
SENATE BILL 5056

State of Washington

59th Legislature

2005 Regular Session

By Senators Haugen, Swecker, Prentice, Kastama, Fairley, Honeyford, Zarelli, Hewitt, Berkey, Fraser, Thibaudeau, Jacobsen, McAuliffe, Rasmussen, Kline and Rockefeller

Read first time 01/12/2005. Referred to Committee on Government Operations & Elections.

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 27.34.210, 27.34.230, 27.34.330, 27.34.342, and 27.34.344; reenacting
4 and amending RCW 43.17.010; adding a new section to chapter 41.06 RCW;
5 adding a new chapter to Title 43 RCW; repealing RCW 27.34.310 and
6 27.34.320; and providing an expiration date.

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

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

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

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

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

1 NEW SECTION. **Sec. 2.** The executive head and appointing authority
2 of the department is the director. The director shall be appointed by
3 the governor, with the consent of the senate, and shall serve at the
4 pleasure of the governor. The director shall be paid a salary to be
5 fixed by the governor in accordance with RCW 43.03.040. If a vacancy
6 occurs in the position while the senate is not in session, the governor
7 shall make a temporary appointment until the next meeting of the
8 senate.

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

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

31 NEW SECTION. **Sec. 5.** The director shall appoint a deputy
32 director, a department personnel director, and assistant directors as
33 needed to administer the department. The deputy director is
34 responsible for the general supervision of the department in the
35 absence or disability of the director and, in case of a vacancy in the

1 office of director, shall continue in charge of the department until a
2 successor is appointed and qualified, or until the governor appoints an
3 acting director.

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

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

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

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

1 federal laws entitling this state to receive federal funds for the
2 various programs of the department. If any law dealing with the
3 department is ruled to be in conflict with federal requirements that
4 are a prescribed condition of the allocation of federal funds to the
5 state, or to any departments or agencies thereof, the conflicting part
6 is declared to be inoperative solely to the extent of the conflict.

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

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

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

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

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

32 There shall be a chief executive officer of each department to be
33 known as: (1) The secretary of social and health services, (2) the
34 director of ecology, (3) the director of labor and industries, (4) the
35 director of agriculture, (5) the director of fish and wildlife, (6) the

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

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

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

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

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

34 (c) If any question arises as to the transfer of any personnel,
35 funds, books, documents, records, papers, files, equipment, or other
36 tangible property used or held in the exercise of the powers and the

1 performance of the duties and functions transferred, the director of
2 financial management shall make a determination as to the proper
3 allocation and certify the same to the state agencies concerned.

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

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

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

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

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

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

35 Unless the context clearly requires otherwise, the definitions in
36 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.
- 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 27.34.210 and 1995 c 399 s 14 are each amended to
11 read as follows:

12 ~~((There is hereby established the office of archaeology and~~
13 ~~historic preservation within the department.))~~

14 The director shall appoint ~~((the))~~ a preservation officer to assist
15 the director in implementing this chapter. The preservation officer
16 shall have a background in program administration, an active
17 involvement in historic preservation, and a knowledge of the national,
18 state, and local preservation programs as they affect the state of
19 Washington.

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

22 The director or the director's designee shall:

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

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

29 ~~((3))~~ (2) Develop and implement a cultural resource management
30 plan.

31 **Sec. 17.** RCW 27.34.330 and 1999 c 295 s 2 are each amended to read
32 as follows:

33 The Washington state historical society shall establish a
34 competitive process to solicit proposals for and prioritize heritage
35 capital projects for potential funding in the state capital budget.

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

35 **Sec. 18.** RCW 27.34.342 and 1999 c 35 s 1 are each amended to read
36 as follows:

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

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

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

8 (3) The director of the Washington state parks and recreation
9 commission;

10 (4) The secretary of the Washington state department of
11 transportation;

12 (5) The director of the Washington state department of community,
13 trade, and economic development;

14 (6) Four members of the Washington state legislature, one from each
15 caucus in the senate and the house of representatives as designated by
16 each caucus; (~~and~~)

17 (7) The chair of the Lewis and Clark trail advisory committee; and

18 (8) The director of the department of archaeology and historic
19 preservation.

20 **Sec. 19.** RCW 27.34.344 and 1999 c 35 s 2 are each amended to read
21 as follows:

22 (1) The Lewis and Clark bicentennial (~~{advisory}~~) advisory
23 committee shall coordinate and provide guidance to Washington's
24 observance of the bicentennial of the Lewis and Clark expedition. The
25 committee may:

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

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

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

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

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

36 (f) Perform other related duties.

- 1 (2) The committee is attached to the Washington state historical
2 society for administrative purposes. Accordingly, the society shall:
3 (a) Direct and supervise the budgeting, recordkeeping, reporting,
4 and related administrative and clerical functions of the committee;
5 (b) Include the committee's budgetary requests in the society's
6 departmental budget;
7 (c) Collect all nonappropriated revenues for the committee and
8 deposit them in the proper fund or account;
9 (d) Provide staff support for the committee;
10 (e) Print and disseminate for the committee any required notices,
11 rules, or orders adopted by the committee; and
12 (f) Allocate or otherwise provide office space to the committee as
13 may be necessary.

14 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
15 each repealed:

- 16 (1) RCW 27.34.310 (Inventory of state-owned properties--
17 Definitions) and 1995 c 399 s 15 & 1993 c 325 s 3; and
18 (2) RCW 27.34.320 (Inventory of state-owned properties--Procedure--
19 Grants) and 1993 c 325 s 4.

20 NEW SECTION. **Sec. 21.** Sections 1 through 8 and 12 of this act
21 constitute a new chapter in Title 43 RCW.

22 NEW SECTION. **Sec. 22.** Sections 17 through 19 of this act expire
23 June 30, 2007.

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