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SECOND SUBSTITUTE SENATE BILL 5056

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State of Washington

59th Legislature

2005 Regular Session

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

READ FIRST TIME 03/03/05.

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 and to improve  
32 programs.

33        NEW SECTION.    **Sec. 5.** The director shall appoint a deputy  
34 director, a department personnel director, and assistant directors as  
35 needed to administer the department. The deputy director is

1 responsible for the general supervision of the department in the  
2 absence or disability of the director and, in case of a vacancy in the  
3 office of director, shall continue in charge of the department until a  
4 successor is appointed and qualified, or until the governor appoints an  
5 acting director.

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

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

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

28 NEW SECTION. **Sec. 8.** In furtherance of the policy of the state to  
29 cooperate with the federal government in all of the programs under the  
30 jurisdiction of the department, rules as may become necessary to  
31 entitle the state to participate in federal funds may be adopted,  
32 unless expressly prohibited by law. Any internal reorganization  
33 carried out under the terms of this chapter shall meet federal  
34 requirements that are a necessary condition to state receipt of federal  
35 funds. Any section or provision of law dealing with the department

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

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

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

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

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

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

34 There shall be a chief executive officer of each department to be  
35 known as: (1) The secretary of social and health services, (2) the

1 director of ecology, (3) the director of labor and industries, (4) the  
2 director of agriculture, (5) the director of fish and wildlife, (6) the  
3 secretary of transportation, (7) the director of licensing, (8) the  
4 director of general administration, (9) the director of community,  
5 trade, and economic development, (10) the director of veterans affairs,  
6 (11) the director of revenue, (12) the director of retirement systems,  
7 (13) the secretary of corrections, (~~and~~) (14) the secretary of  
8 health, (~~and~~) (15) the director of financial institutions, and (16)  
9 the director of the department of archaeology and historic  
10 preservation.

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

18 NEW SECTION. **Sec. 12.** (1) The office of archaeology and historic  
19 preservation is hereby abolished and its powers, duties, and functions  
20 are hereby transferred to the department of archaeology and historic  
21 preservation.

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

32 (b) Any appropriations made to the office of archaeology and  
33 historic preservation shall, on the effective date of this section, be  
34 transferred and credited to the department of archaeology and historic  
35 preservation.

36 (c) If any question arises as to the transfer of any personnel,  
37 funds, books, documents, records, papers, files, equipment, or other

1 tangible property used or held in the exercise of the powers and the  
2 performance of the duties and functions transferred, the director of  
3 financial management shall make a determination as to the proper  
4 allocation and certify the same to the state agencies concerned.

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

13 (4) All rules and all pending business before the office of  
14 archaeology and historic preservation shall be continued and acted upon  
15 by the department of archaeology and historic preservation. All  
16 existing contracts and obligations shall remain in full force and shall  
17 be performed by the department of archaeology and historic  
18 preservation.

19 (5) The transfer of the powers, duties, functions, and personnel of  
20 the office of archaeology and historic preservation shall not affect  
21 the validity of any act performed before the effective date of this  
22 section.

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

29 (7) Nothing contained in this section may be construed to alter any  
30 existing collective bargaining unit or the provisions of any existing  
31 collective bargaining agreement until the agreement has expired or  
32 until the bargaining unit has been modified by action of the personnel  
33 resources board as provided by law.

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

36 Unless the context clearly requires otherwise, the definitions in  
37 this section apply throughout this chapter:

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

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

5 (3) "Director" means the director of (~~community, trade, and~~  
6 ~~economic development~~) the department of archaeology and historic  
7 preservation.

8 (4) "Federal act" means the national historic preservation act of  
9 1966 (Public Law 89-655; 80 Stat. 915).

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

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

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

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

20 (~~(9))~~ (8) "Project" means programs leading to the preservation  
21 for public benefit of historical properties, whether by state and local  
22 governments or other public bodies, or private organizations or  
23 individuals, including the acquisition of title or interests in, and  
24 the development of, any district, site, building, structure, or object  
25 that is significant in American and Washington state history,  
26 architecture, archaeology, or culture, and property used in connection  
27 therewith, or for its development.

28 (~~(10))~~ (9) "State historical agencies" means the state historical  
29 societies (~~and the office of archaeology and historic preservation~~  
30 ~~within~~) and the department.

31 (~~(11))~~ (10) "State historical societies" means the Washington  
32 state historical society and the eastern Washington state historical  
33 society.

34 (~~(12))~~ (11) "Cultural resource management plan" means a  
35 comprehensive plan which identifies and organizes information on the  
36 state of Washington's historic, archaeological, and architectural  
37 resources into a set of management criteria, and which is to be used

1 for producing reliable decisions, recommendations, and advice relative  
2 to the identification, evaluation, and protection of these resources.

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

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

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

11 (b) To operate state museums and assist and encourage cultural and  
12 historical studies and museum interpretive efforts throughout the  
13 state, including those sponsored by local historical organizations, and  
14 city, county, and state agencies;

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

18 (d) To plan for and conduct celebrations of significant events in  
19 the history of the state of Washington and to give assistance to and  
20 coordinate with state agencies, local governments, and local historical  
21 organizations in planning and conducting celebrations;

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

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

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

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

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



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

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

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

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

12 The director or the director's designee shall:

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

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

19 (~~(3)~~) (2) Develop and implement a cultural resource management  
20 plan.

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

23 The Washington state historical society shall establish a  
24 competitive process to solicit proposals for and prioritize heritage  
25 capital projects for potential funding in the state capital budget.  
26 The society shall adopt rules governing project eligibility and  
27 evaluation criteria. Application for funding of specific projects may  
28 be made to the society by local governments, public development  
29 authorities, nonprofit corporations, tribal governments, and other  
30 entities, as determined by the society. The society, with the advice  
31 of leaders in the heritage field, including but not limited to  
32 representatives from the office of the secretary of state, the eastern  
33 Washington state historical society, and the (~~state office of~~  
34 ~~archaeology and historic preservation~~) department, shall establish and  
35 submit a prioritized list of heritage capital projects to the governor  
36 and the legislature in the society's biennial capital budget request.

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

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

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

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

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

33 (3) The director of the Washington state parks and recreation  
34 commission;

35 (4) The secretary of the Washington state department of  
36 transportation;

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

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

11 (1) The Lewis and Clark bicentennial (~~(advisory)~~) advisory  
12 committee shall coordinate and provide guidance to Washington's  
13 observance of the bicentennial of the Lewis and Clark expedition. The  
14 committee may:

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

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

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

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

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

25 (f) Perform other related duties.

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

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

30 (b) Include the committee's budgetary requests in the society's  
31 departmental budget;

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

34 (d) Provide staff support for the committee;

35 (e) Print and disseminate for the committee any required notices,  
36 rules, or orders adopted by the committee; and

1 (f) Allocate or otherwise provide office space to the committee as  
2 may be necessary.

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

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

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

24 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
25 ~~((contained))~~ in this section ~~((shall))~~ apply throughout this chapter  
26 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

37 It is the declared intention of the legislature that field

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

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

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

27 (2) Amateur societies may engage in such activities by submitting  
28 and having approved by the responsible agency or political subdivision  
29 a written proposal detailing the scope and duration of the activity.  
30 Before approval, a proposal from an amateur society shall be submitted  
31 to the (~~office of archaeology and historic preservation~~) department  
32 for review and recommendation. The approving agency or political  
33 subdivision shall impose conditions on the scope and duration of the  
34 proposed activity necessary to protect the archaeological resources and  
35 ensure compliance with applicable federal, state, and local laws. The  
36 findings and results of activities authorized under this section shall

1 be made known to the approving agency or political subdivision  
2 approving the activities and to the (~~office of archaeology and~~  
3 ~~historic preservation~~) department.

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

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

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

15 (b) Reasonable site restoration costs; and

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

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

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

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

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

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

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

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

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

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

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

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

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