees or councils on those subject matters as
18 are or come within the department's responsibilities. The statewide
19 committees and councils shall have representation from both major
20 political parties and shall have substantial consumer representation.
21 The committees or councils shall be constituted as required by federal
22 law or as the director may determine. The members of the committees or
23 councils shall hold office as follows: One-third to serve one year;
24 one-third to serve two years; and one-third to serve three years. Upon
25 expiration of the original terms, subsequent appointments shall be for
26 three years except in the case of a vacancy, in which event appointment
27 shall be only for the remainder of the unexpired term for which the
28 vacancy occurs. No member may serve more than two consecutive terms.

29 Members of such state advisory committees or councils may be paid
30 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

31 NEW SECTION. **Sec. 8.** In furtherance of the policy of the state to
32 cooperate with the federal government in all of the programs under the
33 jurisdiction of the department, rules as may become necessary to
34 entitle the state to participate in federal funds may be adopted,
35 unless expressly prohibited by law. Any internal reorganization

1 carried out under the terms of this chapter shall meet federal
2 requirements that are a necessary condition to state receipt of federal
3 funds. Any section or provision of law dealing with the department
4 that may be susceptible to more than one construction shall be
5 interpreted in favor of the construction most likely to comply with
6 federal laws entitling this state to receive federal funds for the
7 various programs of the department. If any law dealing with the
8 department is ruled to be in conflict with federal requirements that
9 are a prescribed condition of the allocation of federal funds to the
10 state, or to any departments or agencies thereof, the conflicting part
11 is declared to be inoperative solely to the extent of the conflict.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.06 RCW
13 to read as follows:

14 In addition to the exemptions under RCW 41.06.070, this chapter
15 does not apply in the department of archaeology and historic
16 preservation to the director, the director's personal secretary, the
17 deputy director, all division directors and assistant directors, and
18 one confidential secretary for each of these officers.

19 **Sec. 10.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
20 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

21 There shall be departments of the state government which shall be
22 known as (1) the department of social and health services, (2) the
23 department of ecology, (3) the department of labor and industries, (4)
24 the department of agriculture, (5) the department of fish and wildlife,
25 (6) the department of transportation, (7) the department of licensing,
26 (8) the department of general administration, (9) the department of
27 community, trade, and economic development, (10) the department of
28 veterans affairs, (11) the department of revenue, (12) the department
29 of retirement systems, (13) the department of corrections, (~~and~~) (14)
30 the department of health, (~~and~~) (15) the department of financial
31 institutions, and (16) the department of archaeology and historic
32 preservation, which shall be charged with the execution, enforcement,
33 and administration of such laws, and invested with such powers and
34 required to perform such duties, as the legislature may provide.

1 **Sec. 11.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended
2 to read as follows:

3 There shall be a chief executive officer of each department to be
4 known as: (1) The secretary of social and health services, (2) the
5 director of ecology, (3) the director of labor and industries, (4) the
6 director of agriculture, (5) the director of fish and wildlife, (6) the
7 secretary of transportation, (7) the director of licensing, (8) the
8 director of general administration, (9) the director of community,
9 trade, and economic development, (10) the director of veterans affairs,
10 (11) the director of revenue, (12) the director of retirement systems,
11 (13) the secretary of corrections, (~~and~~) (14) the secretary of
12 health, (~~and~~) (15) the director of financial institutions, and (16)
13 the director of the department of archaeology and historic
14 preservation.

15 Such officers, except the secretary of transportation and the
16 director of fish and wildlife, shall be appointed by the governor, with
17 the consent of the senate, and hold office at the pleasure of the
18 governor. The secretary of transportation shall be appointed by the
19 transportation commission as prescribed by RCW 47.01.041. The director
20 of fish and wildlife shall be appointed by the fish and wildlife
21 commission as prescribed by RCW 77.04.055.

22 NEW SECTION. **Sec. 12.** (1) The office of archaeology and historic
23 preservation is hereby abolished and its powers, duties, and functions
24 are hereby transferred to the department of archaeology and historic
25 preservation.

26 (2)(a) All reports, documents, surveys, books, records, files,
27 papers, or written material in the possession of the office of
28 archaeology and historic preservation shall be delivered to the custody
29 of the department of archaeology and historic preservation. All
30 cabinets, furniture, office equipment, motor vehicles, and other
31 tangible property employed by the office of archaeology and historic
32 preservation shall be made available to the department of archaeology
33 and historic preservation. All funds, credits, or other assets held by
34 the office of archaeology and historic preservation shall be assigned
35 to the department of archaeology and historic preservation.

36 (b) Any appropriations made to the office of archaeology and

1 historic preservation shall, on the effective date of this section, be
2 transferred and credited to the department of archaeology and historic
3 preservation.

4 (c) If any question arises as to the transfer of any personnel,
5 funds, books, documents, records, papers, files, equipment, or other
6 tangible property used or held in the exercise of the powers and the
7 performance of the duties and functions transferred, the director of
8 financial management shall make a determination as to the proper
9 allocation and certify the same to the state agencies concerned.

10 (3) All employees of the office of archaeology and historic
11 preservation are transferred to the jurisdiction of the department of
12 archaeology and historic preservation. All employees classified under
13 chapter 41.06 RCW, the state civil service law, are assigned to the
14 department of archaeology and historic preservation to perform their
15 usual duties upon the same terms as formerly, without any loss of
16 rights, subject to any action that may be appropriate thereafter in
17 accordance with the laws and rules governing state civil service.

18 (4) All rules and all pending business before the office of
19 archaeology and historic preservation shall be continued and acted upon
20 by the department of archaeology and historic preservation. All
21 existing contracts and obligations shall remain in full force and shall
22 be performed by the department of archaeology and historic
23 preservation.

24 (5) The transfer of the powers, duties, functions, and personnel of
25 the office of archaeology and historic preservation shall not affect
26 the validity of any act performed before the effective date of this
27 section.

28 (6) If apportionments of budgeted funds are required because of the
29 transfers directed by this section, the director of financial
30 management shall certify the apportionments to the agencies affected,
31 the state auditor, and the state treasurer. Each of these shall make
32 the appropriate transfer and adjustments in funds and appropriation
33 accounts and equipment records in accordance with the certification.

34 (7) Nothing contained in this section may be construed to alter any
35 existing collective bargaining unit or the provisions of any existing
36 collective bargaining agreement until the agreement has expired or
37 until the bargaining unit has been modified by action of the personnel
38 resources board as provided by law.

1 **Sec. 13.** RCW 27.34.020 and 1995 c 399 s 13 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter:

5 (1) "Advisory council" means the advisory council on historic
6 preservation.

7 (2) "Department" means the department of (~~community, trade, and~~
8 ~~economic development~~) archaeology and historic preservation.

9 (3) "Director" means the director of (~~community, trade, and~~
10 ~~economic development~~) the department of archaeology and historic
11 preservation.

12 (4) "Federal act" means the national historic preservation act of
13 1966 (Public Law 89-655; 80 Stat. 915).

14 (5) "Heritage council" means the Washington state heritage council.

15 (6) "Historic preservation" includes the protection,
16 rehabilitation, restoration, identification, scientific excavation, and
17 reconstruction of districts, sites, buildings, structures, and objects
18 significant in American and Washington state history, architecture,
19 archaeology, or culture.

20 (7) (~~"Office" means the office of archaeology and historic~~
21 ~~preservation within the department.~~

22 ~~(8))~~ "Preservation officer" means the state historic preservation
23 officer as provided for in (~~RCW 27.34.210~~) section 2 of this act.

24 (~~(9))~~ (8) "Project" means programs leading to the preservation
25 for public benefit of historical properties, whether by state and local
26 governments or other public bodies, or private organizations or
27 individuals, including the acquisition of title or interests in, and
28 the development of, any district, site, building, structure, or object
29 that is significant in American and Washington state history,
30 architecture, archaeology, or culture, and property used in connection
31 therewith, or for its development.

32 (~~(10))~~ (9) "State historical agencies" means the state historical
33 societies (~~and the office of archaeology and historic preservation~~
34 ~~within~~) and the department.

35 (~~(11))~~ (10) "State historical societies" means the Washington
36 state historical society and the eastern Washington state historical
37 society.

1 (~~(12)~~) (11) "Cultural resource management plan" means a
2 comprehensive plan which identifies and organizes information on the
3 state of Washington's historic, archaeological, and architectural
4 resources into a set of management criteria, and which is to be used
5 for producing reliable decisions, recommendations, and advice relative
6 to the identification, evaluation, and protection of these resources.

7 **Sec. 14.** RCW 27.34.070 and 1983 c 91 s 7 are each amended to read
8 as follows:

9 (1) Each state historical society is designated a trustee for the
10 state whose powers and duties include but are not limited to the
11 following:

12 (a) To collect, catalog, preserve, and interpret objects,
13 manuscripts, sites, photographs, and other materials illustrative of
14 the cultural, artistic, and natural history of this state;

15 (b) To operate state museums and assist and encourage cultural and
16 historical studies and museum interpretive efforts throughout the
17 state, including those sponsored by local historical organizations, and
18 city, county, and state agencies;

19 (c) To engage in cultural, artistic, and educational activities,
20 including classes, exhibits, seminars, workshops, and conferences if
21 these activities are related to the basic purpose of the society;

22 (d) To plan for and conduct celebrations of significant events in
23 the history of the state of Washington and to give assistance to and
24 coordinate with state agencies, local governments, and local historical
25 organizations in planning and conducting celebrations;

26 (e) To create one or more classes of membership in the society;

27 (f) To engage in the sale of various articles which are related to
28 the basic purpose of the society;

29 (g) To engage in appropriate fund-raising activities for the
30 purpose of increasing the self-support of the society;

31 (h) To accept gifts, grants, conveyances, bequests, and devises, of
32 real or personal property, or both, in trust or otherwise, and sell,
33 lease, exchange, invest, or expend the same or the proceeds, rents,
34 profits, and income therefrom except as limited by the donor's terms.
35 The governing boards of the state historical societies shall adopt
36 rules to govern and protect the receipt and expenditure of the

1 proceeds, rents, profits, and income of all such gifts, grants,
2 conveyances, bequests, and devises;

3 (i) To accept on loan or lend objects of historical interest, and
4 sell, exchange, divest itself of, or refuse to accept, items which do
5 not enhance the collection; and

6 (j) To charge general or special admission fees to its museums or
7 exhibits and to waive or decrease such fees as it finds appropriate(~~(+~~
8 ~~and~~

9 ~~(k) To work with the heritage council in developing the plan under~~
10 ~~RCW 27.34.050)).~~

11 (2) All objects, sites, manuscripts, photographs, and all property,
12 including real property, now held or hereafter acquired by the state
13 historical societies shall be held by the societies in trust for the
14 use and benefit of the people of Washington state.

15 **Sec. 15.** RCW 27.34.230 and 1986 c 266 s 12 are each amended to
16 read as follows:

17 The director or the director's designee shall:

18 (1) (~~Submit the budget requests for the office to the heritage~~
19 ~~council for review and comment;~~

20 ~~(2))~~ Receive, administer, and disburse such gifts, grants, and
21 endowments from private sources as may be made in trust or otherwise
22 for the purposes of RCW 27.34.200 through (~~(27.34.290))~~ 27.34.220 or
23 the federal act; and

24 (~~(3))~~ (2) Develop and implement a cultural resource management
25 plan.

26 **Sec. 16.** RCW 27.34.330 and 1999 c 295 s 2 are each amended to read
27 as follows:

28 The Washington state historical society shall establish a
29 competitive process to solicit proposals for and prioritize heritage
30 capital projects for potential funding in the state capital budget.
31 The society shall adopt rules governing project eligibility and
32 evaluation criteria. Application for funding of specific projects may
33 be made to the society by local governments, public development
34 authorities, nonprofit corporations, tribal governments, and other
35 entities, as determined by the society. The society, with the advice
36 of leaders in the heritage field, including but not limited to

1 representatives from the office of the secretary of state, the eastern
2 Washington state historical society, and the (~~state office of~~
3 ~~archaeology and historic preservation~~) department, shall establish and
4 submit a prioritized list of heritage capital projects to the governor
5 and the legislature in the society's biennial capital budget request.
6 The list shall include a description of each project, the amount of
7 recommended state funding, and documentation of nonstate funds to be
8 used for the project. The total amount of recommended state funding
9 for projects on a biennial project list shall not exceed four million
10 dollars. The department may provide an additional alternate project
11 list which shall not exceed five hundred thousand dollars. The
12 prioritized list shall be developed through open and public meetings
13 and the amount of state funding shall not exceed thirty-three percent
14 of the total cost of the project. The nonstate portion of the total
15 project cost may include cash, the value of real property when acquired
16 solely for the purpose of the project, and in-kind contributions. The
17 department shall not sign contracts or otherwise financially obligate
18 funds under this section until the legislature has approved a specific
19 list of projects. In contracts for grants authorized under this
20 section, the society shall include provisions requiring that capital
21 improvements be held by the grantee for a specified period of time
22 appropriate to the amount of the grant and that facilities be used for
23 the express purpose of the grant. If the grantee is found to be out of
24 compliance with provisions of the contract, the grantee shall repay to
25 the state general fund the principal amount of the grant plus interest
26 calculated at the rate of interest on state of Washington general
27 obligation bonds issued most closely to the date of authorization of
28 the grant.

29 **Sec. 17.** RCW 27.34.342 and 1999 c 35 s 1 are each amended to read
30 as follows:

31 The Lewis and Clark bicentennial advisory committee is created
32 under the auspices of the Washington state historical society. The
33 committee shall consist of (~~fifteen~~) sixteen members, as follows:

34 (1) Six citizen members, at least three of whom must be enrolled
35 members of a Washington Indian tribe, who shall be appointed by the
36 governor;

37 (2) The president of the Washington state historical society;

- 1 (3) The director of the Washington state parks and recreation
2 commission;
- 3 (4) The secretary of the Washington state department of
4 transportation;
- 5 (5) The director of the Washington state department of community,
6 trade, and economic development;
- 7 (6) Four members of the Washington state legislature, one from each
8 caucus in the senate and the house of representatives as designated by
9 each caucus; (~~and~~)
- 10 (7) The chair of the Lewis and Clark trail advisory committee; and
11 (8) The director of the department of archaeology and historic
12 preservation.

13 **Sec. 18.** RCW 27.34.344 and 1999 c 35 s 2 are each amended to read
14 as follows:

15 (1) The Lewis and Clark bicentennial (~~(advisory)~~) advisory
16 committee shall coordinate and provide guidance to Washington's
17 observance of the bicentennial of the Lewis and Clark expedition. The
18 committee may:

19 (a) Cooperate with national, regional, statewide, and local events
20 promoting the bicentennial;

21 (b) Assist, plan, or conduct bicentennial events;

22 (c) Engage in or encourage fund-raising activities including
23 revenue-generating enterprises, as well as the solicitation of
24 charitable gifts, grants, or donations;

25 (d) Promote public education concerning the importance of the Lewis
26 and Clark expedition in American history, including the role of native
27 people in making the expedition a success;

28 (e) Coordinate interagency participation in the observance; and

29 (f) Perform other related duties.

30 (2) The committee is attached to the Washington state historical
31 society for administrative purposes. Accordingly, the society shall:

32 (a) Direct and supervise the budgeting, recordkeeping, reporting,
33 and related administrative and clerical functions of the committee;

34 (b) Include the committee's budgetary requests in the society's
35 departmental budget;

36 (c) Collect all nonappropriated revenues for the committee and
37 deposit them in the proper fund or account;

- 1 (d) Provide staff support for the committee;
- 2 (e) Print and disseminate for the committee any required notices,
- 3 rules, or orders adopted by the committee; and
- 4 (f) Allocate or otherwise provide office space to the committee as
- 5 may be necessary.

6 **Sec. 19.** RCW 27.53.020 and 2002 c 211 s 2 are each amended to read
7 as follows:

8 The discovery, identification, excavation, and study of the state's
9 archaeological resources, the providing of information on
10 archaeological sites for their nomination to the state and national
11 registers of historic places, the maintaining of a complete inventory
12 of archaeological sites and collections, and the providing of
13 information to state, federal, and private construction agencies
14 regarding the possible impact of construction activities on the state's
15 archaeological resources, are proper public functions; and the
16 (~~office~~) department of archaeology and historic preservation, created
17 under the authority of chapter (~~(39.34)~~) 43.-- RCW (sections 1 through
18 8 and 12 of this act), is hereby designated as an appropriate agency to
19 carry out these functions. The director(~~(, in consultation with the~~
20 ~~office of archaeology and historic preservation,~~) shall provide
21 guidelines for the selection of depositories designated by the state
22 for archaeological resources. The legislature directs that there shall
23 be full cooperation amongst the department(~~(, the office of archaeology~~
24 ~~and historic preservation,~~) and other agencies of the state.

25 **Sec. 20.** RCW 27.53.030 and 1995 c 399 s 16 are each amended to
26 read as follows:

27 (~~Unless the context clearly requires otherwise,~~) The definitions
28 (~~contained~~) in this section (~~shall~~) apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) "Archaeology" means systematic, scientific study of man's past
31 through material remains.

32 (2) "Archaeological object" means an object that comprises the
33 physical evidence of an indigenous and subsequent culture including
34 material remains of past human life including monuments, symbols,
35 tools, facilities, and technological by-products.

1 (3) "Archaeological site" means a geographic locality in
2 Washington, including but not limited to, submerged and submersible
3 lands and the bed of the sea within the state's jurisdiction, that
4 contains archaeological objects.

5 (4) "Department" means the department of (~~community, trade, and~~
6 ~~economic development~~) archaeology and historic preservation, created
7 in chapter 43.-- RCW (sections 1 through 8 and 12 of this act).

8 (5) "Director" means the director of (~~community, trade, and~~
9 ~~economic development or the director's designee~~) the department of
10 archaeology and historic preservation, created in chapter 43.-- RCW
11 (sections 1 through 8 and 12 of this act).

12 (6) "Historic" means peoples and cultures who are known through
13 written documents in their own or other languages. As applied to
14 underwater archaeological resources, the term historic shall include
15 only those properties which are listed in or eligible for listing in
16 the Washington State Register of Historic Places (RCW 27.34.220) or the
17 National Register of Historic Places as defined in the National
18 Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-
19 665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

20 (7) "Prehistoric" means peoples and cultures who are unknown
21 through contemporaneous written documents in any language.

22 (8) "Professional archaeologist" means a person who has met the
23 educational, training, and experience requirements of the society of
24 professional archaeologists.

25 (9) "Qualified archaeologist" means a person who has had formal
26 training and/or experience in archaeology over a period of at least
27 three years, and has been certified in writing to be a qualified
28 archaeologist by two professional archaeologists.

29 (10) "Amateur society" means any organization composed primarily of
30 persons who are not professional archaeologists, whose primary interest
31 is in the archaeological resources of the state, and which has been
32 certified in writing by two professional archaeologists.

33 (11) "Historic archaeological resources" means those properties
34 which are listed in or eligible for listing in the Washington State
35 Register of Historic Places (RCW 27.34.220) or the National Register of
36 Historic Places as defined in the National Historic Preservation Act of
37 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C.
38 Sec. 470) as now or hereafter amended.

1 **Sec. 21.** RCW 27.53.070 and 1975-'76 2nd ex.s. c 82 s 3 are each
2 amended to read as follows:

3 It is the declared intention of the legislature that field
4 investigations on privately owned lands should be discouraged except in
5 accordance with both the provisions and spirit of this chapter and
6 persons having knowledge of the location of archaeological sites or
7 resources are encouraged to communicate such information to the
8 (~~Washington archaeological research center~~) department. Such
9 information shall not constitute a public record which requires
10 disclosure pursuant to the exception authorized in RCW 42.17.310, as
11 now or hereafter amended, to avoid site depredation.

12 **Sec. 22.** RCW 27.53.080 and 2002 c 211 s 5 are each amended to read
13 as follows:

14 (1) Qualified or professional archaeologists, in performance of
15 their duties, may enter upon public lands of the state of Washington
16 and its political subdivisions after first notifying the entity
17 responsible for managing those public lands, at such times and in such
18 manner as not to interfere with the normal management thereof, for the
19 purposes of doing archaeological resource location and evaluation
20 studies, including site sampling activities. The results of such
21 studies shall be provided to the state agency or political subdivision
22 responsible for such lands and the (~~office of archaeology and historie~~
23 ~~preservation~~) department and are confidential unless the director, in
24 writing, declares otherwise. Scientific excavations are to be carried
25 out only after appropriate agreement has been made between a
26 professional archaeologist or an institution of higher education and
27 the agency or political subdivision responsible for such lands. A copy
28 of such agreement shall be filed with the (~~office of archaeology and~~
29 ~~historie preservation and by them to the~~) department.

30 (2) Amateur societies may engage in such activities by submitting
31 and having approved by the responsible agency or political subdivision
32 a written proposal detailing the scope and duration of the activity.
33 Before approval, a proposal from an amateur society shall be submitted
34 to the (~~office of archaeology and historie preservation~~) department
35 for review and recommendation. The approving agency or political
36 subdivision shall impose conditions on the scope and duration of the
37 proposed activity necessary to protect the archaeological resources and

1 ensure compliance with applicable federal, state, and local laws. The
2 findings and results of activities authorized under this section shall
3 be made known to the approving agency or political subdivision
4 approving the activities and to the (~~office of archaeology and~~
5 ~~historic preservation~~) department.

6 **Sec. 23.** RCW 27.53.095 and 2002 c 211 s 4 are each amended to read
7 as follows:

8 (1) Persons found to have violated this chapter, either by a
9 knowing and willful failure to obtain a permit where required under RCW
10 27.53.060 or by a knowing and willful failure to comply with the
11 provisions of a permit issued by the director where required under RCW
12 27.53.060, in addition to other remedies as provided for by law, may be
13 subject to one or more of the following:

14 (a) Reasonable investigative costs incurred by a mutually agreed
15 upon independent professional archaeologist investigating the alleged
16 violation;

17 (b) Reasonable site restoration costs; and

18 (c) Civil penalties, as determined by the director, in an amount of
19 not more than five thousand dollars per violation.

20 (2) Any person incurring the penalty may file an application for an
21 adjudicative proceeding and may pursue subsequent review as provided in
22 chapter 34.05 RCW and applicable rules of the department (~~of~~
23 ~~community, trade, and economic development~~)).

24 (3) Any penalty imposed by final order following an adjudicative
25 proceeding becomes due and payable upon service of the final order.

26 (4) The attorney general may bring an action in the name of the
27 department in the superior court of Thurston county or of any county in
28 which the violator may do business to collect any penalty imposed under
29 this chapter and to enforce subsection (5) of this section.

30 (5) Any and all artifacts in possession of a violator shall become
31 the property of the state until proper identification of artifact
32 ownership may be determined by the director.

33 (6) Penalties overturned on appeal entitle the appealing party to
34 fees and other expenses, including reasonable attorneys' fees, as
35 provided in RCW 4.84.350.

1 NEW SECTION. **Sec. 24.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 27.34.210 (Office of archaeology and historic
4 preservation--Preservation officer--Qualifications) and 1995 c 399 s
5 14, 1986 c 266 s 10, & 1983 c 91 s 11;

6 (2) RCW 27.34.310 (Inventory of state-owned properties--
7 Definitions) and 1995 c 399 s 15 & 1993 c 325 s 3; and

8 (3) RCW 27.34.320 (Inventory of state-owned properties--Procedure--
9 Grants) and 1993 c 325 s 4.

10 NEW SECTION. **Sec. 25.** Sections 1 through 8 and 12 of this act
11 constitute a new chapter in Title 43 RCW.

12 NEW SECTION. **Sec. 26.** Sections 16 through 18 of this act expire
13 June 30, 2007.

--- END ---